

By: Cook of Colorado

H.B. No. 2244

Substitute the following for H.B. No. 2244:

By: Elkins

C.S.H.B. No. 2244

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the payment and recovery of municipal charges and costs
3 by providers of electricity.

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

5 SECTION 1. Section 33.008, Utilities Code, is amended by
6 amending Subsection (c) and adding Subsections (b-1), (b-2), (b-3),
7 and (g-1) to read as follows:

8 (b-1) On the termination, expiration, or extension of a
9 franchise agreement existing on September 1, 2005, a municipality
10 may change the per kilowatt hour charge otherwise prescribed by
11 Subsection (b).

12 (b-2) On or after September 1, 2007, a municipality may
13 change the per kilowatt hour charge provided by a franchise
14 agreement existing on September 1, 2007, regardless of the
15 termination or expiration date of the agreement, after providing to
16 the affected entity written notice of the change at least 90 days
17 before the date the change is scheduled to take effect.

18 (b-3) A per kilowatt hour charge adopted under Subsection
19 (b-1) or (b-2) may not exceed \$.0045 per kilowatt hour.

20 (c) The municipal franchise charges authorized by this
21 section shall be considered a reasonable and necessary operating
22 expense of each electric utility, transmission and distribution
23 utility, municipally owned utility, or electric cooperative that is
24 subject to a charge under this section. The charge shall be

1 included in the nonbypassable delivery charges that a customer's
2 retail electric provider must pay under Section 39.107 to the
3 utility serving the customer. Notwithstanding any other provision
4 of this title, the regulatory authority shall allow an electric
5 utility or transmission and distribution utility to adjust the
6 utility's rates or nonbypassable charges to permit the timely
7 recovery of any change in municipal franchise fees. The utility
8 shall recover the change in municipal franchise fees from the
9 customers residing in the municipality or, if applicable, from the
10 retail electric providers serving those customers.

11 (g-1) This section may not be construed to interfere with or
12 abrogate the rights or obligations of any party to a franchise
13 agreement in effect on September 1, 2005, except to the extent
14 authorized by Subsection (b-2).

15 SECTION 2. Section 36.201, Utilities Code, is amended to
16 read as follows:

17 Sec. 36.201. AUTOMATIC ADJUSTMENT FOR CHANGES IN COSTS.
18 Except as permitted by Sections 33.008 and [Section] 36.204, the
19 commission may not establish a rate or tariff that authorizes an
20 electric utility to automatically adjust and pass through to the
21 utility's customers a change in the utility's fuel or other costs.

22 SECTION 3. Section 39.202, Utilities Code, is amended by
23 adding Subsection (q) to read as follows:

24 (q) The commission shall adjust the price to beat as
25 necessary to reflect any change in the nonbypassable charges of a
26 transmission and distribution utility made under Section 33.008.

27 SECTION 4. Section 33.023, Utilities Code, is amended by

1 amending Subsection (b) and adding Subsections (c) and (d) to read
2 as follows:

3 (b) Except as provided by Subsection (c), the [The] electric
4 utility in the ratemaking proceeding shall reimburse the governing
5 body of the municipality for the reasonable cost of the services of
6 a person engaged under Subsection (a) to the extent the applicable
7 regulatory authority determines is reasonable.

8 (c) The electric utility in the ratemaking proceeding shall
9 reimburse the governing body of the municipality for 50 percent of
10 the reasonable cost of the services of a person engaged under
11 Subsection (a) to the extent the applicable regulatory authority
12 determines is reasonable if:

13 (1) the electric utility has offered to terminate a
14 franchise agreement existing at that time; or

15 (2) the ratemaking proceeding is brought after
16 September 1, 2007.

17 (d) Subsection (c) does not apply to a proceeding:

18 (1) brought under Section 39.262 that includes a power
19 generation company requesting a true-up of stranded costs; or

20 (2) in relation to which an agreement existing on
21 September 1, 2005, concerning reimbursement of municipal rate case
22 expenses, applies.

23 SECTION 5. Section 33.008(f), Utilities Code, is repealed.

24 SECTION 6. This Act applies only to franchise fees imposed
25 on or after the effective date of this Act. Franchise fees imposed
26 before the effective date of this Act are governed by the law in
27 effect on the date the fees are imposed, and that law is continued

1 in effect for that purpose.

2 SECTION 7. This Act takes effect September 1, 2005.