

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 generation 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 GENERATION UNIT DECOMMISSIONING COSTS. (a) In this section:

(1) "Competitive retail electric customer" means a retail electric customer in a geographic area of this state in which retail customer choice has been implemented, other than a customer of a municipally owned utility or electric cooperative that has not implemented customer choice.

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

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

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

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

1           (1) is constructed in this state after January 1,  
2 2002; and

3           (2) is owned by a power generation company.

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

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

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

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

22           (e) The commission by order shall establish for a nuclear  
23 generating unit the amount of annual decommissioning funding  
24 necessary to meet the decommissioning obligations for the nuclear  
25 generating unit over the unit's operating license period as  
26 established by the federal Nuclear Regulatory Commission. In  
27 determining the amount of the annual decommissioning funding under

1 this subsection or Subsection (f), the commission shall consider  
2 the most current reasonably available information on the cost of  
3 decommissioning.

4 (f) At least once in each three-year period, the commission  
5 shall conduct a proceeding to review the balance of each nuclear  
6 decommissioning trust and the projected amount of annual  
7 decommissioning funding for the associated nuclear generating  
8 unit. On the conclusion of the review proceeding, the commission by  
9 order shall revise the amount of annual funding for the nuclear  
10 generating unit as necessary.

11 (g) A power generation company that owns all or part of a  
12 nuclear generating unit shall remit the appropriate amount of  
13 annual decommissioning funding to the nuclear decommissioning  
14 trust created for its proportionate ownership position in a nuclear  
15 generating unit in accordance with the commission's funding order  
16 issued under Subsection (e) or (f). The commission may terminate  
17 the power generation company's registration to operate if the  
18 company violates this subsection.

19 (h) A power generation company that owns a nuclear  
20 generating unit is the funds administrator of the nuclear  
21 decommissioning trust for the associated nuclear generating unit.  
22 The company as funds administrator shall invest the trust funds in  
23 accordance with guidelines established by commission rule and  
24 consistent with the federal Nuclear Regulatory Commission  
25 guidelines so that the decommissioning funds, plus the amounts  
26 earned from investment of the funds, will be available at the time  
27 of decommissioning. The commission shall adopt rules to define the

1 company's specific duties as funds administrator and requirements  
2 regarding prudent management and investment of nuclear  
3 decommissioning trust funds.

4 (i) The commission shall adopt rules necessary to ensure  
5 that:

6 (1) sufficient funds are remitted to a nuclear  
7 decommissioning trust on an annual basis to cover the cost of  
8 decommissioning a nuclear generating unit at the end of its  
9 operating license period in accordance with applicable state and  
10 federal laws and regulations;

11 (2) all funds remitted to a nuclear decommissioning  
12 trust are prudently managed and spent for their intended purpose;  
13 and

14 (3) the funds remitted to a nuclear decommissioning  
15 trust and the amounts earned from investing the funds, will be  
16 available for, and restricted to the purpose of decommissioning of  
17 the associated nuclear generating unit, including if the trust or  
18 nuclear generating unit is transferred to another person.

19 (j) The commission shall determine the manner in which any  
20 shortfall in the actual cost of decommissioning a nuclear  
21 generating unit shall be recovered from competitive retail electric  
22 customers, consistent with law. The competitive retail electric  
23 customers of a power generation company that owns a nuclear  
24 generating unit are responsible for funding any shortfall in the  
25 cost of decommissioning the nuclear generating unit if:

26 (1) the power generation company defaults on a debt  
27 obligation associated with financing the nuclear generating unit or

1 fails to remit the annual amount of decommissioning funding in  
2 accordance with commission order and does not cure that default or  
3 failure within 90 days; or

4 (2) the nuclear generating unit is being  
5 decommissioned and the balance of the nuclear decommissioning trust  
6 is not sufficient to fund the cost of decommissioning.

7 (k) If competitive retail electric customers become  
8 responsible for the costs of decommissioning a nuclear generating  
9 unit and incur costs under Subsection (j) and the nuclear  
10 generating unit becomes operational by the power generation company  
11 described by Subsection (j)(1) or under new ownership, as a  
12 condition of operating the generating unit, the defaulting power  
13 generation company or new owner shall repay the costs the  
14 competitive retail electric customers incurred in the manner  
15 determined by the commission. The commission may authorize the  
16 repayment to occur over a period established by the commission if  
17 the nuclear decommissioning trust is adequately funded on an annual  
18 basis as determined by the commission in Subsection (e) or (f).

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