

SENATE AMENDMENTS

2nd Printing

By: King of Parker, Taylor, Woolley, Crabb,
et al.

H.B. No. 624

A BILL TO BE ENTITLED

AN ACT

relating to the securitization of the nonbypassable delivery rates
of transmission and distribution utilities.

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

SECTION 1. Section 39.262(c), Utilities Code, is amended to
read as follows:

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

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

Sec. 39.301. PURPOSE. The purpose of this subchapter is to
enable utilities to use securitization financing to recover
regulatory assets, all other amounts determined under Section
39.262, and any amounts being recovered under a competition

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

22 SECTION 3. Section 39.302(4), Utilities Code, is amended to
23 read as follows:

24 (4) "Qualified costs" means 100 percent of an electric
25 utility's regulatory assets and 75 percent of its recoverable costs
26 determined by the commission under Section 39.201 and any remaining
27 amounts [~~stranded costs~~] determined under Section 39.262 together

1 with the costs of issuing, supporting, and servicing transition
2 bonds and any costs of retiring and refunding the electric
3 utility's existing debt and equity securities in connection with
4 the issuance of transition bonds. The term includes the costs to
5 the commission of acquiring professional services for the purpose
6 of evaluating proposed transactions under Section 39.201 and this
7 subchapter.

8 SECTION 4. Sections 39.303(a) and (b), Utilities Code, are
9 amended to read as follows:

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

19 (b) The financing order shall detail the amount of
20 regulatory assets and other amounts [~~stranded costs~~] to be
21 recovered and the period over which the nonbypassable transition
22 charges shall be recovered, which period may not exceed 15 years. If
23 an amount determined under Section 39.262 is subject to judicial
24 review at the time of the securitization proceeding, the financing
25 order shall include an adjustment mechanism requiring the utility
26 to adjust its rates, other than transition charges, or provide
27 credits, other than credits to transition charges, in a manner that

1 would refund over the remaining life of the transition bonds any
2 overpayments resulting from securitization of amounts in excess of
3 the amount resulting from a final determination after completion of
4 all appellate reviews. The adjustment mechanism may not affect the
5 stream of revenue available to service the transition bonds. An
6 adjustment may not be made under this subsection until all
7 appellate reviews, including, if applicable, appellate reviews
8 following a commission decision on remand of its original orders,
9 have been completed. A retail electric provider shall be required
10 to appropriately refund or credit to its customers any reduction in
11 rates or any credits received from the utility under this section.

12 SECTION 5. This Act takes effect immediately if it receives
13 a vote of two-thirds of all the members elected to each house, as
14 provided by Section 39, Article III, Texas Constitution. If this
15 Act does not receive the vote necessary for immediate effect, this
16 Act takes effect August 27, 2007.

ADOPTED

MAY 23 2007

Atty. Gen.
Secretary of the Senate

By: King/Traser

H.B. No. 624

Substitute the following for ~~#~~.B. No. 624:

By: From

C.S. H.B. No. 624

A BILL TO BE ENTITLED

AN ACT

relating to the securitization of the nonbypassable delivery rates of transmission and distribution utilities.

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

SECTION 1. Section 39.262, Utilities Code, is amended by amending Subsection (c) and adding Subsections (l), (m), (n), and (o) to read as follows:

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

1 Subchapter G.

2 (1) To protect retail customers in this state, and ensure
3 the appropriateness of the nonbypassable rates of electric
4 utilities and transmission and distribution utilities,
5 notwithstanding any other provision of this title, an electric
6 utility or transmission and distribution utility must report to
7 and obtain approval of the commission before closing any
8 transaction in which:

9 (1) the electric utility or transmission and
10 distribution utility will be merged or consolidated with another
11 electric utility or transmission and distribution utility;

12 (2) at least 50 percent of the stock of the electric
13 utility or transmission and distribution utility will be
14 transferred or sold; or

15 (3) a controlling interest or operational control of
16 the electric utility or transmission and distribution utility
17 will be transferred.

18 (m) The commission shall approve a transaction under
19 Subsection (1) if the commission finds that the transaction is
20 in the public interest. In making its determination, the
21 commission shall consider whether the transaction will adversely
22 affect the reliability of service, availability of service, or
23 cost of service of the electric utility or transmission and
24 distribution utility. The commission shall make the

1 determination concerning a transaction under this subsection not
2 later than the 180th day after the date the commission receives
3 the relevant report. If the commission has not made a
4 determination before the 181st day after that date, the
5 transaction is considered approved.

6 (n) Subsections (l) and (m) do not apply to a transaction
7 described by Subsection (l) for which a definitive agreement was
8 executed before April 1, 2007, if an electric utility or
9 transmission and distribution utility or a person seeking to
10 acquire or merge with an electric utility or transmission and
11 distribution utility made a filing for review of the transaction
12 under Section 14.101 before May 1, 2007, and the resulting
13 proceeding was not withdrawn.

