

By: King of Parker

H.B. No. 1777

A BILL TO BE ENTITLED

AN ACT

relating to regulation of the electric power market.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 15.024(c), Utilities Code, as amended by Chapters 1212 and 1579, Acts of the 76th Legislature, Regular Session, 1999, is reenacted and amended to read as follows:

(c) A penalty may not be assessed under this section if the person against whom the penalty may be assessed remedies the violation before the 31st day after the date the person receives the notice under Subsection (b). A person who claims to have remedied an alleged violation has the burden of proving to the commission that the alleged violation was remedied and was accidental or inadvertent. This subsection does not apply to a violation of Chapter 42, [~~17 or~~] 55, or 64.

SECTION 2. Chapter 17, Utilities Code, is transferred to Subtitle B, Title 2, Utilities Code, redesignated as Chapter 42, Utilities Code, and amended to read as follows:

CHAPTER 42 [~~17~~]. CUSTOMER PROTECTION

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 42.001 [~~17.001~~]. CUSTOMER PROTECTION POLICY. (a) The legislature finds that new developments in [~~telecommunications services and~~] the production and delivery of electricity, as well as changes in market structure, marketing techniques, and technology, make it essential that customers have safeguards

1 against fraudulent, unfair, misleading, deceptive, or
2 anticompetitive business practices and against businesses that do
3 not have the technical and financial resources to provide adequate
4 service.

5 (b) The purpose of this chapter is to establish retail
6 customer protection standards and confer on the commission
7 authority to adopt and enforce rules to protect retail customers
8 from fraudulent, unfair, misleading, deceptive, or anticompetitive
9 practices.

10 (c) Nothing in this section shall be construed to abridge
11 customer rights set forth in commission rules in effect at the time
12 of the enactment of this chapter.

13 (d) This chapter does not limit the constitutional,
14 statutory, and common law authority of the office of the attorney
15 general.

16 (e) Nothing in this chapter authorizes a customer to receive
17 retail electric service from a person other than a certificated
18 retail electric utility.

19 Sec. 42.002 [~~17.002~~]. DEFINITIONS. In this chapter:

20 (1) "Billing agent" means any entity that submits
21 charges to the billing utility on behalf of itself or any provider
22 of a product or service.

23 (2) "Billing utility" means any [~~telecommunications~~
24 ~~provider, as defined by Section 51.002,~~] retail electric
25 provider[~~7~~] or electric utility that issues a bill directly to a
26 customer for any [~~telecommunications or~~] electric product or
27 service.

1 (3) [~~"Certificated telecommunications utility" means~~
2 ~~a telecommunications utility that has been granted either a~~
3 ~~certificate of convenience and necessity, a certificate of~~
4 ~~operating authority, or a service provider certificate of operating~~
5 ~~authority.~~

6 ~~(4)~~ "Customer" means any person in whose name
7 [~~telephone or~~] retail electric service is billed, including
8 individuals, governmental units at all levels of government,
9 corporate entities, and any other entity with legal capacity to be
10 billed for [~~telephone or~~] retail electric service.

11 (4) ~~(5)~~ "Electric utility" has the meaning assigned
12 by Section 31.002.

13 (5) ~~(6)~~ "Retail electric provider" means a person
14 that sells electric energy to retail customers in this state after
15 the legislature authorizes a customer to receive retail electric
16 service from a person other than a certificated retail electric
17 utility.

18 (6) ~~(7)~~ "Service provider" means any entity that
19 offers a product or service to a customer and that directly or
20 indirectly charges to or collects from a customer's bill an amount
21 for the product or service on a customer's bill received from a
22 billing utility.

23 ~~(8) "Telecommunications utility" has the meaning~~
24 ~~assigned by Section 51.002.]~~

25 Sec. 42.003 [~~17.003~~]. CUSTOMER AWARENESS. (a) The
26 commission shall promote public awareness of changes in the
27 electric market [~~and telecommunications markets~~], provide

1 customers with information necessary to make informed choices about
2 available options, and ensure that customers have an adequate
3 understanding of their rights.

4 (b) The commission shall compile a report on customer
5 service at least once each year showing the comparative customer
6 information from reports given to the commission it deems
7 necessary.

8 (c) The commission shall adopt and enforce rules to require
9 a [~~certificated telecommunications utility, a~~] retail electric
10 provider[7] or an electric utility to give clear, uniform, and
11 understandable information to customers about rates, terms,
12 services, customer rights, and other necessary information as
13 determined by the commission.

14 (d) Customer awareness efforts by the commission shall be
15 conducted in English and Spanish and any other language as
16 necessary.

17 Sec. 42.004 [~~17.004~~]. CUSTOMER PROTECTION STANDARDS. (a)
18 All buyers of [~~telecommunications and~~] retail electric services are
19 entitled to:

20 (1) protection from fraudulent, unfair, misleading,
21 deceptive, or anticompetitive practices, including protection from
22 being billed for services that were not authorized or provided;

23 (2) choice of a [~~telecommunications service provider,~~
24 a] retail electric provider[7] or an electric utility, where that
25 choice is permitted by law, and to have that choice honored;

26 (3) information in English and Spanish and any other
27 language as the commission deems necessary concerning rates, key

1 terms and conditions, and the basis for any claim of environmental
2 benefits of certain production facilities;

3 (4) protection from discrimination on the basis of
4 race, color, sex, nationality, religion, marital status, income
5 level, or source of income and from unreasonable discrimination on
6 the basis of geographic location;

7 (5) impartial and prompt resolution of disputes with a
8 ~~[certificated telecommunications utility, a]~~ retail electric
9 provider~~[,]~~ or an electric utility ~~[and disputes with a~~
10 ~~telecommunications service provider related to unauthorized~~
11 ~~charges and switching of service];~~

12 (6) privacy of customer consumption and credit
13 information;

14 (7) accuracy of metering and billing;

15 (8) bills presented in a clear, readable format and
16 easy-to-understand language;

17 (9) information in English and Spanish and any other
18 language as the commission deems necessary concerning low-income
19 assistance programs and deferred payment plans;

20 (10) all consumer protections and disclosures
21 established by the Fair Credit Reporting Act (15 U.S.C. Section
22 1681 et seq.) and the Truth in Lending Act (15 U.S.C. Section 1601
23 et seq.); and

24 (11) after retail competition begins as authorized by
25 the legislature, programs provided by retail electric providers
26 that offer eligible low-income customers energy efficiency
27 programs, an affordable rate package, and bill payment assistance

1 programs designed to reduce uncollectible accounts.

