

AN ACT

relating to the securitization of the nonbypassable delivery rates of transmission and distribution utilities.

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

SECTION 1. Section 39.262, Utilities Code, is amended by amending Subsection (c) and adding Subsections (l), (m), (n), and (o) to read as follows:

(c) After January 10, 2004, at a schedule and under procedures to be determined by the commission, each transmission and distribution utility, its affiliated retail electric provider, and its affiliated power generation company shall jointly file to finalize stranded costs under Subsections (h) and (i) and reconcile those costs with the estimated stranded costs used to develop the competition transition charge in the proceeding held under Section 39.201. Any resulting difference shall be applied to the nonbypassable delivery rates of the transmission and distribution utility, except that at the utility's option, any or all of the amounts recovered under this section ~~[remaining stranded costs]~~ may be securitized under Subchapter G.

(l) To protect retail customers in this state, and ensure the appropriateness of the nonbypassable rates of electric utilities and transmission and distribution utilities, notwithstanding any other provision of this title, an electric utility or transmission and distribution utility must report to and

1 obtain approval of the commission before closing any transaction in  
2 which:

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

6 (2) at least 50 percent of the stock of the electric  
7 utility or transmission and distribution utility will be  
8 transferred or sold; or

9 (3) a controlling interest or operational control of  
10 the electric utility or transmission and distribution utility will  
11 be transferred.

12 (m) The commission shall approve a transaction under  
13 Subsection (1) if the commission finds that the transaction is in  
14 the public interest. In making its determination, the commission  
15 shall consider whether the transaction will adversely affect the  
16 reliability of service, availability of service, or cost of service  
17 of the electric utility or transmission and distribution utility.  
18 The commission shall make the determination concerning a  
19 transaction under this subsection not later than the 180th day  
20 after the date the commission receives the relevant report. If the  
21 commission has not made a determination before the 181st day after  
22 that date, the transaction is considered approved.

23 (n) Subsections (1) and (m) do not apply to a transaction  
24 described by Subsection (1) for which a definitive agreement was  
25 executed before April 1, 2007, if an electric utility or  
26 transmission and distribution utility or a person seeking to  
27 acquire or merge with an electric utility or transmission and

distribution utility made a filing for review of the transaction under Section 14.101 before May 1, 2007, and the resulting proceeding was not withdrawn.

(o) 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 under Subsection (l) or under 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. The commission may reasonably interpret and enforce conditions adopted under this section.

SECTION 2. Section 39.301, Utilities Code, is amended to read as follows:

Sec. 39.301. PURPOSE. The purpose of this subchapter is to enable utilities to use securitization financing to recover regulatory assets, all other amounts determined under Section 39.262, and any amounts being recovered under a competition transition charge determined as a result of the proceedings under Sections 39.201 and 39.262. This ~~[and stranded costs, because this]~~ type of debt will lower the carrying costs of the assets relative to the costs that would be incurred using conventional utility financing methods. The proceeds of the transition bonds shall be used solely for the purposes of reducing the amount of recoverable regulatory assets and other amounts ~~[stranded costs]~~, as determined

1 by the commission in accordance with this chapter, through the  
2 refinancing or retirement of utility debt or equity. The  
3 commission shall ensure that securitization provides tangible and  
4 quantifiable benefits to ratepayers, greater than would have been  
5 achieved absent the issuance of transition bonds. The commission  
6 shall ensure that the structuring and pricing of the transition  
7 bonds result in the lowest transition bond charges consistent with  
8 market conditions and the terms of the financing order. The amount  
9 securitized may not exceed the present value of the revenue  
10 requirement over the life of the proposed transition bond  
11 associated with the regulatory assets or other amounts [~~stranded~~  
12 ~~costs~~] sought to be securitized. The present value calculation  
13 shall use a discount rate equal to the proposed interest rate on the  
14 transition bonds.

15 SECTION 3. Section 39.302(4), Utilities Code, is amended to  
16 read as follows:

17 (4) "Qualified costs" means 100 percent of an electric  
18 utility's regulatory assets and 75 percent of its recoverable costs  
19 determined by the commission under Section 39.201 and any remaining  
20 amounts [~~stranded costs~~] determined under Section 39.262 together  
21 with the costs of issuing, supporting, and servicing transition  
22 bonds and any costs of retiring and refunding the electric  
23 utility's existing debt and equity securities in connection with  
24 the issuance of transition bonds. The term includes the costs to  
25 the commission of acquiring professional services for the purpose  
26 of evaluating proposed transactions under Section 39.201 and this  
27 subchapter.

SECTION 4. Sections 39.303(a) and (b), Utilities Code, are amended to read as follows:

(a) The commission shall adopt a financing order, on application of a utility to recover the utility's regulatory assets and other amounts determined [~~eligible stranded costs~~] under Section 39.201 or 39.262, on making a finding that the total amount of revenues to be collected under the financing order is less than the revenue requirement that would be recovered over the remaining life of the regulatory assets or other amounts [~~stranded costs~~] using conventional financing methods and that the financing order is consistent with the standards in Section 39.301.

(b) The financing order shall detail the amount of regulatory assets and other amounts [~~stranded costs~~] to be recovered and the period over which the nonbypassable transition charges shall be recovered, which period may not exceed 15 years. If an amount determined under Section 39.262 is subject to judicial review at the time of the securitization proceeding, the financing order shall include an adjustment mechanism requiring the utility to adjust its rates, other than transition charges, or provide credits, other than credits to transition charges, in a manner that would refund over the remaining life of the transition bonds any overpayments resulting from securitization of amounts in excess of the amount resulting from a final determination after completion of all appellate reviews. The adjustment mechanism may not affect the stream of revenue available to service the transition bonds. An adjustment may not be made under this subsection until all appellate reviews, including, if applicable, appellate reviews

1 following a commission decision on remand of its original orders,  
2 have been completed.

3         SECTION 5. This Act takes effect immediately if it receives  
4 a vote of two-thirds of all the members elected to each house, as  
5 provided by Section 39, Article III, Texas Constitution. If this  
6 Act does not receive the vote necessary for immediate effect, this  
7 Act takes effect August 27, 2007.

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President of the Senate

\_\_\_\_\_  
Speaker of the House

I certify that H.B. No. 624 was passed by the House on March 14, 2007, by the following vote: Yeas 144, Nays 0, 2 present, not voting; and that the House concurred in Senate amendments to H.B. No. 624 on May 28, 2007, by the following vote: Yeas 144, Nays 0, 2 present, not voting.

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Chief Clerk of the House

I certify that H.B. No. 624 was passed by the Senate, with amendments, on May 23, 2007, by the following vote: Yeas 31, Nays 0.

\_\_\_\_\_  
Secretary of the Senate

APPROVED: \_\_\_\_\_

Date

\_\_\_\_\_  
Governor