14 (o) If an electric utility or transmission and distribution
15 utility or a person seeking to acquire or merge with an electric
16 utility or transmission and distribution utility files with the
17 commission a stipulation, representation, or commitment in
18 advance of or as part of a filing under subsection (l) or under
19 Section 14.101, the commission may enforce the stipulation,
20 representation, or commitment to the extent that the
21 stipulation, representation, or commitment is consistent with
22 the standards provided by this section and Section 14.101. The
23 commission may reasonably interpret and enforce conditions
24 adopted under this section.

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

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

1 bond associated with the regulatory assets or other amounts
2 [~~stranded costs~~] sought to be securitized. The present value
3 calculation shall use a discount rate equal to the proposed
4 interest rate on the transition bonds.

5 SECTION 3. Section 39.302(4), Utilities Code, is amended
6 to read as follows:

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

18 SECTION 4. Sections 39.303(a) and (b), Utilities Code, are
19 amended to read as follows:

20 (a) The commission shall adopt a financing order, on
21 application of a utility to recover the utility's regulatory
22 assets and other amounts determined [~~eligible stranded costs~~]
23 under Section 39.201 or 39.262, on making a finding that the
24 total amount of revenues to be collected under the financing

1 order is less than the revenue requirement that would be
2 recovered over the remaining life of the regulatory assets or
3 other amounts [~~stranded costs~~] using conventional financing
4 methods and that the financing order is consistent with the
5 standards in Section 39.301.

6 (b) The financing order shall detail the amount of
7 regulatory assets and other amounts [~~stranded costs~~] to be
8 recovered and the period over which the nonbypassable transition
9 charges shall be recovered, which period may not exceed 15
10 years. If an amount determined under Section 39.262 is subject
11 to judicial review at the time of the securitization proceeding,
12 the financing order shall include an adjustment mechanism
13 requiring the utility to adjust its rates, other than transition
14 charges, or provide credits, other than credits to transition
15 charges, in a manner that would refund over the remaining life
16 of the transition bonds any overpayments resulting from
17 securitization of amounts in excess of the amount resulting from
18 a final determination after completion of all appellate reviews.
19 The adjustment mechanism may not affect the stream of revenue
20 available to service the transition bonds. An adjustment may
21 not be made under this subsection until all appellate reviews,
22 including, if applicable, appellate reviews following a
23 commission decision on remand of its original orders, have been
24 completed.

1 SECTION 5. This Act takes effect immediately if it
2 receives a vote of two-thirds of all the members elected to each
3 house, as provided by Section 39, Article III, Texas
4 Constitution. If this Act does not receive the vote necessary
5 for immediate effect, this Act takes effect August 27, 2007.

6

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

May 18, 2007

TO: Honorable Troy Fraser, Chair, Senate Committee on Business & Commerce

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB624 by King, Phil (Relating to the securitization of the nonbypassable delivery rates of transmission and distribution utilities.), **Committee Report 2nd House, Substituted**

No fiscal implication to the State is anticipated.

The bill would amend the Utilities Code relating to the securitization of the nonbypassable delivery rates of transmission and distribution utilities by requiring the Public Utility Commission (PUC) to approve certain transactions related to the provisions of the bill and make an approval decision within 180 days of the PUC receiving the relevant transaction report.

Based on the analysis of the PUC, it is assumed that the duties and responsibilities associated with implementing the provisions of the bill could be accomplished by utilizing existing resources.

The bill would take effect immediately upon receiving a vote of two-thirds of all members elected to each house or otherwise on August 27, 2007.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 473 Public Utility Commission of Texas

LBB Staff: JOB, CL, JRO, MW, TGI

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

March 27, 2007

TO: Honorable Troy Fraser, Chair, Senate Committee on Business & Commerce

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB624 by King, Phil (Relating to the securitization of the nonbypassable delivery rates of transmission and distribution utilities.), **As Engrossed**

No fiscal implication to the State is anticipated.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 473 Public Utility Commission of Texas

LBB Staff: JOB, CL, JRO, MW, TGI

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

February 21, 2007

TO: Honorable Phil King, Chair, House Committee on Regulated Industries

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: **HB624** by King, Phil (Relating to the securitization of the nonbypassable delivery rates of transmission and distribution utilities.), **Committee Report 1st House, Substituted**

No fiscal implication to the State is anticipated.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 473 Public Utility Commission of Texas

LBB Staff: JOB, JRO, MW, TGI

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

February 19, 2007

TO: Honorable Phil King, Chair, House Committee on Regulated Industries

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB624 by King, Phil (Relating to the securitization of the nonbypassable delivery rates of transmission and distribution utilities.), **As Introduced**

No fiscal implication to the State is anticipated.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 473 Public Utility Commission of Texas

LBB Staff: JOB, JRO, MW, TGI