

1-1 By: Fraser S.B. No. 896  
1-2 (In the Senate - Filed February 26, 2007; February 26, 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. 896 By: Fraser

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

1-10 relating to procedures of the Public Utility Commission of Texas  
1-11 with regard to certain transactions.

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

1-13 SECTION 1. Section 14.101, Utilities Code, is amended to  
1-14 read as follows:

1-15 Sec. 14.101. REPORT OF CERTAIN TRANSACTIONS; COMMISSION  
1-16 CONSIDERATION. (a) Unless a public utility, holding company, or  
1-17 affiliate reports the transaction to the commission within a  
1-18 reasonable time, and the commission approves the transaction, the  
1-19 public utility, holding company, or affiliate may not:

1-20 (1) sell, acquire, or lease a plant as an operating  
1-21 unit or system in this state for a total consideration of more than  
1-22 \$100,000; or

1-23 (2) merge or consolidate with another public utility  
1-24 operating in this state.

1-25 (b) Prior to the close of each transaction, and prior to the  
1-26 receipt of all necessary regulatory approvals, a [A] public  
1-27 utility, holding company, or affiliate shall report to the  
1-28 commission [~~within a reasonable time~~] each transaction that  
1-29 involves the sale of at least 50 percent of the stock of the  
1-30 utility, holding company, or affiliate. On the filing of a report  
1-31 with the commission, the commission shall investigate the  
1-32 transaction, with or without a public hearing, to determine whether  
1-33 the action is consistent with the public interest. In reaching its  
1-34 determination, the commission shall consider:

1-35 (1) the reasonable value of the property, facilities,  
1-36 or securities to be acquired, disposed of, merged, transferred, or  
1-37 consolidated;

1-38 (2) whether the transaction will:  
1-39 (A) adversely affect the health or safety of  
1-40 customers or employees;

1-41 (B) result in the transfer of jobs of citizens of  
1-42 this state to workers domiciled outside this state; or

1-43 (C) result in the decline of service;

1-44 (3) whether the public utility, holding company, or  
1-45 affiliate will receive consideration equal to the reasonable value  
1-46 of the assets when it sells, leases, or transfers assets; and

1-47 (4) whether the transaction is consistent with the  
1-48 public interest.

1-49 (c) If the commission finds that a transaction is not in the  
1-50 public interest, the commission shall take appropriate action,  
1-51 which may include:

1-52 (1) disapproving the transaction; or

1-53 (2) if appropriate, taking the effect of the  
1-54 transaction into consideration in ratemaking proceedings and  
1-55 disallowing [~~disallow~~] the effect of the transaction if the  
1-56 transaction will unreasonably affect rates or service.

1-57 (d) This section does not apply to:

1-58 (1) the purchase of a unit of property for  
1-59 replacement; or

1-60 (2) an addition to the facilities of a public utility  
1-61 by construction[~~, or~~

1-62 [~~(3) transactions that facilitate unbundling, asset~~  
1-63 ~~valuation, minimization of ownership or control of generation~~

assets, or other purposes consistent with Chapter 39].

(e) In conducting the analysis under this section, the commission shall consider the extent to which the transaction facilitates the development of the competitive market, the extent to which the transaction mitigates market power in either the retail or wholesale electricity market, or other purposes consistent with Chapter 39.

SECTION 2. Section 37.154, Utilities Code, is amended by adding Subsection (c) to read as follows:

(c) Notwithstanding Subsection (a), the commission shall not approve the sale, assignment, or lease of a certificate or a right obtained under a certificate if the commission determines that the purchaser, assignee, or lessee has debts or is capitalized in a manner that would adversely affect the rates or services of the purchaser, assignee, or lessee.

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

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