

Amend CSSB 482 (house committee printing) as follows:

(1) Strike SECTION 1 of the bill (page 1, line 5 through page 2, line 12) and SECTION 7 of the bill (page 9, lines 19-22).

(2) Strike SECTION 2 of the bill (page 2, line 13, through page 3, line 20) and substitute the following:

SECTION 2. Section 39.051, Utilities Code, is amended by adding Subsection (h) to read as follows:

(h) On or before January 1, 2008, a transmission and distribution utility that is an affiliate of a power generation company or a retail electric provider under Section 11.003(2) or 11.006 shall:

(1) have a name and logo that is distinct from the name and logo of its affiliated power generation company or retail electric provider;

(2) have its board of directors composed exclusively of individuals who are not members of the board of directors of its affiliated power generation company or retail electric provider;

(3) have a chief operating officer who is not the chief operating officer of its affiliated power generation company or retail electric provider;

(4) have its headquarters located in a building separate and apart from the building or buildings in which the headquarters of its affiliated power generation company or retail electric provider is located;

(5) maintain an arm's-length relationship with its affiliated power generation company or retail electric provider;

(6) enter into transactions with its affiliated power generation company or retail electric provider only on a commercially reasonable basis and only as approved by a majority of the directors of its governing board of directors;

(7) prepare its separate annual financial statement in accordance with generally accepted accounting principles showing its assets and liabilities as separate and distinct from the assets of its affiliated power generation company or retail electric provider; and

(8) ensure that the commission has complete access to all of the transmission and distribution utility's books and

records pertaining to transactions between the utility and its affiliated power generation company or retail electric provider.

(3) In the recitation to SECTION 3 of the bill (page 3, line 22), strike "adding Subsection (i)" and substitute "amending Subsection (h) and adding Subsection (i)".

(4) In Section 39.101, Utilities Code, as amended by SECTION 3 of the bill (page 3, between lines 22 and 23), insert the following:

(h) A retail electric provider, power generation company, aggregator, or other entity that provides retail electric service may not disconnect service to a residential customer during an extreme weather emergency in a county or on a weekend day. The entity providing service shall defer collection of the full payment of bills that are due during an extreme weather emergency in a county until after the emergency is over and shall offer ~~[work with]~~ customers a deferred payment plan providing for a period of not less than five months for a customer to pay deferred amounts ~~[to establish a pay schedule for deferred bills]~~. For purposes of this subsection, "extreme weather emergency" means ~~[a period when]~~:

(1) a day for which the previous day's highest temperature did not exceed 32 degrees Fahrenheit anywhere in the county, and the temperature is predicted to remain at or below that level for the next 24 hours anywhere in the county, according to the nearest National Weather Service reports; ~~[or]~~

(2) a day for which the National Weather Service issues a heat advisory for the ~~[any]~~ county or when that advisory has been issued on any one of the preceding two calendar days in the county; or

(3) a day for which the heat index in the county reaches 105 degrees Fahrenheit, if the National Weather Service does not issue heat advisories for that county, or when the heat index in that county reaches 105 degrees Fahrenheit ~~[in the relevant service territory, or when such an advisory has been issued]~~ on any one of the preceding ~~[previous]~~ two calendar days.

(5) Add to the bill the following SECTION, numbered appropriately:

SECTION _____. (a) Subchapter C, Chapter 39, Utilities Code,

is amended by adding Section 39.1015 to read as follows:

Sec. 39.1015. SUSPENSION OF DISCONNECTION FOR CERTAIN CUSTOMERS. (a) In this section:

(1) "Critical care residential customer" means a residential electric customer for whom an interruption or suspension of electric service will create a dangerous or life-threatening condition.

(2) "Elderly low-income customer" means a low-income customer who is 65 years old or older.

(3) "Low-income customer" means an electric customer:

(A) whose household income is not more than 125 percent of the federal poverty guidelines;

(B) who receives food stamps from the Health and Human Services Commission; or

(C) who receives medical assistance from a state agency that administers a part of the medical assistance program.

(4) "Service provider" means a retail electric provider, power generation company, aggregator, or other entity that provides retail electric service.