2 (b) The commission may adopt and enforce rules as necessary
3 or appropriate to carry out this section, including rules for
4 minimum service standards for a [~~certificated telecommunications~~
5 ~~utility, a~~] retail electric provider[7] or an electric utility
6 relating to customer deposits and the extension of credit,
7 switching fees, levelized billing programs, and termination of
8 service and to energy efficiency programs, an affordable rate
9 package, and bill payment assistance programs for low-income
10 customers. The commission may waive language requirements for good
11 cause.

12 (c) The commission shall request the comments of the office
13 of the attorney general in developing the rules that may be
14 necessary or appropriate to carry out this section.

15 (d) The commission shall coordinate its enforcement efforts
16 regarding the prosecution of fraudulent, misleading, deceptive,
17 and anticompetitive business practices with the office of the
18 attorney general in order to ensure consistent treatment of
19 specific alleged violations.

20 (e) Nothing in this section shall be construed to abridge
21 customer rights set forth in commission rules or to abridge the
22 rights of low-income customers to receive benefits through pending
23 or operating programs in effect at the time of the enactment of this
24 chapter.

25 (f) The commission shall adopt rules to provide automatic
26 enrollment of eligible utility customers for [~~lifeline telephone~~
27 ~~service and~~] reduced electric rates available to low-income

1 households. Each state agency, on the request of the commission,
2 shall assist in the adoption and implementation of those rules.

3 (g) Notwithstanding any other provision of this title, the
4 rules adopted under Subsection (b) shall provide full, concurrent
5 reimbursement for the costs of any programs provided under
6 Subsection (a)(11) and for reimbursement for the difference between
7 any affordable rate package provided under Subsection (a)(11) and
8 any rates otherwise applicable.

9 Sec. 42.005 [~~17.005~~]. PROTECTIONS FOR CUSTOMERS OF
10 MUNICIPALLY OWNED UTILITIES. A municipally owned utility may not
11 be deemed to be a "service provider" or "billing agent" for purposes
12 of Sections 42.156(b) [~~17.156(b)~~] and (e). The governing body of a
13 municipally owned utility shall adopt, implement, and enforce rules
14 that shall have the effect of accomplishing the objectives set out
15 in Sections 42.004(a) and (b) and 42.102 [~~17.004(a) and (b) and~~
16 ~~17.102~~], as to the municipally owned utility within its
17 certificated service area. The governing body of a municipally
18 owned utility or its designee shall perform the dispute resolution
19 function provided for by Section 42.157 [~~17.157~~] for disputes
20 arising from services provided by the municipally owned utility to
21 electric customers served within the municipally owned utility's
22 certificated service area. With respect to electric customers
23 served by a municipally owned utility outside its certificated
24 service area or otherwise served through others' distribution
25 facilities, after retail competition begins as authorized by the
26 legislature, the provisions of this chapter as administered by the
27 commission apply. Nothing in this chapter shall be deemed to apply

1 to a wholesale customer of a municipally owned utility.

2 Sec. 42.006 [~~17.006~~]. PROTECTIONS FOR CUSTOMERS OF
3 ELECTRIC COOPERATIVES. An electric cooperative shall not be deemed
4 to be a "service provider" or "billing agent" for purposes of
5 Sections 42.156(b) [~~17.156(b)~~] and (e). The electric cooperative
6 shall adopt, implement, and enforce rules that shall have the
7 effect of accomplishing the objectives set out in Sections
8 42.004(a) and (b) and 42.102 [~~17.004(a) and (b) and 17.102~~]. The
9 board of directors of the electric cooperative or its designee
10 shall perform the dispute resolution function provided for by
11 Section 42.157 [~~17.157~~] for electric customers served by the
12 electric cooperative within its certificated service area. With
13 respect to electric customers served by an electric cooperative
14 outside its certificated service area or otherwise served through
15 others' distribution facilities, after the legislature authorizes
16 retail competition, the provisions of this chapter as administered
17 by the commission shall apply. Nothing in this chapter shall be
18 deemed to apply to a wholesale customer of an electric cooperative.

19 Sec. 42.007 [~~17.007~~]. ELIGIBILITY PROCESS FOR CUSTOMER
20 SERVICE DISCOUNTS. The commission by rule shall provide for an
21 integrated eligibility process for customer service discounts,
22 including discounts under Section [~~Sections~~] 39.903 [~~and 55.015~~].

23 SUBCHAPTER B. CERTIFICATION, REGISTRATION,
24 AND REPORTING REQUIREMENTS

25 Sec. 42.051 [~~17.051~~]. ADOPTION OF RULES. (a) The
26 commission shall adopt rules relating to certification,
27 registration, and reporting requirements for a [~~certificated~~

1 ~~telecommunications utility, a]~~ retail electric provider~~[7]~~ or an
2 electric utility, as well as all ~~[telecommunications utilities that~~
3 ~~are not dominant carriers, pay telephone providers,]~~ qualifying
4 facilities that are selling capacity into the wholesale or retail
5 market, exempt wholesale generators, and power marketers.

6 (b) The rules adopted under Subsections (a) and (c) shall be
7 consistent with and no less effective than federal law and may not
8 require the disclosure of highly sensitive competitive or trade
9 secret information.

10 (c) The commission shall adopt rules governing the local
11 registration of retail electric providers under Section 39.358.

12 Sec. 42.052 ~~[17.052]~~. SCOPE OF RULES. The commission may
13 adopt and enforce rules to:

14 (1) require certification or registration with the
15 commission as a condition of doing business in this state, except
16 that this requirement does not apply to municipally owned
17 utilities;

18 (2) amend certificates or registrations to reflect
19 changed ownership and control;

20 (3) establish rules for customer service and
21 protection;

22 (4) suspend or revoke certificates or registrations
23 for repeated violations of this chapter or commission rules, except
24 that the commission may not revoke a certificate of convenience and
25 necessity of an electric utility except as provided by Section
26 37.059 ~~[or a certificate of convenience and necessity of a~~
27 ~~telecommunications utility except as provided by Section 54.008]~~;

1 and

2 (5) order [~~disconnection of a pay telephone service~~
3 ~~provider's pay telephones or~~] revocation of certification or
4 registration for repeated violations of this chapter or commission
5 rules.

6 Sec. 42.053 [~~17.053~~]. REPORTS. The commission may require
7 a [~~telecommunications service provider, a~~] retail electric
8 provider[7] or an electric utility to submit reports to the
9 commission concerning any matter over which it has authority under
10 this chapter.

11 SUBCHAPTER C. CUSTOMER'S RIGHT TO CHOICE

12 Sec. 42.101 [~~17.101~~]. POLICY. It is the policy of this
13 state that all customers be protected from the unauthorized
14 switching of a [~~telecommunications service provider, a~~] retail
15 electric provider[7] or an electric utility selected by the
16 customer to provide service, where choice is permitted by law.

