

1-1 By: King of Parker, et al. (Senate Sponsor-Fraser) H.B. No. 624  
1-2 (In the Senate - Received from the House March 15, 2007;  
1-3 March 19, 2007, read first time and referred to Committee on  
1-4 Business and Commerce; May 18, 2007, reported adversely, with  
1-5 favorable Committee Substitute by the following vote: Yeas 6,  
1-6 Nays 0; May 18, 2007, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR H.B. No. 624 By: Fraser

1-8 A BILL TO BE ENTITLED  
1-9 AN ACT

1-10 relating to the securitization of the nonbypassable delivery rates  
1-11 of transmission and distribution utilities.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. Section 39.262, Utilities Code, is amended by  
1-14 amending Subsection (c) and adding Subsections (l), (m), (n), and  
1-15 (o) to read as follows:

1-16 (c) After January 10, 2004, at a schedule and under  
1-17 procedures to be determined by the commission, each transmission  
1-18 and distribution utility, its affiliated retail electric provider,  
1-19 and its affiliated power generation company shall jointly file to  
1-20 finalize stranded costs under Subsections (h) and (i) and reconcile  
1-21 those costs with the estimated stranded costs used to develop the  
1-22 competition transition charge in the proceeding held under Section  
1-23 39.201. Any resulting difference shall be applied to the  
1-24 nonbypassable delivery rates of the transmission and distribution  
1-25 utility, except that at the utility's option, any or all of the  
1-26 amounts recovered under this section [~~remaining stranded costs~~] may  
1-27 be securitized under Subchapter G.

1-28 (l) To protect retail customers in this state, and ensure  
1-29 the appropriateness of the nonbypassable rates of electric  
1-30 utilities and transmission and distribution utilities,  
1-31 notwithstanding any other provision of this title, an electric  
1-32 utility or transmission and distribution utility must report to and  
1-33 obtain approval of the commission before closing any transaction in  
1-34 which:

1-35 (1) the electric utility or transmission and  
1-36 distribution utility will be merged or consolidated with another  
1-37 electric utility or transmission and distribution utility;

1-38 (2) at least 50 percent of the stock of the electric  
1-39 utility or transmission and distribution utility will be  
1-40 transferred or sold; or

1-41 (3) a controlling interest or operational control of  
1-42 the electric utility or transmission and distribution utility will  
1-43 be transferred.

1-44 (m) The commission shall approve a transaction under  
1-45 Subsection (l) if the commission finds that the transaction is in  
1-46 the public interest. In making its determination, the commission  
1-47 shall consider whether the transaction will adversely affect the  
1-48 reliability of service, availability of service, or cost of service  
1-49 of the electric utility or transmission and distribution utility.  
1-50 The commission shall make the determination concerning a  
1-51 transaction under this subsection not later than the 180th day  
1-52 after the date the commission receives the relevant report. If the  
1-53 commission has not made a determination before the 181st day after  
1-54 that date, the transaction is considered approved.

1-55 (n) Subsections (l) and (m) do not apply to a transaction  
1-56 described by Subsection (l) for which a definitive agreement was  
1-57 executed before April 1, 2007, if an electric utility or  
1-58 transmission and distribution utility or a person seeking to  
1-59 acquire or merge with an electric utility or transmission and  
1-60 distribution utility made a filing for review of the transaction  
1-61 under Section 14.101 before May 1, 2007, and the resulting  
1-62 proceeding was not withdrawn.

1-63 (o) If an electric utility or transmission and distribution

2-1 utility or a person seeking to acquire or merge with an electric  
 2-2 utility or transmission and distribution utility files with the  
 2-3 commission a stipulation, representation, or commitment in advance  
 2-4 of or as part of a filing under subsection (1) or under Section  
 2-5 14.101, the commission may enforce the stipulation,  
 2-6 representation, or commitment to the extent that the stipulation,  
 2-7 representation, or commitment is consistent with the standards  
 2-8 provided by this section and Section 14.101. The commission may  
 2-9 reasonably interpret and enforce conditions adopted under this  
 2-10 section.

