

1-1 By: Fraser, Harris S.B. No. 482
1-2 (In the Senate - Filed February 7, 2007; February 14, 2007,
1-3 read first time and referred to Committee on Business and Commerce;
1-4 March 5, 2007, reported adversely, with favorable Committee
1-5 Substitute by the following vote: Yeas 9, Nays 0; March 5, 2007,
1-6 sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 482 By: Fraser

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

1-10 relating to competition and customer choice in the retail electric
1-11 market; providing an administrative penalty.

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

1-13 SECTION 1. Section 39.051, Utilities Code, is amended by
1-14 adding Subsection (h) to read as follows:

1-15 (h) On or before January 1, 2008, an electric utility that
1-16 is affiliated with power generation companies that own 5,000
1-17 megawatts or more of generating capacity in this state or with
1-18 retail electric providers that have annual sales of 10,000,000
1-19 megawatt hours or more of electricity in this state shall file with
1-20 the commission an unbundling plan for discontinuing, within a
1-21 reasonable time determined by the commission, the utility's
1-22 affiliation with power generation companies or retail electric
1-23 providers.

1-24 SECTION 2. Section 39.101, Utilities Code, is amended by
1-25 amending Subsection (a) and adding Subsection (i) to read as
1-26 follows:

1-27 (a) Before customer choice begins on January 1, 2002, the
1-28 commission shall ensure that retail customer protections are
1-29 established that entitle a customer:

1-30 (1) to safe, reliable, and reasonably priced
1-31 electricity, including protection against service disconnections
1-32 in an extreme weather emergency as provided by Subsection (h) or in
1-33 cases of medical emergency or nonpayment for unrelated services;

1-34 (2) to privacy of customer consumption and credit
1-35 information; provided, however, that the release to competitive
1-36 retail electric providers of information identifying residential
1-37 customers that were served by the affiliated retail electric
1-38 provider at the end of the price to beat period shall not be
1-39 considered a violation of customer privacy;

1-40 (3) to bills presented in a clear format and in
1-41 language readily understandable by customers;

1-42 (4) to the option to have all electric services on a
1-43 single bill, except in those instances where multiple bills are
1-44 allowed under Chapters 40 and 41;

1-45 (5) to protection from discrimination on the basis of
1-46 race, color, sex, nationality, religion, or marital status;

1-47 (6) to accuracy of metering and billing;

1-48 (7) to information in English and Spanish and any
1-49 other language as necessary concerning rates, key terms and
1-50 conditions, in a standard format that will permit comparisons
1-51 between price and service offerings, and the environmental impact
1-52 of certain production facilities;

1-53 (8) to information in English and Spanish and any
1-54 other language as necessary concerning low-income assistance
1-55 programs and deferred payment plans; and

1-56 (9) to other information or protections necessary to
1-57 ensure high-quality service to customers.

1-58 (i) A retail electric provider may not state or imply that
1-59 it can provide a greater level of reliability of electric service or
1-60 preferential treatment in the restoration of service following an
1-61 outage; provided, however, that a retail electric provider may make
1-62 claims regarding aspects of reliability related to customer
1-63 service. The commission may impose an administrative penalty for a

2-1 violation of this subsection in accordance with Section 15.024. A
2-2 violation of this subsection shall be included in the highest class
2-3 of violations in the classification system established by the
2-4 commission under Section 15.023.

2-5 SECTION 3. Subchapter C, Chapter 39, Utilities Code, is
2-6 amended by adding Section 39.110 to read as follows:

2-7 Sec. 39.110. PROMOTION OF RESIDENTIAL CUSTOMER CHOICE.

2-8 (a) The purpose of this section is to promote customer choice for
2-9 residential customers by imposing a charge on certain retail
2-10 electric providers to provide an additional incentive for them to
2-11 compete for residential customers.

2-12 (b) This section applies to a retail electric provider that
2-13 on December 31, 2006, was required to offer service to residential
2-14 customers at the price to beat in accordance with Section 39.202,
2-15 and to any successor in interest of the retail electric provider,
2-16 and any reference in this section to a retail service provider
2-17 includes a successor in interest to such provider. This section no
2-18 longer applies to a retail electric provider if the retail electric
2-19 provider is not assessed a charge under Subsection (c) for two
2-20 consecutive years.

2-21 (c) The commission shall impose an annual charge on a retail
2-22 electric provider that is subject to this section if at the end of a
2-23 calendar year the number of residential customers served by the
2-24 retail electric provider in areas where customer choice is
2-25 available outside the transmission and distribution utility
2-26 service territory in which it was required to offer the price to
2-27 beat is less than 40 percent of the total number of residential
2-28 customers served by the retail electric provider in all areas open
2-29 to competition in this state. As used in this subsection, the term
2-30 "retail electric provider" includes providers that were affiliates
2-31 as of December 31, 2006.