17 Sec. 42.102 [~~17.102~~]. RULES RELATING TO CHOICE. The
18 commission shall adopt and enforce rules that:

19 (1) ensure that customers are protected from deceptive
20 practices employed in obtaining authorizations of service and in
21 the verification of change orders, including negative option
22 marketing, sweepstakes, and contests that cause customers to
23 unknowingly change their [~~telecommunications service provider,~~]
24 retail electric provider[7] or electric utility, where choice is
25 permitted by law;

26 (2) provide for clear, easily understandable
27 identification, in each bill sent to a customer, of all

1 ~~[telecommunications service providers,~~] retail electric
2 providers~~[,]~~ or electric utilities submitting charges on the bill;

3 (3) ensure that every service provider submitting
4 charges on the bill is clearly and easily identified on the bill
5 along with its services, products, and charges;

6 (4) provide that unauthorized changes in service be
7 remedied at no cost to the customer within a period established by
8 the commission;

9 (5) require refunds or credits to the customer in the
10 event of an unauthorized change; and

11 (6) provide for penalties for violations of commission
12 rules adopted under this section, including fines and revocation of
13 certificates or registrations, by this action denying the
14 ~~[certificated telecommunications utility, the]~~ retail electric
15 provider~~[,]~~ or the electric utility the right to provide service in
16 this state, except that the commission may not revoke a certificate
17 of convenience and necessity of an electric utility except as
18 provided by Section 37.059 ~~[or a certificate of convenience and~~
19 ~~necessity of a telecommunications utility except as provided by~~
20 ~~Section 54.008]~~.

21 SUBCHAPTER D. PROTECTION AGAINST UNAUTHORIZED CHARGES

22 Sec. 42.151 ~~[17.151]~~. REQUIREMENTS FOR SUBMITTING CHARGES.

23 (a) A service provider, retail electric provider, or billing agent
24 may submit charges for a new product or service to be billed on a
25 customer's ~~[telephone or]~~ retail electric bill on or after the
26 effective date of this section only if:

27 (1) the service provider offering the product or

1 service has thoroughly informed the customer of the product or
2 service being offered, including all associated charges, and has
3 explicitly informed the customer that the associated charges for
4 the product or service will appear on the customer's [~~telephone or~~
5 electric bill;

6 (2) the customer has clearly and explicitly consented
7 to obtain the product or service offered and to have the associated
8 charges appear on the customer's [~~telephone or~~] electric bill and
9 the consent has been verified as provided by Subsection (b); and

10 (3) the service provider offering the product or
11 service and any billing agent for the service provider:

12 (A) has provided the customer with a toll-free
13 telephone number the customer may call and an address to which the
14 customer may write to resolve any billing dispute and to answer
15 questions; and

16 (B) has contracted with the billing utility to
17 bill for products and services on the billing utility's bill as
18 provided by Subsection (c).

19 (b) The customer consent required by Subsection (a)(2) must
20 be verified by the service provider offering the product or service
21 by authorization from the customer. A record of the customer
22 consent, including verification, must be maintained by the service
23 provider offering the product or service for a period of at least 24
24 months immediately after the consent and verification have been
25 obtained. The method of obtaining customer consent and
26 verification must include one or more of the following:

27 (1) written authorization from the customer;

1 (2) [~~toll-free electronic authorization placed from~~
2 ~~the telephone number that is the subject of the product or service,~~

3 ~~(3)~~ oral authorization obtained by an independent
4 third party; or

5 (3) ~~(4)~~ any other method of authorization approved
6 by the commission [~~or the Federal Communications Commission~~].

7 (c) The contract required by Subsection (a)(3)(B) must
8 include the service provider's name, business address, and business
9 telephone number and shall be maintained by the billing utility for
10 as long as the billing for the products and services continues and
11 for the 24 months immediately following the permanent
12 discontinuation of the billing.

13 (d) A service provider offering a product or service to be
14 charged on a customer's [~~telephone or~~] electric bill and any
15 billing agent for the service provider may not use any fraudulent,
16 unfair, misleading, deceptive, or anticompetitive marketing
17 practice to obtain customers, including the use of negative option
18 marketing, sweepstakes, and contests.

19 (e) Unless verification is required by federal law or rules
20 implementing federal law, Subsection (b) does not apply to
21 customer-initiated transactions with [~~a certified~~
22 ~~telecommunications provider or~~] an electric utility for which the
23 service provider has the appropriate documentation.

24 (f) If a service provider is notified by a billing utility
25 that a customer has reported to the billing utility that a charge
26 made by the service provider is unauthorized, the service provider
27 shall cease to charge the customer for the unauthorized product or

1 service.

2 ~~[(g) This section does not apply to message~~
3 ~~telecommunications services charges that are initiated by dialing~~
4 ~~1+, 0+, 0-, 1010XXX, or collect calls and charges for video services~~
5 ~~if the service provider has the necessary call detail record to~~
6 ~~establish the billing for the call or service.]~~

7 Sec. 42.152 [~~17.152~~]. RESPONSIBILITIES OF BILLING UTILITY.

8 (a) If a customer's [~~telephone or~~] retail electric bill is charged
9 for any product or service without proper customer consent or
10 verification, the billing utility, on its knowledge or notification
11 of any unauthorized charge, shall promptly, not later than 45 days
12 after the date of knowledge or notification of the charge:

13 (1) notify the service provider to cease charging the
14 customer for the unauthorized product or service;

15 (2) remove any unauthorized charge from the customer's
16 bill;

17 (3) refund or credit to the customer all money that has
18 been paid by the customer for any unauthorized charge, and if the
19 unauthorized charge is not adjusted within three billing cycles,
20 shall pay interest on the amount of the unauthorized charge;

21 (4) on the customer's request, provide the customer
22 with all billing records under its control related to any
23 unauthorized charge within 15 business days after the date of the
24 removal of the unauthorized charge from the customer's bill; and

25 (5) maintain for at least 24 months a record of every
26 customer who has experienced any unauthorized charge for a product
27 or service on the customer's [~~telephone or~~] electric bill and who

1 has notified the billing utility of the unauthorized charge.

2 (b) A record required by Subsection (a)(5) shall contain for
3 each unauthorized charge:

4 (1) the name of the service provider that offered the
5 product or service;

6 (2) any affected [~~telephone numbers or~~] addresses;

7 (3) the date the customer requested that the billing
8 utility remove the unauthorized charge;

9 (4) the date the unauthorized charge was removed from
10 the customer's [~~telephone or~~] electric bill; and

11 (5) the date any money that the customer paid for the
12 unauthorized charges was refunded or credited to the customer.