(b) During the period beginning July 1 and ending September 30 of each year a service provider:

(1) may not disconnect service or authorize the disconnection of service to a critical care residential customer or elderly low-income customer who contacts the service provider regarding bill payment or in response to a disconnection notice;

(2) may not disconnect service or authorize the disconnection of service to a low-income customer other than an elderly low-income customer if the customer:

(A) contacts the service provider regarding bill payment or in response to a disconnection notice; and

(B) enters into a deferred payment plan with the service provider for the current month's electric charges and meets the terms of any then current deferred payment plan;

(3) shall request reconnection of service or reconnect service to a critical care residential customer or an elderly low-income customer whose service is disconnected before or during the period if:

(A) the customer contacts the service provider regarding bill payment or in response to a disconnection notice; or

(B) the service provider has previously been notified that the customer is a critical care residential customer;

(4) shall request reconnection of service or reconnect service to a low-income customer whose service is disconnected before or during the period if the customer enters into a deferred payment plan with the service provider; and

(5) shall rescind a request for disconnection of service to a critical care residential customer, elderly low-income customer, or low-income customer made before the period begins if the service provider is prohibited under this subsection from disconnecting or authorizing the disconnection of the customer's service during the period.

(c) A service provider may not disconnect service or authorize the disconnection of a critical care residential customer's service during the period provided by Subsection (b) regardless of whether the customer contacts the service provider as provided by Subsection (b) if the service provider has previously been notified that the customer is a critical care residential customer.

(d) A service provider shall allow a critical care residential customer, elderly low-income customer, or low-income customer to establish with the provider a deferred payment plan in person or by telephone. The service provider shall confirm the payment plan with the customer in writing. The deferred payment plan may not include a penalty for late payments accrued during the period provided by Subsection (b). The service provider shall allow a critical care residential customer, elderly low-income customer, or low-income customer to renegotiate the terms of the deferred payment plan at least one time, regardless of whether the customer's economic or financial circumstances have changed. For a low-income customer other than an elderly low-income customer, during the period provided by Subsection (b), the payment plan may require the payment of not more than 25 percent of the then current month's charges plus any due installments of a previous deferred payment plan. For a low-income customer other than an elderly

low-income customer, the service provider is not required to extend a deferred payment plan entered into under this subsection beyond the March billing cycle following the period provided by Subsection (b).

(e) A deferred payment plan established under Subsection (d) for one or more electric bills that come due during the period provided by Subsection (b) must provide:

(1) for a critical care residential customer or elderly low-income customer, that the customer is not required to pay more than 25 percent of the deferred electric bills as part of the first electric bill issued after the end of the period and that the remaining balance is to be paid in equal installments over the next five billing cycles, unless the customer requests a lesser number of installments; and

(2) for a low-income customer other than an elderly low-income customer, that the customer is required to pay not more than 25 percent of the deferred bills to initiate the agreement and that the remaining balance is to be paid in equal installments over the next five billing cycles, unless the customer requests a lesser number of installments.

(f) A service provider may pursue disconnection of electrical service for a critical care residential customer or an elderly low-income customer only after the period provided by Subsection (b) and only if the customer does not meet the terms of the deferred payment plan, unless the disconnection is otherwise prohibited. A service provider may pursue disconnection of service for a low-income customer other than an elderly low-income customer if the customer does not meet the terms of the deferred payment plan, unless the disconnection is otherwise prohibited. The service provider shall give the customer appropriate notice that the customer has not met the terms of the plan before the service provider disconnects or authorizes the disconnection of service.

(g) A service provider may encourage a critical care residential customer or elderly low-income customer to make partial payment of a deferred electric bill during the period provided by Subsection (b), but the service provider shall clearly inform the customer that the customer may not be disconnected for nonpayment

before October 1 following the period provided by Subsection (b).

(h) The commission by rule shall prohibit a customer who receives a deferred payment plan under Subsection (d) and who owes a past due deferred balance from switching to a different retail electric provider.

(6) Add to the bill the following SECTION, numbered appropriately:

SECTION _____. Subchapter C, Chapter 39, Utilities Code, is amended by adding Section 39.1016 to read as follows:

Sec. 39.1016. CANCELLATION FEE. A retail electric provider may not charge a residential customer who requests cancellation of retail electric service provided on a month-to-month basis a fee relating to cancellation.

(7) Strike the first sentence of Section 39.110(c), Utilities Code, as added by SECTION 4 of the bill (page 4, lines 18-21) and substitute the following:

This section applies only to a retail electric provider that, on December 31, 2006, had more than 250,000 residential customers in this state and was required to offer service to residential customers at the price to beat in accordance with Section 39.202.

