

By: King of Parker

H.B. No. 1386

A BILL TO BE ENTITLED

AN ACT

relating to regulation of the decommissioning costs of certain nuclear-powered commercial electric generating units.

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

SECTION 1. Subchapter E, Chapter 39, Utilities Code, is amended by adding Section 39.206 to read as follows:

Sec. 39.206. NUCLEAR-POWERED ELECTRIC GENERATING UNIT DECOMMISSIONING COSTS. (a) In this section:

(1) "Decommissioning" includes decommissioning and decontamination of a nuclear generating unit consistent with federal Nuclear Regulatory Commission requirements.

(2) "Nuclear decommissioning trust" means an external and irrevocable trust created for the purpose of funding decommissioning obligations for a nuclear generating unit.

(3) "Nuclear generating unit" means an electric generating facility that uses nuclear energy to generate power for sale.

(4) "Retail electric customer" means a retail electric customer:

(A) in a geographic area of this state in which retail customer choice has been implemented; or

(B) of a municipally owned utility or electric cooperative that has an agreement to purchase power from a nuclear generating unit.

1 (b) This section applies only to a nuclear generating unit
2 that is:

3 (1) constructed in this state after January 1, 2002;

4 and

5 (2) owned by a power generation company.

6 (c) A power generation company that owns a nuclear
7 generating unit shall fund out of operating revenues on an annual
8 basis:

9 (1) the costs associated with funding the
10 decommissioning obligations for the nuclear generating unit; or

11 (2) the power generation company's portion of the
12 decommissioning costs for the nuclear generating unit in proportion
13 to the company's ownership interest in the nuclear generating unit
14 if the unit is owned by more than one person.

15 (d) The power generation company shall establish a nuclear
16 decommissioning trust for a nuclear generating unit it owns or for
17 the proportionate share of a nuclear generating unit of which it
18 owns a part. The funding obligations for the trust must begin
19 before the nuclear generating unit receives its initial fuel load
20 and begins commercial operation to generate power for sale. The
21 terms of the trust must be consistent with trust terms and
22 conditions the federal Nuclear Regulatory Commission requires for
23 providing financial assurance for decommissioning.

24 (e) The commission by order shall establish for a nuclear
25 generating unit the amount of annual decommissioning funding
26 necessary to meet the decommissioning obligations for the nuclear
27 generating unit over the unit's operating license period as

1 established by the federal Nuclear Regulatory Commission. The
2 power generation company shall conduct a study of the costs of
3 decommissioning to establish the decommissioning obligations
4 before the nuclear generating unit begins commercial operation to
5 generate power for sale. The power generation company shall
6 conduct the study at least once in each three-year period during the
7 term of the nuclear generating unit's operating license using the
8 most current reasonably available information on the costs of
9 decommissioning. At least once in each three-year period, the
10 commission shall conduct a proceeding to review the most recent
11 study for each power generation company, consider other reasonably
12 available current information on the costs of decommissioning, and
13 determine whether the study's conclusions are reasonable.

14 (f) The power generation company annually shall file a
15 report on the status of the decommissioning trust fund. At least
16 once in each three-year period, the commission shall conduct a
17 proceeding to review the balance of each nuclear decommissioning
18 trust and the projected amount of annual decommissioning funding
19 for the associated nuclear generating unit. On the conclusion of
20 the review proceeding, the commission by order shall revise the
21 amount of annual funding for the nuclear generating unit as
22 necessary.

23 (g) A power generation company that owns all or part of a
24 nuclear generating unit shall remit the appropriate amount of
25 annual decommissioning funding to the nuclear decommissioning
26 trust created for its proportionate ownership position in a nuclear
27 generating unit in accordance with the commission's funding order

1 issued under Subsection (e) or (f). The commission may terminate
2 the power generation company's registration to operate if the
3 company violates this subsection.

4 (h) A power generation company that owns a nuclear
5 generating unit is the funds administrator of the nuclear
6 decommissioning trust for the associated nuclear generating unit.
7 The company as funds administrator shall invest the trust funds in
8 accordance with guidelines established by commission rule and
9 consistent with the federal Nuclear Regulatory Commission
10 guidelines so that the decommissioning funds, plus the amounts
11 earned from investment of the funds, will be available at the time
12 of decommissioning. The commission shall adopt rules to define the
13 company's specific duties as funds administrator and requirements
14 regarding prudent management and investment of nuclear
15 decommissioning trust funds.

16 (i) The commission shall adopt rules necessary to ensure
17 that:

18 (1) sufficient funds are remitted to a nuclear
19 decommissioning trust on an annual basis to cover the cost of
20 decommissioning a nuclear generating unit at the end of its
21 operating license period in accordance with applicable state and
22 federal laws and regulations;

23 (2) the periodic cost studies and reviews described by
24 Subsections (e) and (f) include all current reasonably available
25 information the commission determines is necessary and
26 appropriate;

27 (3) all funds remitted to a nuclear decommissioning

1 trust are prudently managed and spent for their intended purpose;
2 and

3 (4) the funds remitted to a nuclear decommissioning
4 trust and the amounts earned from investing the funds, will be
5 available for, and restricted to the purpose of decommissioning of
6 the associated nuclear generating unit, including if the trust or
7 nuclear generating unit is transferred to another person.

8 (j) The commission shall determine the manner in which any
9 shortfall in the actual cost of decommissioning a nuclear
10 generating unit shall be recovered from retail electric customers
11 in this state, consistent with law. Subject to Subsection (k), the
12 retail electric customers in this state are responsible for funding
13 any shortfall in the cost of decommissioning the nuclear generating
14 unit if:

15 (1) the nuclear generating unit is being
16 decommissioned and the balance of the nuclear decommissioning trust
17 is not sufficient to fund the cost of decommissioning; or

18 (2) the power generation company does not remit the
19 required amount of funding and the company's registration to
20 operate is terminated under Subsection (g).

21 (k) For retail electric customers of a municipally owned
22 utility or an electric cooperative that has an agreement to
23 purchase power from a nuclear generating unit, the amount of the
24 shortfall in the cost of decommissioning the nuclear generating
25 unit that the customers are responsible for is limited to a portion
26 of that shortfall that bears the same proportion to the total
27 shortfall as the amount of electric power generated by the nuclear

1 generating unit and purchased by the municipally owned utility or
2 electric cooperative bears to the total amount of power the nuclear
3 generating unit generated.

4 (l) If retail electric customers in this state become
5 responsible for the costs of decommissioning a nuclear generating
6 unit and incur costs under Subsection (j) or (k) and the nuclear
7 generating unit is recommissioned by the power generation company
8 whose registration to operate was terminated under Subsection (g)
9 or by a new owner, as a condition of operating the generating unit,
10 the power generation company or new owner shall repay the costs the
11 retail electric customers in this state incurred in the manner
12 determined by the commission. The commission may authorize the
13 repayment to occur over a period established by the commission if
14 the nuclear decommissioning trust is adequately funded on an annual
15 basis as determined by the commission in Subsection (e) or (f).

16 (m) The commission by rule may ensure that:

17 (1) money for decommissioning a nuclear generating
18 unit is prudently collected, managed, and spent for its intended
19 purposes; and

20 (2) decommissioning money that remains unspent after
21 decommissioning of the nuclear generating unit is complete is
22 returned to the appropriate retail electric customers.

23 SECTION 2. This Act takes effect September 1, 2007.