13 (c) A billing utility may not:

14 (1) disconnect or terminate [~~telecommunications or~~]
15 electric service to any customer for nonpayment of an unauthorized
16 charge; or

17 (2) file an unfavorable credit report against a
18 customer who has not paid charges the customer has alleged were
19 unauthorized unless the dispute regarding the unauthorized charge
20 is ultimately resolved against the customer, except that the
21 customer shall remain obligated to pay any charges that are not in
22 dispute, and this subsection does not apply to those undisputed
23 charges.

24 Sec. 42.153 [~~17.153~~]. RECORDS OF DISPUTED CHARGES. (a)
25 Every service provider shall maintain a record of every disputed
26 charge for a product or service placed on a customer's bill.

27 (b) The record required under Subsection (a) shall contain

1 for every disputed charge:

2 (1) any affected [~~telephone numbers or~~] addresses;

3 (2) the date the customer requested that the billing
4 utility remove the unauthorized charge;

5 (3) the date the unauthorized charge was removed from
6 the customer's [~~telephone or~~] retail electric bill; and

7 (4) the date action was taken to refund or credit to
8 the customer any money that the customer paid for the unauthorized
9 charges.

10 (c) The record required by Subsection (a) shall be
11 maintained for at least 24 months following the completion of all
12 steps required by Section 42.152(a) [~~17.152(a)~~].

13 Sec. 42.154 [~~17.154~~]. NOTICE. (a) A billing utility shall
14 provide notice of a customer's rights under this section in the
15 manner prescribed by the commission.

16 (b) Notice of a customer's rights must be provided by mail
17 to each residential and retail business customer within 60 days of
18 [~~the effective date of this section or by inclusion in the~~
19 ~~publication of the telephone directory next following~~] the
20 effective date of this section. In addition, each billing utility
21 shall send the notice to new customers at the time service is
22 initiated or to any customer at that customer's request.

23 Sec. 42.155 [~~17.155~~]. PROVIDING COPY OF RECORDS. A billing
24 utility shall provide a copy of records maintained under Sections
25 42.151(c), 42.152, and 42.154 [~~17.151(c), 17.152, and 17.154~~] to
26 the commission staff on request. A service provider shall provide a
27 copy of records maintained under Sections 42.151(b) and 42.153

1 ~~[17.151(b) and 17.153]~~ to the commission on request.

2 Sec. 42.156 ~~[17.156]~~. VIOLATIONS. (a) If the commission
3 finds that a billing utility violated this subchapter, the
4 commission may implement penalties and other enforcement actions
5 under Chapter 15.

6 (b) If the commission finds that any other service provider
7 or billing agent subject to this subchapter has violated this
8 subchapter or has knowingly provided false information to the
9 commission on matters subject to this subchapter, the commission
10 may enforce the provisions of Chapter 15 against the service
11 provider or billing agent as if it were regulated by the commission.

12 (c) Neither the authority granted under this section nor any
13 other provision of this subchapter shall be construed to grant the
14 commission jurisdiction to regulate service providers or billing
15 agents who are not otherwise subject to commission regulation,
16 other than as specifically provided by this chapter.

17 (d) If the commission finds that a billing utility or
18 service provider repeatedly violates this subchapter, the
19 commission may, if the action is consistent with the public
20 interest, suspend, restrict, or revoke the registration or
21 certificate of the ~~[telecommunications service provider]~~ retail
22 electric provider~~[r]~~ or electric utility, by this action denying
23 the ~~[telecommunications service provider]~~ retail electric
24 provider~~[r]~~ or electric utility the right to provide service in
25 this state, except that the commission may not revoke a certificate
26 of convenience and necessity of an electric utility except as
27 provided by Section 37.059 ~~[or a certificate of convenience and~~

1 ~~necessity of a telecommunications utility except as provided by~~
2 ~~Section 54.008].~~

3 (e) If the commission finds that a service provider or
4 billing agent has repeatedly violated any provision of this
5 subchapter, the commission may order the billing utility to
6 terminate billing and collection services for that service provider
7 or billing agent.

8 (f) Nothing in this subchapter shall be construed to
9 preclude a billing utility from taking action on its own to
10 terminate or restrict its billing and collection services.

11 Sec. 42.157 [~~17.157~~]. DISPUTES. (a) The commission may
12 resolve disputes between a retail customer and a billing utility,
13 service provider, [~~telecommunications utility,~~] retail electric
14 provider, or electric utility.

15 (b) In exercising its authority under Subsection (a), the
16 commission may:

17 (1) order a billing utility, service provider, retail
18 electric provider, or electric utility to produce information or
19 records;

20 (2) require that all contracts, bills, and other
21 communications from a billing utility, service provider, retail
22 electric provider, or electric utility display a working toll-free
23 telephone number that customers may call with complaints and
24 inquiries;

25 (3) require a billing utility, service provider,
26 retail electric provider, or electric utility to refund or credit
27 overcharges or unauthorized charges with interest if the billing

1 utility, service provider, retail electric provider, or electric
2 utility has failed to comply with commission rules or a contract
3 with the customer;

4 (4) order appropriate relief to ensure that a
5 customer's choice of a [~~telecommunications service provider, a~~]
6 retail electric provider[~~7~~] or an electric utility that encompasses
7 a geographic area in which more than one provider has been
8 certificated is honored;

9 (5) require the continuation of service to a
10 residential or small commercial customer while a dispute is pending
11 regarding charges the customer has alleged were unauthorized; and

12 (6) investigate an alleged violation.

13 (c) The commission shall adopt procedures for the
14 resolution of disputes in a timely manner, which in no event shall
15 exceed 60 days.

16 Sec. 42.158 [~~17.158~~]. CONSISTENCY WITH FEDERAL LAW. Rules
17 adopted by the commission under this subchapter shall be consistent
18 with and not more burdensome than applicable federal laws and
19 rules.

20 Sec. 42.159. COMPLAINT REGARDING RECREATIONAL VEHICLE PARK
21 OWNER. (a) An affected person may complain to the regulatory
22 authority in writing describing an act or omission by a
23 recreational vehicle park owner who provides metered electric
24 service under Subchapter C, Chapter 184, in violation or claimed
25 violation of a law that the regulatory authority has jurisdiction
26 to administer or of an order, ordinance, or rule of the regulatory
27 authority.

1 (b) The commission shall keep for a reasonable period an
2 information file about each complaint filed with the commission
3 relating to a recreational vehicle park owner.

4 (c) The commission, at least quarterly and until final
5 disposition of the written complaint, shall notify the parties to
6 the complaint of the status of the complaint unless the notice would
7 jeopardize an undercover investigation.

