

BILL ANALYSIS

C.S.H.B. 2818
By: Ritter
Regulated Industries
Committee Report (Substituted)

BACKGROUND AND PURPOSE

In 2005, the Legislature enacted H.B. 1567, which put Entergy Gulf States, Inc. (EGSI), on a path towards introducing retail electric competition in its Texas service territory and setting milestones along that path. One of those milestones was the filing of a Transition to Competition Plan at the Public Utility Commission no later than January 1, 2007. EGSI filed its Transition to Competition Plan (TTC Plan) on December 29, 2006. Among other things, the TTC Plan calls for (1) the creation of EGSI-TX, a separate, Texas-only, utility, (2) the integration of EGSI-TX into ERCOT, and (3) the introduction of retail electric competition in EGSI-TX territory.

However, the TTC Plan also estimates that its implementation would increase the retail rates of EGSI's residential customers and the transmission rates in ERCOT to a point where the costs could outweigh the benefits. Additionally, EGSI, and the electric cooperatives operating within its service territory, would be required to make difficult, and expensive, long-term decisions regarding the planning, contracting for and/or construction of generation and transmission facilities. Absent more assurance that the benefits of the TTC Plan would outweigh the costs, a statutory postponement (the purpose of this bill) of the introduction of retail electric competition, in the Texas portion of the Southeastern Electric Reliability Council, would give EGSI and the affected electric cooperatives the necessary certainty to make long-term commitments and assure cost-of-service rates for electric consumers in EGSI's service territory until the Legislature acts to introduce retail electric competition in this area.

The committee substitute makes various technical modifications and language corrections.

RULEMAKING AUTHORITY

It is the opinion of the committee that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

SECTION 1. Amends Subchapter J, Chapter 39, Utilities Code by adding Section 39.4515 to read as follows:

Adds Sec. 39.4515 [Delay of Retail Competition] (a) Provides that notwithstanding any other provision of this chapter, the Public Utility Commission (PUC) may not implement or consider the implementation of retail electric competition in an area in the Southeastern Electric Reliability Council that is not currently engaged in retail electric competition unless subsequent law after this Act's effective date requires such an action.

(b) Provides that this section prevails over any conflicting provision or provisions in this subchapter.

SECTION 2. (a) Directs an electric utility operating in the Southeastern Electric Reliability Council to withdraw its transition to competition plan, cease all activities related to its transition to competition plan and file for recovery of applicable costs within 180 days of the effective date of this section.

(b) Provides that an electric utility described by Subsection (a) is entitled to recover the costs described in Subsection (a)(3).

SECTION 3. Emergency clause; effective provision.

EFFECTIVE DATE

Immediately, if it receives the appropriate vote, or September 1, 2007.

COMPARISON OF ORIGINAL TO SUBSTITUTE

Other than general format changes, the committee substitute to H.B. 2818 changes the following:

Section 1 changes "shall" to "may" and changes "Southeastern Reliability Corporation" to what the caption reads, "Southeastern Electric Reliability Council" (also known as SERC). This change from the former to the latter is reflected throughout C.S.H.B. 2818. Another change in Section 1 is found in what is amended in the Utilities Code. H.B. 2818 amends Chapter 39 of the Utilities Code by adding Section 39.4005 [Delay of Retail Competition] whereas C.S.H.B. 2818 amends Subchapter J, Chapter 39 of the Utilities Code by adding Section 39.4515 [Delay of Retail Competition].

Section 2 of C.S.H.B. 2818 is similar to Section 1(b) of H.B. 2818, but the committee substitute adds an additional Subsection (b) that is not found in the introduced bill.