

By: Hughes

H.B. No. 2644

A BILL TO BE ENTITLED

AN ACT

relating to delay in the deregulation of certain electric utilities.

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

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

SUBCHAPTER J. DELAY OF COMPETITION IN CERTAIN NON-ERCOT AREAS

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

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

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

(3) to which Subchapter I does not apply.

(b) The legislature finds that circumstances exist that require that areas served by an electric utility described by Subsection (a) be treated as areas in which it is not in the public interest to transition to full retail customer choice at this time.

Sec. 39.452. REGULATION OF UTILITY AND TRANSITION TO COMPETITION. (a) Until the later of January 1, 2012, or the date on which an electric utility subject to this subchapter is authorized by the commission to implement customer choice, the rates of the 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, 2012, an electric utility subject  
12 to this subchapter may choose to participate in customer choice. An  
13 electric utility that chooses to participate in customer choice  
14 shall file a transition to competition plan with the commission.  
15 The transition to competition plan must identify how electric  
16 utilities subject to this subchapter intend to achieve full  
17 customer choice, including an evaluation of the transmission  
18 facilities, an explanation of how certification of the power region  
19 under Section 39.152 will be achieved, auctioning rights to  
20 generation capacity, or any other measure that is consistent with  
21 the public interest. The utility must also include in the  
22 transition to competition plan a provision to establish a price to  
23 beat for residential customers and commercial customers having a  
24 peak load of 1,000 kilowatts or less. The commission may prescribe  
25 additional information or provisions that must be included in the  
26 plan. The commission shall approve, modify, or reject a plan within  
27 180 days after the date of a filing under this section unless a

1 hearing is requested by any party to the proceeding. If a hearing is  
2 requested, the 180-day deadline will be extended one day for each  
3 day of the hearing. The transition to competition plan may be  
4 updated or amended, subject to commission approval, until the  
5 applicable power region is certified as a qualifying power region  
6 under Section 39.152 and the plan is approved.

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

12 Sec. 39.453. CUSTOMER CHOICE AND RELEVANT MARKET AND  
13 RELATED MATTERS. If an electric utility subject to this subchapter  
14 chooses on or after January 1, 2012, to participate in customer  
15 choice, the commission may not authorize customer choice until the  
16 applicable power region has been certified as a qualifying power  
17 region under Section 39.152.

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