8 SECTION 3. Section 33.023, Utilities Code, is amended by
9 amending Subsection (b) and adding Subsection (c) to read as
10 follows:

11 (b) The electric utility in the ratemaking proceeding shall
12 reimburse the governing body of the municipality for the reasonable
13 and necessary cost of the services of a person engaged under
14 Subsection (a) to the extent the applicable regulatory authority
15 determines the cost is reasonable and necessary.

16 (c) In determining whether attorney's fees to be recovered
17 under this section are reasonable and necessary, the applicable
18 regulatory authority shall:

19 (1) consider the factors prescribed by Rule 1.04,
20 Texas Disciplinary Rules of Professional Conduct; and

21 (2) limit the amount of attorney's fees recovered to an
22 amount rationally related to and approximately proportional to the
23 municipality's interest as compared to the interests of other
24 parties in the overall ratemaking proceeding.

25 SECTION 4. Section 35.004(e), Utilities Code, is amended to
26 read as follows:

27 (e) The commission shall ensure that ancillary services

1 necessary to facilitate the transmission of electric energy are
2 made available by suppliers and acquired by the independent
3 organization at reasonable prices with terms and conditions that
4 are not unreasonably preferential, prejudicial, discriminatory,
5 predatory, or anticompetitive. In this subsection, "ancillary
6 services" means services necessary to facilitate the transmission
7 of electric energy including load following, standby power, backup
8 power, reactive power, and any other services as the commission may
9 determine by rule. [~~On the introduction of customer choice in the~~
10 ~~ERCOT power region, acquisition of generation-related ancillary~~
11 ~~services on a nondiscriminatory basis by the independent~~
12 ~~organization in ERCOT on behalf of entities selling electricity at~~
13 ~~retail shall be deemed to meet the requirements of this~~
14 ~~subsection.~~]

15 SECTION 5. Section 38.001, Utilities Code, is amended to
16 read as follows:

17 Sec. 38.001. GENERAL STANDARD. An electric utility, a
18 municipally owned utility, a power generation company, an
19 independent organization certified under Section 39.151, and an
20 electric cooperative shall furnish service, instrumentalities, and
21 facilities that are safe, adequate, efficient, and reasonable.

22 SECTION 6. Section 38.005, Utilities Code, is amended by
23 amending Subsection (a) and adding Subsections (g) and (h) to read
24 as follows:

25 (a) The commission shall adopt and enforce rules as
26 necessary or appropriate to ensure [~~implement~~] service quality and
27 reliability [~~standards~~] relating to the delivery of electricity to

1 ~~[retail]~~ customers by electric utilities and transmission and
2 distribution utilities. The commission by rule shall develop
3 reliability standards, including:

4 (1) the system-average interruption frequency index
5 (SAIFI);

6 (2) the system-average interruption duration index
7 (SAIDI);

8 (3) achievement of average response time for customer
9 service requests or inquiries; or

10 (4) other standards that the commission finds
11 reasonable and appropriate.

12 (g) This section does not authorize the commission to:

13 (1) establish or enforce quality standards for local
14 distribution service provided by a municipally owned utility or an
15 electric cooperative; or

16 (2) require reporting of local distribution service
17 quality by a municipally owned utility or an electric cooperative.

18 (h) An electric utility, transmission and distribution
19 utility, retail electric provider, municipally owned utility,
20 electric cooperative, power marketer, independent organization
21 certified under Section 39.151, or power generation company, and
22 any other person scheduling power or operating an electrical
23 facility on behalf of such persons, shall observe all reliability,
24 security, and emergency management rules and orders adopted or
25 issued by the commission. The commission may:

26 (1) take any enforcement action against a person who
27 does not comply with this subsection that is authorized by

1 Subchapter B, Chapter 15;

2 (2) suspend, revoke, or amend an electric utility's or
3 transmission and distribution utility's certificate of public
4 convenience and necessity;

5 (3) suspend, revoke, or amend a retail electric
6 provider's certificate;

7 (4) suspend or revoke a power marketer's registration;
8 or

9 (5) suspend or revoke a power generation company's
10 registration.

11 SECTION 7. Section 39.002, Utilities Code, is amended to
12 read as follows:

13 Sec. 39.002. APPLICABILITY. This chapter, other than
14 Sections 39.151(j), 39.155, 39.157(a) and (e) [~~39.157(e)~~], 39.203,
15 39.903, and 39.904, does not apply to a municipally owned utility or
16 an electric cooperative. Sections 39.157(e), 39.203, and 39.904,
17 however, apply only to a municipally owned utility or an electric
18 cooperative that is offering customer choice. If there is a
19 conflict between the specific provisions of this chapter and any
20 other provisions of this title, except for Chapters 40 and 41, the
21 provisions of this chapter control.

22 SECTION 8. Section 39.103, Utilities Code, is amended to
23 read as follows:

24 Sec. 39.103. COMMISSION AUTHORITY TO DELAY COMPETITION AND
25 SET NEW RATES. (a) If the commission determines under Section
26 39.104 that a power region is unable to offer fair competition and
27 reliable service to all retail customer classes on January 1, 2002,

1 the commission shall delay customer choice for the power region and
2 may on or after January 1, 2002, establish new rates for all
3 electric utilities in the power region as provided by Chapter 36.

4 (b) In the event of a catastrophic occurrence that causes a
5 disruption of electricity markets and that the governor declares
6 has resulted in an energy emergency, the commission may suspend
7 competitive wholesale and retail market rules and set rates.

8 (c) The commission by rule shall provide for an expedited
9 procedure to exercise its authority under Subsection (b), including
10 provisions for notifying affected persons.

11 (d) The commission is not required to conduct a contested
12 case to exercise its authority under Subsection (b).

13 (e) If the commission determines, after a contested case
14 hearing or an opportunity for a contested case hearing, that a
15 person violated a commission order issued under Subsection (b), the
16 commission may:

17 (1) order the person to refund any compensation the
18 person obtained as a result of the violation;

19 (2) assess an administrative penalty against the
20 person; or

21 (3) take any action against the person authorized by
22 Sections 38.005(h)(2)-(5).

23 SECTION 9. Section 39.151, Utilities Code, is amended by
24 amending Subsections (b), (c), (d), (e), (g), and (j) and adding
25 Subsections (g-1)-(g-5) to read as follows:

26 (b) "Independent organization" means an independent system
27 operator or other person that is sufficiently independent of any

1 producer or seller of electricity that its decisions will not be
2 unduly influenced by any producer or seller. [~~An entity will be
3 deemed to be independent if it is governed by a board that has three
4 representatives from each segment of the electric market, with the
5 consumer segment being represented by one residential customer, one
6 commercial customer, and one industrial retail customer.~~]

7 (c) The commission shall certify an independent
8 organization or organizations to perform the functions prescribed
9 by this section. The commission has complete authority to oversee,
10 require the commission's approval of, and order modifications of
11 any part of the finances, budget, or operations of an independent
12 organization certified under this section.

