

By: Cook of Colorado

H.B. No. 2244

A BILL TO BE ENTITLED

1 AN ACT

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 Subsections (b) and (c) and adding Subsection (g-1) to
7 read as follows:

8 (b) If a municipality collected a charge or fee for a
9 franchise to use a municipal street, alley, or public way from an
10 electric utility, a municipally owned utility, or an electric
11 cooperative before the end of the freeze period, the municipality,
12 after the end of the freeze period or after implementation of
13 customer choice by the municipally owned utility or electric
14 cooperative, as appropriate, is entitled to collect from each
15 electric utility, transmission and distribution utility,
16 municipally owned utility, or electric cooperative that uses the
17 municipality's streets, alleys, or public ways to provide
18 distribution service a charge based on each kilowatt hour of
19 electricity delivered by the utility to each retail customer whose
20 consuming facility's point of delivery is located within the
21 municipality's boundaries. The charge imposed shall be equal to
22 the total electric franchise fee revenue due the municipality from
23 electric utilities, municipally owned utilities, or electric
24 cooperatives, as appropriate, for calendar year 1998 divided by the

1 total kilowatt hours delivered during 1998 by the applicable
2 electric utility, municipally owned utility, or electric
3 cooperative to retail customers whose consuming facilities' points
4 of delivery were located within the municipality's boundaries. The
5 compensation a municipality may collect from each electric utility,
6 transmission and distribution utility, municipally owned utility,
7 or electric cooperative providing distribution service shall be
8 equal to the charge per kilowatt hour determined for 1998
9 multiplied times the number of kilowatt hours delivered within the
10 municipality's boundaries. On the termination, expiration, or
11 extension of a franchise agreement existing on September 1, 2005, a
12 municipality may change the per kilowatt hour charge otherwise
13 prescribed by this subsection. The charge may not exceed \$.0045 per
14 kilowatt hour.

15 (c) The municipal franchise charges authorized by this
16 section shall be considered a reasonable and necessary operating
17 expense of each electric utility, transmission and distribution
18 utility, municipally owned utility, or electric cooperative that is
19 subject to a charge under this section. The charge shall be
20 included in the nonbypassable delivery charges that a customer's
21 retail electric provider must pay under Section 39.107 to the
22 utility serving the customer. Notwithstanding any other provision
23 of this title, the regulatory authority shall allow an electric
24 utility or transmission and distribution utility to adjust the
25 utility's rates or nonbypassable charges to permit the timely
26 recovery of any change in municipal franchise fees. The utility
27 shall recover the change in municipal franchise fees from the

1 customers residing in the municipality or, if applicable, from the
2 retail electric providers serving those customers.

3 (g-1) This section may not be construed to interfere with or
4 abrogate the rights or obligations of any party to a franchise
5 agreement in effect on September 1, 2005.

6 SECTION 2. Section 36.201, Utilities Code, is amended to
7 read as follows:

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

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

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

18 SECTION 4. Sections 33.008(f) and 33.023(b), Utilities
19 Code, are repealed.

20 SECTION 5. This Act applies only to franchise fees imposed
21 on or after the effective date of this Act. Franchise fees imposed
22 before the effective date of this Act are governed by the law in
23 effect on the date the fees are imposed, and that law is continued
24 in effect for that purpose.

25 SECTION 6. This Act takes effect September 1, 2005.