

Suspending limitations on conference committee
jurisdiction, S.B. No. 482 (Fraser/King of Parker)

By: King of Parker

H.R. No. 2854

R E S O L U T I O N

1 BE IT RESOLVED by the House of Representatives of the State of
2 Texas, 80th Legislature, Regular Session, 2007, That House Rule 13,
3 Section 9(a), be suspended in part as provided by House Rule 13,
4 Section 9(f), to enable the conference committee appointed to
5 resolve the differences on Senate Bill 482 (competition and
6 customer choice in the retail electric power market) to consider
7 and take action on the following matters:

8 (1) House Rule 13, Section 9(a)(4), is suspended to permit
9 the committee to add the following sections to the bill, to amend
10 Sections 15.023(b) and (d), Utilities Code, and Section 15.024(f),
11 Utilities Code, to read:

12 SECTION 1. Sections 15.023(b) and (d), Utilities Code, are
13 amended to read as follows:

14 (b) The penalty for a violation may be in an amount not to
15 exceed \$25,000 except as provided by Section 39.157. Each day a
16 violation continues or occurs is a separate violation for purposes
17 of imposing a penalty.

18 (d) The classification system established under Subsection
19 (c) shall provide that a penalty in an amount that exceeds \$5,000
20 may be assessed only if the violation is included in the highest
21 class of violations in the classification system. Violations of
22 Section 39.157 shall be included in the highest class of
23 violations.

24 SECTION 2. Section 15.024(f), Utilities Code, is amended to

1 read as follows:

2 (f) If the person requests a hearing or fails to timely
3 respond to the notice, the executive director shall set a hearing
4 and give notice of the hearing to the person. The hearing shall be
5 held in accordance with Subchapter B, Chapter 14 [~~by an~~
6 ~~administrative law judge of the State Office of Administrative~~
7 ~~Hearings~~]. For hearings conducted by the State Office of
8 Administrative Hearings, the [~~The~~] administrative law judge shall
9 make findings of fact and conclusions of law and promptly issue to
10 the commission a proposal for a decision about the occurrence of the
11 violation and the amount of a proposed penalty. Based on the
12 findings of fact, conclusions of law, and proposal for a decision,
13 the commission by order may find that a violation has occurred and
14 impose a penalty or may find that no violation occurred.

15 Explanation: The addition of those sections to the bill is
16 necessary both to clarify the applicability of Sections 15.023 and
17 15.024, Utilities Code, when a penalty may be imposed as provided by
18 Section 39.157, Utilities Code, as amended by the bill, and to
19 clarify the authority of the Public Utility Commission of Texas to
20 conduct hearings in administrative penalty matters.

21 (2) House Rule 13, Section 9(a)(2), is suspended to permit
22 the committee to omit amended Section 39.101(h), Utilities Code,
23 from the bill.

24 Explanation: The change is necessary to retain the current
25 law's flexibility and certainty concerning the period for deferrals
26 of electric utility bill payments because of extreme weather.

27 (3) House Rule 13, Sections 9(a)(3) and (4), are suspended

1 to permit the committee to add the following Subsection (i) to added
2 Section 39.1015, Utilities Code, to read:

3 (i) This section does not apply to metered electric service
4 sold to residential customers on a prepaid basis.

5 Explanation: The change is necessary to prevent the
6 application of the prohibition on disconnecting certain customers'
7 electric service, intended to apply to customers with whom
8 arrangements are made for periodic payments for service, to
9 differently situated prepaid electric service customers.

10 (4) House Rule 13, Section 9(a)(4), is suspended to permit
11 the committee to add the following sections to the bill, to amend
12 Sections 39.262(c), 39.301, 39.302(4), 39.303(a), and 39.303(b),
13 Utilities Code, to read:

14 SECTION 15. Section 39.262(c), Utilities Code, is amended
15 to read as follows:

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

1 SECTION 16. Section 39.301, Utilities Code, is amended to
2 read as follows:

3 Sec. 39.301. PURPOSE. The purpose of this subchapter is to
4 enable utilities to use securitization financing to recover
5 regulatory assets, all other amounts determined under Section
6 39.262, and any amounts being recovered under a competition
7 transition charge determined as a result of the proceedings under
8 Sections 39.201 and 39.262. This [and stranded costs, because this]
9 type of debt will lower the carrying costs of the assets relative to
10 the costs that would be incurred using conventional utility
11 financing methods. The proceeds of the transition bonds shall be
12 used solely for the purposes of reducing the amount of recoverable
13 regulatory assets and other amounts [~~stranded costs~~], as determined
14 by the commission in accordance with this chapter, through the
15 refinancing or retirement of utility debt or equity. The
16 commission shall ensure that securitization provides tangible and
17 quantifiable benefits to ratepayers, greater than would have been
18 achieved absent the issuance of transition bonds. The commission
19 shall ensure that the structuring and pricing of the transition
20 bonds result in the lowest transition bond charges consistent with
21 market conditions and the terms of the financing order. The amount
22 securitized may not exceed the present value of the revenue
23 requirement over the life of the proposed transition bond
24 associated with the regulatory assets or other amounts [~~stranded~~
25 ~~costs~~] sought to be securitized. The present value calculation
26 shall use a discount rate equal to the proposed interest rate on the
27 transition bonds.

1 SECTION 17. Section 39.302(4), Utilities Code, is amended
2 to read as follows:

3 (4) "Qualified costs" means 100 percent of an electric
4 utility's regulatory assets and 75 percent of its recoverable costs
5 determined by the commission under Section 39.201 and any remaining
6 amounts [~~stranded costs~~] determined under Section 39.262 together
7 with the costs of issuing, supporting, and servicing transition
8 bonds and any costs of retiring and refunding the electric
9 utility's existing debt and equity securities in connection with
10 the issuance of transition bonds. The term includes the costs to
11 the commission of acquiring professional services for the purpose
12 of evaluating proposed transactions under Section 39.201 and this
13 subchapter.

14 SECTION 18. Sections 39.303(a) and (b), Utilities Code, are
15 amended to read as follows:

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

25 (b) The financing order shall detail the amount of
26 regulatory assets and other amounts [~~stranded costs~~] to be
27 recovered and the period over which the nonbypassable transition

1 charges shall be recovered, which period may not exceed 15 years. If
2 an amount determined under Section 39.262 is subject to judicial
3 review at the time of the securitization proceeding, the financing
4 order shall include an adjustment mechanism requiring the utility
5 to adjust its rates, other than transition charges, or provide
6 credits, other than credits to transition charges, in a manner that
7 would refund over the remaining life of the transition bonds any
8 overpayments resulting from securitization of amounts in excess of
9 the amount resulting from a final determination after completion of
10 all appellate reviews. The adjustment mechanism may not affect the
11 stream of revenue available to service the transition bonds. An
12 adjustment may not be made under this subsection until all
13 appellate reviews, including, if applicable, appellate reviews
14 following a commission decision on remand of its original orders,
15 have been completed.

16 Explanation: The addition of those sections to the bill is
17 necessary to enable certain utilities to use securitization
18 financing to recover, in addition to regulatory assets, amounts
19 determined in a true-up proceeding under Subchapter F, Chapter 39,
20 Utilities Code, and amounts being recovered under a competition
21 transition charge under Subchapter E or F, Chapter 39, Utilities
22 Code.