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H.B. No. 2644

A BILL TO BE ENTITLED

1 AN ACT

2 relating to delay in the deregulation of certain electric  
3 utilities.

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

5 SECTION 1. Chapter 39, Utilities Code, is amended by adding  
6 Subchapter J to read as follows:

7 SUBCHAPTER J. STATUS OF COMPETITION IN CERTAIN NON-ERCOT AREAS

8 Sec. 39.451. APPLICABILITY. (a) This subchapter applies  
9 to an investor-owned electric utility:

10 (1) that is operating solely outside of ERCOT in areas  
11 of this state that were included in the Southwest Power Pool on  
12 January 1, 2004;

13 (2) that was not affiliated with the Southeastern  
14 Electric Reliability Council on January 1, 2004; and

15 (3) to which Subchapter I does not apply.

16 (b) The legislature finds that circumstances exist that  
17 require that areas served by an electric utility described by  
18 Subsection (a) not be transitioned to full retail customer choice  
19 at this time.

20 Sec. 39.452. REGULATION OF UTILITY AND TRANSITION TO  
21 COMPETITION. (a) Until the later of January 1, 2010, or the date on  
22 which an electric utility subject to this subchapter is authorized  
23 by the commission to implement customer choice, the rates of the  
24 electric utility shall be regulated under traditional cost of

1 service regulation and the electric utility is subject to all  
2 applicable regulatory authority prescribed by this subtitle and  
3 Subtitle A, including Chapters 14, 32, 33, 36, and 37. Until the  
4 date on which an electric utility subject to this subchapter  
5 implements customer choice, the provisions of this chapter do not  
6 apply to that electric utility, other than this subchapter,  
7 Sections 39.904 and 39.905, and the provisions relating to the duty  
8 to obtain a permit from the Texas Commission on Environmental  
9 Quality for an electric generating facility and to reduce emissions  
10 from an electric generating facility.

11 (b) On or after January 1, 2010, the commission may require  
12 an electric utility subject to this subchapter to file a transition  
13 to competition plan with the commission. The transition to  
14 competition plan must identify how electric utilities subject to  
15 this subchapter intend to achieve full customer choice, including  
16 an evaluation of the transmission facilities, an explanation of how  
17 certification of the power region under Section 39.152 will be  
18 achieved, auctioning rights to generation capacity, or any other  
19 measure that is consistent with the public interest. The utility  
20 must also include in the transition to competition plan a provision  
21 to establish a price to beat for residential customers and  
22 commercial customers having a peak load of 1,000 kilowatts or less.  
23 The commission may prescribe additional information or provisions  
24 that must be included in the plan. The commission shall approve,  
25 modify, or reject a plan within 180 days after the date of a filing  
26 under this section unless a hearing is requested by any party to the  
27 proceeding. If a hearing is requested, the 180-day deadline will be

1 extended one day for each day of the hearing. The transition to  
2 competition plan may be updated or amended, subject to commission  
3 approval, until the applicable power region is certified as a  
4 qualifying power region under Section 39.152 and the plan is  
5 approved.

6 (c) On implementation of customer choice, an electric  
7 utility subject to this subchapter is subject to the provisions of  
8 this subtitle and Subtitle A to the same extent as other electric  
9 utilities, including the provisions of Chapter 37 concerning  
10 certificates of convenience and necessity.

11 Sec. 39.453. CUSTOMER CHOICE AND RELEVANT MARKET AND  
12 RELATED MATTERS. The commission may not authorize customer choice  
13 until the later of January 1, 2010, or the date the applicable power  
14 region has been certified as a qualifying power region under  
15 Section 39.152.

16 Sec. 39.454. EXISTING RIGHTS AND OBLIGATIONS. This  
17 subchapter may not be construed to:

18 (1) interfere with or abrogate the rights or  
19 obligations of any party, including a retail or wholesale customer,  
20 to a contract with an investor-owned electric utility, federal  
21 power marketer, federal power marketing agency, river authority,  
22 municipally owned utility, or electric cooperative;

23 (2) interfere with or abrogate the rights or  
24 obligations of a party under a contract or agreement concerning  
25 certificated utility service areas; or

26 (3) result in a change in wholesale power costs to  
27 wholesale customers in this state purchasing electricity under

1 wholesale power contracts the pricing provisions of which are based  
2 on formulary rates, fuel adjustments, or average system costs.

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