

BILL ANALYSIS

Senate Research Center

S.B. 1668
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Business & Commerce
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Enrolled

AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

Affiliate transactions have replaced many of the stand-alone expenses that utilities formerly incurred. Affiliate costs are typically incurred by the utility because of the consolidation of resources in a single service provider, thus avoiding costly duplication of services and allowing for the achievement of economies of scale. These cost savings benefit the utility customer.

S.B. 1668 changes the way disallowances for affiliate transactions are determined by the Public Utility Commission (PUC). The current practice results in massive disallowances, often 100 percent of an affiliate expense class of costs, even when the affiliate expense incurred is clearly a necessary expense. The bill changes that practice to require that the PUC establish a reasonable level of affiliate expense, rather than simply disallow 100 percent of a requested expense.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 36.058, Utilities Code, by amending Subsection (c) and adding Subsection (f), as follows:

(c) Includes a finding that the price to the electric utility is not higher than the prices charged by the supplying affiliate for the same item or class of items to either its other affiliates or divisions or a nonaffiliated person within the same market area or having the same market conditions as information that must be included in a finding under Subsection (b).

(f) Requires the regulatory authority, if it finds that the affiliate expense for the test period is unreasonable, to determine the reasonable level of expense, and include that expense in determining the electric utility's cost of service.

SECTION 2. Amends Chapter 11, Utilities Code, by adding Section 11.0042, as follows:

Sec. 11.0042. DEFINITION OF AFFILIATE. (a) Provides that the term "person" or "corporation" as used in the definition of "affiliate" provided by Section 11.003(2) does not include certain individuals or entities.

(b) Provides that for the purpose of determining whether a person is an affiliate under Section 11.006(a)(3), the term "person" does not include certain entities.

(c) Provides that a report filed by an entity described by Subsection (a)(5) or (b) with the Securities and Exchange Commission is conclusive evidence of the entity's intent, if the report confirms that the voting securities were not acquired for specific purposes.

SECTION 3. Amends Section 39.051, Utilities Code, by amending Subsection (c) and adding Subsection (c-1), as follows:

(c) Provides that notwithstanding any other provision of this chapter, an electric utility that does not have stranded costs described by Section 39.254 (Use of Revenues for Utilities with Stranded Costs) and that on September 1, 2005, has not finalized unbundling pursuant to a Public Utility Commission of Texas order approving an unbundling plan may also meet the requirements of Subsection (b) for generation facilities existing on September 1, 2005, in the Electric Reliability Council of Texas, if it meets and maintains compliance with certain requirements.

(c-1) Provides that a separate division described by Subsection (c)(3) is subject to Subsection (d) and, for the purpose of this chapter, is considered a separate affiliated power generation company and a competitive affiliate.

SECTION 4. Effective date: upon passage or September 1, 2005.