13 (d) An independent organization certified by the commission
14 for a power region shall establish and enforce procedures,
15 consistent with this title and the commission's rules, relating to
16 the reliability of the regional electrical network and accounting
17 for the production and delivery of electricity among generators and
18 all other market participants. The procedures shall be subject to
19 commission oversight, ~~and~~ review, and approval. An independent
20 organization certified by the commission is directly responsible
21 and accountable to the commission. The organization shall fully
22 cooperate with the commission in the commission's oversight and
23 investigatory functions. The commission may decertify an
24 organization that does not adequately perform the organization's
25 functions or duties or does not comply with this section.

26 (e) The commission by rule shall require an independent
27 organization certified under this section to provide the commission

1 with sufficiently detailed information to allow the commission to
2 review and approve or disapprove the independent organization's
3 budget for cost efficiencies and for the reasonableness and
4 necessity of budget items. The rules must include a timetable for
5 an independent organization to file its budget for review under the
6 rules. The commission's budget review must include a review of
7 salaries, employee benefits, and the independent organization's
8 use of debt financing. After determining the overall
9 reasonableness and necessity of an independent organization's
10 budget, the [The] commission, in the same proceeding, may authorize
11 the [an] independent organization [that is certified under this
12 section] to charge [a reasonable and competitively neutral rate] to
13 wholesale buyers and sellers a reasonable and competitively neutral
14 rate determined by the commission to allow [cover] the independent
15 organization a reasonable opportunity to take in a reasonable and
16 necessary amount of revenue, as determined by the commission in the
17 budget review process. The independent organization may change the
18 rate established by the commission in the budget review process
19 only with the commission's approval. On the commission's own
20 initiative or on receiving a complaint, the commission may inquire
21 into the reasonableness of an independent organization's budget or
22 rate [costs].

23 (g) To maintain certification as an independent
24 organization under this section, an organization's [If it amends
25 its governance rules to provide that its governing body is composed
26 as prescribed by this subsection, the existing independent system
27 operator in ERCOT will meet the criteria provided by Subsection (a)

1 ~~with respect to ensuring access to the transmission systems for all~~
2 ~~buyers and sellers of electricity in the ERCOT region and ensuring~~
3 ~~the reliability of the regional electrical network. To comply with~~
4 ~~this subsection, the] governing body must be composed of persons~~
5 ~~specified by this section and selected in accordance with formal~~
6 ~~bylaws or protocols of the organization. The bylaws or protocols~~
7 ~~must be approved by the commission and must reflect the input of the~~
8 ~~commission. The bylaws or protocols must prescribe professional~~
9 ~~qualifications for selection as a member, require the use of a~~
10 ~~professional search firm to identify candidates for membership, and~~
11 ~~specify the process by which appropriate stakeholders elect~~
12 ~~members. The process must allow for commission input in~~
13 ~~identifying candidates. The governing body must be composed of:~~

14 (1) the chairman of the commission as an ex officio
15 nonvoting member;

16 (2) the counselor [~~counselor~~] as an ex officio voting
17 member representing residential and small commercial consumer
18 interests;

19 (3) the chief executive officer [~~director~~] of the
20 independent system operator as an ex officio voting member;

21 (4) six market participants elected by their
22 respective market segments to serve one-year terms, with:

23 (A) one representing independent generators;

24 (B) one representing investor-owned utilities;

25 (C) one representing power marketers;

26 (D) one representing retail electric providers;

27 (E) one representing municipally owned

1 utilities; and

2 (F) one representing electric cooperatives [~~four~~
3 ~~representatives of the power generation sector as voting members~~];

4 (5) one member representing industrial consumer
5 interests and elected by the industrial consumer market segment to
6 serve a one-year term [~~four representatives of the transmission and~~
7 ~~distribution sector as voting members~~];

8 (6) one member representing large commercial consumer
9 interests selected by the outgoing large commercial consumer
10 representative to serve a one-year term [~~four representatives of~~
11 ~~the power sales sector as voting members~~]; and

12 (7) six members unaffiliated with any market segment
13 and selected by the other members of the governing body to serve
14 three-year terms [~~the following people as voting members, appointed~~
15 ~~by the commission.~~

16 [~~(A) one representative of residential~~
17 ~~customers,~~

18 [~~(B) one representative of commercial customers,~~
19 ~~and~~

20 [~~(C) one representative of industrial~~
21 ~~customers].~~

22 [~~The four representatives specified in each of Subdivisions~~
23 ~~(4), (5), and (6) shall be selected in a manner that ensures~~
24 ~~equitable representation for the various sectors of industry~~
25 ~~participants.]~~

26 (g-1) The presiding officer of the governing body must be
27 one of the members described by Subsection (g)(7).

1 (g-2) In voting on a matter before the governing body,
2 members must have their votes counted as provided by this
3 subsection. The member described by Subsection (g)(3) has one
4 vote. The members described by:

5 (1) Subsection (g)(4) have two votes each;

6 (2) Subsections (g)(2), (5), and (6) have two votes
7 each; and

8 (3) Subsection (g)(7), including the presiding
9 officer, have three votes each.

10 (g-3) A quorum of the governing body is present only when:

11 (1) at least four of the members described by
12 Subsections (g)(3) and (7) are present; and

13 (2) a number of other members are present so that at
14 least nine members are present.

15 (g-4) The governing body by rule or bylaw may limit the time
16 members described by Subsections (g)(2), (4), (5), and (6) may
17 present evidence, arguments, or questions during a meeting of the
18 body.

19 (g-5) The governing body and its members are subject to
20 Chapter 551, Government Code, in the same manner as that chapter
21 applies to a governmental body and the members of a governmental
22 body, except that the requirements pertaining to executive sessions
23 of the governing body, to advance notice of meetings and planned
24 agendas of the meetings, and the opportunity to comment on matters
25 under discussion at the meetings contained in the independent
26 organization's bylaws apply in lieu of conflicting requirements of
27 that chapter.

1 (j) A retail electric provider, municipally owned utility,
2 electric cooperative, power marketer, transmission and
3 distribution utility, or power generation company, or any other
4 person who participates in a market operated by the independent
5 system operator in ERCOT, shall observe all scheduling, operating,
6 planning, reliability, and settlement policies, rules, guidelines,
7 and procedures established by the independent system operator in
8 ERCOT. A violation by any person of [~~Failure to comply with~~] this
9 subsection may result in the revocation, suspension, or amendment
10 of that person's [a] certificate or registration as provided by
11 Section 39.356 or in the imposition against that person of an
12 administrative penalty [~~as provided by Section 39.357~~]. The
13 commission may require the refunding or disgorgement of revenues
14 that accrue as a result of a violation of this subsection.

