

By: King of Parker

H.B. No. 1900

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the imposition of certain administrative penalties
3 related to market power regulation violations in the electric power
4 market.

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

6 SECTION 1. Section 39.157(a), Utilities Code, is amended to
7 read as follows:

8 (a) The commission shall monitor market power associated
9 with the generation, transmission, distribution, and sale of
10 electricity in this state. On a finding that market power abuses or
11 other violations of this section are occurring, the commission
12 shall require reasonable mitigation of the market power by ordering
13 the construction of additional transmission or distribution
14 facilities, by seeking an injunction or civil penalties as
15 necessary to eliminate or to remedy the market power abuse or
16 violation as authorized by Chapter 15, by imposing an
17 administrative penalty as authorized by Chapter 15, or by
18 suspending, revoking, or amending a certificate or registration as
19 authorized by Section 39.356. [~~Section 15.024(c) does not apply to~~
20 ~~an administrative penalty imposed under this section.~~] For
21 purposes of this subchapter, market power abuses are practices by
22 persons possessing market power that are unreasonably
23 discriminatory or tend to unreasonably restrict, impair, or reduce
24 the level of competition, including practices that tie unregulated

1 products or services to regulated products or services or
2 unreasonably discriminate in the provision of regulated services.
3 For purposes of this section, "market power abuses" include
4 predatory pricing, withholding of production, precluding entry,
5 and collusion. A violation of the code of conduct provided by
6 Subsection (d) that materially impairs the ability of a person to
7 compete in a competitive market shall be deemed to be an abuse of
8 market power. The possession of a high market share in a market
9 open to competition may not, of itself, be deemed to be an abuse of
10 market power; however, this sentence shall not affect the
11 application of state and federal antitrust laws.

12 SECTION 2. (a) The change in law made by this Act applies
13 only to a violation that occurs on or after the effective date of
14 this Act. For purposes of this section, a violation occurs before
15 the effective date of this Act if any element of the violation
16 occurs before that date.

17 (b) A violation that occurs before the effective date of
18 this Act is covered by the law in effect on the date the violation
19 occurred, and the former law is continued in effect for that
20 purpose.

21 SECTION 3. This Act takes effect September 1, 2007.