2-32 (d) The annual charge under this section shall equal the
2-33 difference between the number of residential customers that the
2-34 retail electric provider served on the last day of the relevant
2-35 calendar year in the transmission and distribution utility service
2-36 territory in which it was required to offer the price to beat and
2-37 the number of residential customers that the retail electric
2-38 provider, or other retail electric providers that as of December
2-39 31, 2006, were affiliated with the retail electric provider, served
2-40 on the last day of the relevant calendar year outside the
2-41 transmission and distribution utility service territory in which
2-42 the retail electric provider was required to offer the price to beat
2-43 multiplied by:

- 2-44 (1) \$100 at the end of 2007;
- 2-45 (2) \$200 at the end of 2008; and
- 2-46 (3) \$300 at the end of 2009.

2-47 (e) Funds collected from the charge assessed under this
2-48 section shall be allocated for programs devised and directed by the
2-49 commission as follows:

2-50 (1) a fund for a customer education program in the
2-51 transmission and distribution utility service territory in which
2-52 the retail electric provider was required to offer the price to beat
2-53 and a low-income discount program; and

2-54 (2) a fund to be paid to residential customers served
2-55 by the retail electric provider in the transmission and
2-56 distribution utility service territory in which the retail electric
2-57 provider was required to offer the price to beat.

2-58 (f) The commission may adopt and enforce rules as necessary
2-59 or appropriate to carry out this section.

2-60 SECTION 4. Section 39.202, Utilities Code, is amended by
2-61 adding Subsections (q) and (r) to read as follows:

2-62 (q) On a schedule to be determined by the commission,
2-63 affiliated retail electric providers shall release information to
2-64 competitive retail electric providers that identifies the
2-65 residential customers receiving retail electric service at, or
2-66 within 10 percent of, the price to beat rate on December 31, 2006,
2-67 from the affiliated retail electric providers.

2-68 (r) The commission may conduct a program to assist
2-69 residential customers receiving service from an affiliated retail

3-1 electric provider under a month-to-month service plan to select a
3-2 competitive retail electric provider.

3-3 SECTION 5. Subchapter E, Chapter 39, Utilities Code, is
3-4 amended by adding Section 39.2025 to read as follows:

3-5 Sec. 39.2025. MARKET REVIEW BASED ON PRICE OF ELECTRICITY.

3-6 (a) If the price charged by a retail electric provider to
3-7 residential customers is more than two cents per kilowatt hour
3-8 higher than the simple average of the prices charged for other
3-9 similar electric service plans in the market for more than six
3-10 consecutive months, the commission shall initiate a review of the
3-11 retail electric provider's cost of power to serve residential
3-12 customers. If the commission determines that the retail electric
3-13 provider's residential retail price charged to customers is not
3-14 reasonable based on its review of the retail electric provider's
3-15 power cost for those customers, the commission may reduce the
3-16 retail electric provider's residential price charged to customers,
3-17 but not to more than one cent per kilowatt hour higher than the
3-18 simple average of the prices charged for other similar electric
3-19 service plans in the market at the time the downward adjustment is
3-20 required.

3-21 (b) If the retail electric provider's price to customers was
3-22 lowered as a result of the commission review described by
3-23 Subsection (a), the retail electric provider must provide 45 days'
3-24 notice to subsequently raise the price charged to the affected
3-25 customers.

3-26 (c) The commission may adopt and enforce rules as necessary
3-27 or appropriate to carry out this section.

3-28 (d) This section expires on September 1, 2009.

3-29 SECTION 6. Section 39.902, Utilities Code, is amended by
3-30 amending Subsection (c) and adding Subsections (d) and (e) to read
3-31 as follows:

3-32 (c) After the opening of the retail electric market, the
3-33 commission shall conduct ongoing customer education designed to
3-34 help customers make informed choices of electric services and
3-35 retail electric providers. As part of ongoing education, the
3-36 commission may provide customers information concerning prices
3-37 available in the marketplace, savings available to customers by
3-38 switching retail electric providers, and information concerning
3-39 specific retail electric providers, including instances of
3-40 complaints against them and records relating to quality of customer
3-41 service.

3-42 (d) The commission may require an affiliated retail
3-43 electric provider to provide information to customers regarding
3-44 savings available to the customer from switching to another retail
3-45 electric provider or product in a manner specified by the
3-46 commission, including through bill inserts or statements on
3-47 customer bills.

3-48 (e) The commission may require a transmission and
3-49 distribution utility to issue public service announcements that
3-50 inform customers that service reliability and the restoration of
3-51 electric service following an outage is not contingent upon the
3-52 customer's receiving service from a particular retail electric
3-53 provider.

3-54 SECTION 7. This Act takes effect immediately if it receives
3-55 a vote of two-thirds of all the members elected to each house, as
3-56 provided by Section 39, Article III, Texas Constitution. If this
3-57 Act does not receive the vote necessary for immediate effect, this
3-58 Act takes effect September 1, 2007.

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