15 SECTION 10. Subchapter D, Chapter 39, Utilities Code, is
16 amended by adding Sections 39.1511, 39.1512, and 39.1515 to read as
17 follows:

18 Sec. 39.1511. PUBLIC MEETINGS OF GOVERNING BODY OF
19 INDEPENDENT ORGANIZATION. (a) The bylaws of the independent
20 organization and the rules of the commission may provide for the
21 governing body or subcommittee to enter into executive session
22 closed to the public to address sensitive matters such as
23 confidential personnel information, contracts, lawsuits,
24 competitively sensitive information, or other information related
25 to security of the regional electrical network.

26 (b) The bylaws of the independent organization and rules of
27 the commission must ensure that a person interested in the

1 activities of the independent organization has an opportunity to
2 obtain at least seven days' advance notice of meetings and the
3 planned agendas of the meetings and an opportunity to comment on
4 matters under discussion at the meetings.

5 Sec. 39.1512. DISCLOSURE OF INTEREST IN MATTER BEFORE
6 INDEPENDENT ORGANIZATION'S GOVERNING BODY; PARTICIPATION IN
7 DECISION. (a) If a matter comes before the governing body of an
8 independent organization certified under Section 39.151 and a
9 member or a person that member represents has a direct interest in
10 that matter, the member shall publicly disclose the fact of that
11 interest to the governing body at a public meeting of the body. The
12 member shall recuse himself or herself from the governing body's
13 deliberations and actions on the matter and may not vote on the
14 matter or otherwise participate in a governing body decision on the
15 matter.

16 (b) A disclosure made under Subsection (a) shall be entered
17 in the minutes of the meeting at which the disclosure is made.

18 (c) The fact that a member is recused from a vote or decision
19 by application of this section does not affect the existence of a
20 quorum.

21 Sec. 39.1515. WHOLESALE ELECTRIC MARKET MONITOR. (a) An
22 independent organization certified under Section 39.151 shall
23 contract with a private person selected by the commission to act as
24 the state's wholesale electric market monitor and to detect and
25 prevent market manipulation strategies.

26 (b) The independent organization shall provide to the
27 personnel of the market monitor:

1 (1) full access to the organization's main operations
2 center; and

3 (2) other support and cooperation the commission
4 determines is necessary for the market monitor to perform the
5 market monitor's functions.

6 (c) The independent organization shall use money from the
7 rate authorized by Section 39.151(e) to pay for the market
8 monitor's activities.

9 (d) The commission is responsible for ensuring that the
10 market monitor has the resources, expertise, and authority
11 necessary to monitor the wholesale electric market effectively and
12 shall adopt rules and perform oversight of the market monitor as
13 necessary. The commission by rule shall define:

14 (1) the market monitor's monitoring responsibilities;

15 (2) the standards for funding the market monitor,
16 including staffing requirements;

17 (3) qualifications for personnel of the market
18 monitor; and

19 (4) ethical standards for the market monitor and the
20 personnel of the market monitor.

21 (e) In adopting rules governing the standards for funding
22 the market monitor, the commission shall consult with a
23 subcommittee of the independent organization's governing body to
24 receive information on how money is or should be spent for
25 monitoring functions. Rules governing ethical standards must
26 include provisions designed to ensure that the personnel of the
27 market monitor are professionally and financially independent from

1 market participants. The commission shall develop and implement
2 policies that clearly separate the policy-making responsibilities
3 of the commission and the operational responsibilities of the
4 market monitor.

5 (f) The market monitor immediately shall report directly to
6 the commission any potential market manipulations and any
7 discovered or potential violations of commission rules or rules of
8 the independent organization.

9 (g) The personnel of the market monitor may communicate with
10 commission staff on any matter without restriction.

11 (h) The market monitor annually shall submit to the
12 commission and the independent organization a report that
13 identifies market design flaws and recommends methods to correct
14 the flaws. The commission and the independent organization shall
15 review the report and evaluate whether changes to rules of the
16 commission or the independent organization should be made.

17 SECTION 11. Section 39.155(a), Utilities Code, is amended
18 to read as follows:

19 (a) Each person, municipally owned utility, electric
20 cooperative, and river authority that owns generation facilities
21 and offers electricity for sale in this state shall report to the
22 commission its installed generation capacity, the total amount of
23 capacity available for sale to others, the total amount of capacity
24 under contract to others, the total amount of capacity dedicated to
25 its own use, its annual wholesale power sales in the state, its
26 annual retail power sales in the state, and any other information
27 necessary for the commission to assess market power or the

1 development of a competitive retail market in the state. The
2 commission shall by rule prescribe the nature and detail of the
3 reporting requirements and shall administer those reporting
4 requirements in a manner that ensures the confidentiality of
5 competitively sensitive information. The commission, after a
6 contested case hearing or an opportunity for a contested case
7 hearing, may release to the public any information in the
8 commission's possession if the commission finds that:

9 (1) the information is not competitively sensitive or
10 confidential by law; and

11 (2) the release of the information is in the public
12 interest.

13 SECTION 12. Section 39.157(a), Utilities Code, is amended
14 to read as follows:

15 (a) The commission shall monitor market power associated
16 with the generation, transmission, distribution, and sale of
17 electricity in this state. On a finding that market power abuses or
18 other violations of this section are occurring, the commission
19 shall require reasonable mitigation of the market power by ordering
20 the construction of additional transmission or distribution
21 facilities, by seeking an injunction or civil penalties as
22 necessary to eliminate or to remedy the market power abuse or
23 violation as authorized by Chapter 15, by imposing an
24 administrative penalty as authorized by Chapter 15, requiring
25 refunds or disgorgement of revenues received as a result of market
26 power abuse, or [~~by~~] suspending, revoking, or amending a
27 certificate or registration as authorized by Section 39.356.

1 ~~[Section 15.024(c) does not apply to an administrative penalty~~
2 ~~imposed under this section.]~~ For purposes of this subchapter,
3 market power abuses are practices by persons possessing market
4 power that are unreasonably discriminatory or tend to unreasonably
5 restrict, impair, or reduce the level of competition, including
6 practices that tie unregulated products or services to regulated
7 products or services or unreasonably discriminate in the provision
8 of regulated services. For purposes of this section, "market power
9 abuses" include predatory pricing, withholding of production,
10 precluding entry, and collusion. A violation of the code of conduct
11 provided by Subsection (d) that materially impairs the ability of a
12 person to compete in a competitive market shall be deemed to be an
13 abuse of market power. The possession of a high market share in a
14 market open to competition may not, of itself, be deemed to be an
15 abuse of market power; however, this sentence shall not affect the
16 application of state and federal antitrust laws.