(8) Add to the bill the following SECTION, numbered appropriately:

SECTION _____. (a) The legislature finds that:

(1) the "filed rate" doctrine is at odds with the intent of the state legislature to restructure the electric industry in this state;

(2) the "filed rate" doctrine in a private right of action for a violation of Section 39.157, Utilities Code, or of Sections 15.01 through 15.26, Business & Commerce Code, is abolished; and

(3) the deregulated wholesale and retail markets in ERCOT are the relevant markets for the purposes of determining standing to sue and the existence of market power abuses under Section 39.157, Utilities Code.

(b) Section 39.157, Utilities Code, is amended by amending Subsection (a) and adding Subsection (a-1) to read as follows:

(a) To prevent market power abuses or other violations of

this section, the [~~The~~] commission shall monitor market power associated with the generation, transmission, distribution, and sale of electricity in this state. On a finding that market power abuses or other violations of this section are occurring, the commission shall require reasonable mitigation of the market power by ordering the construction of additional transmission or distribution facilities, by seeking an injunction or civil penalties as necessary to eliminate or to remedy the market power abuse or violation as authorized by Chapter 15, by imposing an administrative penalty as authorized by Chapter 15, or by suspending, revoking, or amending a certificate or registration as authorized by Section 39.356. Section 15.024(c) does not apply to an administrative penalty imposed under this section. For purposes of this subchapter, market power abuses are practices by persons possessing market power that are unreasonably discriminatory or tend to unreasonably restrict, impair, or reduce the level of competition, including practices that tie unregulated products or services to regulated products or services or unreasonably discriminate in the provision of regulated services. For purposes of this section, "market power abuses" include predatory pricing, withholding of production, precluding entry, and collusion. A violation of the code of conduct provided by Subsection (d) that materially impairs the ability of a person to compete in a competitive market shall be deemed to be an abuse of market power. The possession of a high market share in a market open to competition may not, of itself, be deemed to be an abuse of market power; however, this sentence shall not affect the application of state and federal antitrust laws.

(a-1) Notwithstanding any other law, a qualifying person may pursue a private right of action under Section 39.158(b) or under Sections 15.01 through 15.26, Business & Commerce Code, based on a violation of this section, for damages or for injunctive relief, against a power generation company, a power marketer, a retail electric provider, or any other supplier of wholesale or retail electricity, other than a transmission and distribution utility, operating in ERCOT. A qualifying person is not required to bring an administrative action before pursuing a private right of

action. In this subsection, "qualifying person" means a retail electric provider that meets the requirements for standing to sue for market power abuses under Sections 15.01 through 15.26, Business & Commerce Code.

(9) Add to the bill the following SECTION, numbered appropriately:

SECTION _____. Subchapter D, Chapter 39, Utilities Code, is amended by adding Section 39.159 to read as follows:

Sec. 39.159. CONSIDERATION AND APPROVAL OF CERTAIN TRANSACTIONS. (a) To protect retail customers in this state, notwithstanding any other provision of this title, an electric utility or transmission and distribution utility must report to the commission not less than 120 days before the closing of any transaction in which:

(1) the electric utility or transmission and distribution utility will be merged or consolidated with another electric utility or transmission and distribution utility; or

(2) at least 50 percent of the stock of the electric utility or transmission and distribution utility will be sold.

(b) The parties to a transaction described by Subsection (a) may not be required to obtain commission approval or to complete the commission review process before the closing of the transaction.

(c) The commission shall review a transaction described by Subsection (a) to determine whether the transaction is consistent with the public interest under the standards provided by Section 14.101.

(d) If an electric utility or transmission and distribution utility or a person seeking to acquire or merge with an electric utility or transmission and distribution utility files with the commission a stipulation, representation, or commitment in advance of or as part of a filing described by this section or by Section 14.101, the commission may enforce the stipulation, representation, or commitment to the extent that the stipulation, representation, or commitment is consistent with the standards provided by this section and Section 14.101.

(10) In Section 39.2021(d), Utilities Code, as added by SECTION 5 of the bill (page 8, line 1), strike "service plan offered

to residential customers" and substitute "service plan offered by the provider to residential customers".

(11) Add to the bill the following SECTION, numbered appropriately:

SECTION _____. Subchapter Z, Chapter 39, Utilities Code, is amended by adding Section 39.911 to read as follows:

Sec. 39.911. BILL FOR UTILITY SERVICES. A retail electric provider with more than 250,000 residential customers in this state that, on December 31, 2006, was required to offer service to residential customers at the price to beat under Section 39.202, shall include on the first page of a bill for services sent to a customer the following language printed in at least 12-point type: "To see competitor pricing and service plans, please visit the Public Utility Commission website: www.powertochoose.com."

(12) Renumber SECTIONS accordingly.