2-11 SECTION 2. Section 39.301, Utilities Code, is amended to  
 2-12 read as follows:

2-13 Sec. 39.301. PURPOSE. The purpose of this subchapter is to  
 2-14 enable utilities to use securitization financing to recover  
 2-15 regulatory assets, all other amounts determined under Section  
 2-16 39.262, and any amounts being recovered under a competition  
 2-17 transition charge determined as a result of the proceedings under  
 2-18 Sections 39.201 and 39.262. This ~~[and stranded costs, because~~  
 2-19 ~~this]~~ type of debt will lower the carrying costs of the assets  
 2-20 relative to the costs that would be incurred using conventional  
 2-21 utility financing methods. The proceeds of the transition bonds  
 2-22 shall be used solely for the purposes of reducing the amount of  
 2-23 recoverable regulatory assets and other amounts ~~[stranded costs]~~,  
 2-24 as determined by the commission in accordance with this chapter,  
 2-25 through the refinancing or retirement of utility debt or equity.  
 2-26 The commission shall ensure that securitization provides tangible  
 2-27 and quantifiable benefits to ratepayers, greater than would have  
 2-28 been achieved absent the issuance of transition bonds. The  
 2-29 commission shall ensure that the structuring and pricing of the  
 2-30 transition bonds result in the lowest transition bond charges  
 2-31 consistent with market conditions and the terms of the financing  
 2-32 order. The amount securitized may not exceed the present value of  
 2-33 the revenue requirement over the life of the proposed transition  
 2-34 bond associated with the regulatory assets or other amounts  
 2-35 ~~[stranded costs]~~ sought to be securitized. The present value  
 2-36 calculation shall use a discount rate equal to the proposed  
 2-37 interest rate on the transition bonds.

2-38 SECTION 3. Section 39.302(4), Utilities Code, is amended to  
 2-39 read as follows:

2-40 (4) "Qualified costs" means 100 percent of an electric  
 2-41 utility's regulatory assets and 75 percent of its recoverable costs  
 2-42 determined by the commission under Section 39.201 and any remaining  
 2-43 amounts ~~[stranded costs]~~ determined under Section 39.262 together  
 2-44 with the costs of issuing, supporting, and servicing transition  
 2-45 bonds and any costs of retiring and refunding the electric  
 2-46 utility's existing debt and equity securities in connection with  
 2-47 the issuance of transition bonds. The term includes the costs to  
 2-48 the commission of acquiring professional services for the purpose  
 2-49 of evaluating proposed transactions under Section 39.201 and this  
 2-50 subchapter.

2-51 SECTION 4. Sections 39.303(a) and (b), Utilities Code, are  
 2-52 amended to read as follows:

2-53 (a) The commission shall adopt a financing order, on  
 2-54 application of a utility to recover the utility's regulatory assets  
 2-55 and other amounts determined ~~[eligible stranded costs]~~ under  
 2-56 Section 39.201 or 39.262, on making a finding that the total amount  
 2-57 of revenues to be collected under the financing order is less than  
 2-58 the revenue requirement that would be recovered over the remaining  
 2-59 life of the regulatory assets or other amounts ~~[stranded costs]~~  
 2-60 using conventional financing methods and that the financing order  
 2-61 is consistent with the standards in Section 39.301.

2-62 (b) The financing order shall detail the amount of  
 2-63 regulatory assets and other amounts ~~[stranded costs]~~ to be  
 2-64 recovered and the period over which the nonbypassable transition  
 2-65 charges shall be recovered, which period may not exceed 15 years.  
 2-66 If an amount determined under Section 39.262 is subject to judicial  
 2-67 review at the time of the securitization proceeding, the financing  
 2-68 order shall include an adjustment mechanism requiring the utility  
 2-69 to adjust its rates, other than transition charges, or provide

3-1 credits, other than credits to transition charges, in a manner that  
3-2 would refund over the remaining life of the transition bonds any  
3-3 overpayments resulting from securitization of amounts in excess of  
3-4 the amount resulting from a final determination after completion of  
3-5 all appellate reviews. The adjustment mechanism may not affect the  
3-6 stream of revenue available to service the transition bonds. An  
3-7 adjustment may not be made under this subsection until all  
3-8 appellate reviews, including, if applicable, appellate reviews  
3-9 following a commission decision on remand of its original orders,  
3-10 have been completed.

3-11 SECTION 5. This Act takes effect immediately if it receives  
3-12 a vote of two-thirds of all the members elected to each house, as  
3-13 provided by Section 39, Article III, Texas Constitution. If this  
3-14 Act does not receive the vote necessary for immediate effect, this  
3-15 Act takes effect August 27, 2007.

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