17 SECTION 13. Section 39.205, Utilities Code, is amended to
18 read as follows:

19 Sec. 39.205. REGULATION OF COSTS FOLLOWING FREEZE PERIOD.
20 At the conclusion of the freeze period, any remaining costs
21 associated with nuclear decommissioning obligations continue to be
22 subject to cost of service rate regulation and shall be included as
23 a nonbypassable charge to retail customers. The commission may
24 adopt rules necessary to ensure that money for decommissioning is
25 prudently collected, managed, and spent for its intended purpose
26 and that money that remains unspent after decommissioning is
27 completed is returned to retail customers.

1 SECTION 14. Section 39.903(a), as amended by Chapters 211
2 and 1296, Acts of the 78th Legislature, Regular Session, 2003, is
3 reenacted and amended to read as follows:

4 (a) The system benefit fund is an account in the general
5 revenue fund. Money in the account may be appropriated only for the
6 purposes provided by this section or other law. Interest earned on
7 the system benefit fund shall be credited to the fund. [~~Section~~
8 ~~403.095, Government Code, does not apply to the system benefit~~
9 ~~fund.~~]

10 SECTION 15. Section 39.903(e), Utilities Code, as amended
11 by Chapters 1394, 1451, and 1466, Acts of the 77th Legislature,
12 Regular Session, 2001, is reenacted and amended to read as follows:

13 (e) Money in the system benefit fund may be appropriated to
14 provide funding solely for the following regulatory purposes, and [~~and~~]
15 in the following order of priority:

16 (1) programs to assist low-income electric customers
17 by providing the 10 percent reduced rate prescribed by Subsection
18 (h);

19 (2) customer education programs, administrative
20 expenses incurred by the commission in implementing and
21 administering this chapter, and expenses incurred by the office
22 under this chapter;

23 (3) programs to assist low-income electric customers
24 by providing the targeted energy efficiency programs described by
25 Subsection (f)(2);

26 (4) the school funding loss mechanism provided by
27 Section 39.901; and

1 (5) programs to assist low-income electric customers
2 by providing the 20 percent reduced rate prescribed by Subsection
3 (h) [~~and~~

4 ~~[(6) reimbursement to the commission and the Texas~~
5 ~~Department of Human Services for expenses incurred in the~~
6 ~~implementation and administration of an integrated eligibility~~
7 ~~process created under Section 17.007 for customer service discounts~~
8 ~~relating to retail electric service, including outreach expenses~~
9 ~~the commission determines are reasonable and necessary].~~

10 SECTION 16. Section 39.903(h), Utilities Code, is amended
11 to read as follows:

12 (h) The commission shall adopt rules for a retail electric
13 provider to determine a reduced rate for eligible customers to be
14 discounted off the standard retail service package as approved by
15 the commission under Section 39.106, or the price to beat
16 established by Section 39.202, whichever is lower. Municipally
17 owned utilities and electric cooperatives shall establish a reduced
18 rate for eligible customers to be discounted off the standard
19 retail service package established under Section 40.053 or 41.053,
20 as appropriate. The reduced rate for a retail electric provider
21 shall result in a total charge that is at least 10 percent and, if
22 sufficient money in the system benefit fund is available, up to 20
23 percent, lower than the amount the customer would otherwise be
24 charged. To the extent the system benefit fund is insufficient to
25 fund the initial 10 percent rate reduction, the commission may
26 increase the fee to an amount not more than 65 cents per megawatt
27 hour, as provided by Subsection (b). If the fee is set at 65 cents

1 per megawatt hour and the commission determines that the system
2 benefit fund is still insufficient to fund the 10 percent rate
3 reduction for any reason, the commission may reduce the rate
4 reduction to less than 10 percent. For a municipally owned utility
5 or electric cooperative, the reduced rate shall be equal to an
6 amount that can be fully funded by that portion of the nonbypassable
7 fee proceeds paid by the municipally owned utility or electric
8 cooperative that is allocated to the utility or cooperative by the
9 commission under Subsection (e) for programs for low-income
10 customers of the utility or cooperative. The reduced rate for
11 municipally owned utilities and electric cooperatives under this
12 section is in addition to any rate reduction that may result from
13 local programs for low-income customers of the municipally owned
14 utilities or electric cooperatives.

15 SECTION 17. Section 40.001(a), Utilities Code, is amended
16 to read as follows:

17 (a) Notwithstanding any other provision of law, except
18 Sections 39.151(j), 39.155, 39.157(a) and (e) [~~39.157(e)~~], 39.203,
19 39.903, and 39.904, this chapter governs the transition to and the
20 establishment of a fully competitive electric power industry for
21 municipally owned utilities. With respect to the regulation of
22 municipally owned utilities, this chapter controls over any other
23 provision of this title, except for sections in which the term
24 "municipally owned utility" is specifically used.

25 SECTION 18. Section 41.001, Utilities Code, is amended to
26 read as follows:

27 Sec. 41.001. APPLICABLE LAW. Notwithstanding any other

1 provision of law, except Sections 39.151(j), 39.155, 39.157(a) and
2 (e) [~~39.157(e)~~], 39.203, 39.903, and 39.904, this chapter governs
3 the transition to and the establishment of a fully competitive
4 electric power industry for electric cooperatives. Regarding the
5 regulation of electric cooperatives, this chapter shall control
6 over any other provision of this title, except for sections in which
7 the term "electric cooperative" is specifically used.

8 SECTION 19. Section 52.254, Utilities Code, is repealed.

9 SECTION 20. The change in law made by this Act relating to
10 qualifications and eligibility to serve as a commissioner or to be
11 employed with the Public Utility Commission of Texas applies only
12 to a commissioner or employee appointed or employed after the
13 effective date of this Act. A commissioner or employee of the
14 Public Utility Commission of Texas who is serving or employed on the
15 effective date of this Act is governed by the law as it existed
16 immediately before the effective date of this Act, and the former
17 law is continued in effect for that purpose.

18 SECTION 21. An independent organization certified by the
19 Public Utility Commission of Texas before September 1, 2005, shall
20 modify the organization's governing body to comply with Section
21 39.151(g), Utilities Code, as amended by this Act, not later than
22 January 1, 2006. On or after January 1, 2006, the Public Utility
23 Commission of Texas may decertify an independent organization whose
24 governing body does not comply with Section 39.151(g), Utilities
25 Code, as amended by this Act.

26 SECTION 22. This Act takes effect September 1, 2005.