

1-1 By: Eltife S.B. No. 547
1-2 (In the Senate - Filed January 26, 2009; February 17, 2009,
1-3 read first time and referred to Committee on Business and Commerce;
1-4 March 20, 2009, reported adversely, with favorable Committee
1-5 Substitute by the following vote: Yeas 8, Nays 0; March 20, 2009,
1-6 sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 547 By: Eltife

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

1-10 relating to transition to competition in the Southwestern Electric
1-11 Power Company service area.

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

1-13 SECTION 1. Chapter 39, Utilities Code, is amended by adding
1-14 Subchapter K to read as follows:

1-15 SUBCHAPTER K. TRANSITION TO COMPETITION FOR CERTAIN
1-16 AREAS OUTSIDE OF ERCOT

1-17 Sec. 39.501. APPLICABILITY. (a) This subchapter applies
1-18 to an investor-owned electric utility:

1-19 (1) that is operating solely outside of ERCOT in areas
1-20 of this state that were included in the Southwest Power Pool on
1-21 January 1, 2008;

1-22 (2) that was not affiliated with the Southeastern
1-23 Electric Reliability Council on January 1, 2008; and

1-24 (3) to which Subchapter I does not apply.

1-25 (b) The legislature finds that an electric utility subject
1-26 to this subchapter is unable at this time to offer fair competition
1-27 and reliable service to all retail customer classes in the area
1-28 served by the utility. As a result, the introduction of retail
1-29 competition for such an electric utility is delayed until fair
1-30 competition and reliable service are available to all retail
1-31 customer classes as determined under this subchapter.

1-32 Sec. 39.502. COST-OF-SERVICE REGULATION. (a) Until the
1-33 date on which an electric utility subject to this subchapter is
1-34 authorized by the commission under Section 39.503(f) to implement
1-35 retail customer choice, the rates of the utility are subject to
1-36 regulation under Chapter 36.

1-37 (b) Until the date on which an electric utility subject to
1-38 this subchapter implements customer choice, the provisions of this
1-39 chapter, other than this subchapter and Sections 39.904 and 39.905,
1-40 do not apply to that utility.

1-41 Sec. 39.503. TRANSITION TO COMPETITION. (a) The events
1-42 prescribed by Subsections (b)-(f) shall be followed to introduce
1-43 retail competition in the service area of an electric utility
1-44 subject to this subchapter. The commission may modify the sequence
1-45 of events required by Subsections (b)-(e), but not the substance of
1-46 the requirements. Full retail competition may not begin in the
1-47 service area of an electric utility subject to this subchapter
1-48 until all actions prescribed by those subsections are completed.

1-49 (b) The first stage for the transition to competition
1-50 consists of the following activities:

1-51 (1) approval of a regional transmission organization
1-52 by the Federal Energy Regulatory Commission for the power region
1-53 that includes the electric utility's service area and commencement
1-54 of independent operation of the transmission network under the
1-55 approved regional transmission organization;

1-56 (2) development of retail market protocols to
1-57 facilitate retail competition; and

1-58 (3) completion of an expedited proceeding to develop
1-59 non-bypassable delivery rates for the customer choice pilot project
1-60 to be implemented under Subsection (c)(1).

1-61 (c) The second stage for the transition to competition
1-62 consists of the following activities:

1-63 (1) initiation of the customer choice pilot project in
1-64 accordance with Section 39.104;

1-65 (2) development of a balancing energy market, a market

2-1 for ancillary services, and a market-based congestion management
 2-2 system for the wholesale market in the power region in which the
 2-3 regional transmission organization operates; and

2-4 (3) implementation of a seams agreement with adjacent
 2-5 power regions to reduce barriers to entry and facilitate
 2-6 competition.

2-7 (d) The third stage for the transition to competition
 2-8 consists of the following activities:

2-9 (1) the electric utility filing with the commission:

2-10 (A) an application for business separation in
 2-11 accordance with Section 39.051;

2-12 (B) an application for unbundled transmission
 2-13 and distribution rates in accordance with Section 39.201;

2-14 (C) an application for certification of a
 2-15 qualified power region in accordance with Section 39.152; and

2-16 (D) an application for price-to-beat rates in
 2-17 accordance with Section 39.202;

2-18 (2) the commission:

2-19 (A) approving a business separation plan for the
 2-20 utility;

2-21 (B) setting unbundled transmission and
 2-22 distribution rates for the utility;

2-23 (C) certifying a qualified power region, which
 2-24 includes conducting a formal evaluation of wholesale market power
 2-25 in the region, in accordance with Section 39.152;

2-26 (D) setting price-to-beat rates for the utility;
 2-27 and

2-28 (E) determining which competitive energy
 2-29 services must be separated from regulated utility activities in
 2-30 accordance with Section 39.051; and

2-31 (3) completion of the testing of retail and wholesale
 2-32 systems, including those systems necessary for switching customers
 2-33 to the retail electric provider of their choice and for settlement
 2-34 of wholesale market transactions, by the regional transmission
 2-35 organization, the registration agent, and market participants.

2-36 (e) The fourth stage for the transition to competition
 2-37 consists of the following activities:

2-38 (1) commission evaluation of the results of the pilot
 2-39 project;

2-40 (2) initiation by the electric utility of a capacity
 2-41 auction in accordance with Section 39.153 at a time to be determined
 2-42 by the commission; and

2-43 (3) separation by the utility of competitive energy
 2-44 services from its regulated utility activities, in accordance with
 2-45 the commission order approving the separation of competitive energy
 2-46 services.

2-47 (f) The fifth stage for the transition to competition
 2-48 consists of the following activities:

2-49 (1) evaluation by the commission of whether the
 2-50 electric utility can offer fair competition and reliable service to
 2-51 all retail customer classes in the area served by the utility, and:

2-52 (A) if the commission concludes that the electric
 2-53 utility can offer fair competition and reliable service to all
 2-54 retail customer classes in the area served by the utility, the
 2-55 commission issuing an order initiating retail competition for the
 2-56 utility; and

2-57 (B) if the commission determines that the
 2-58 electric utility cannot offer fair competition and reliable service
 2-59 to all retail customer classes in the area served by the utility,
 2-60 the commission issuing an order further delaying retail competition
 2-61 for the utility; and

2-62 (2) on the issuance of an order from the commission
 2-63 initiating retail competition for the utility, completion by the
 2-64 utility of the business separation and unbundling in accordance
 2-65 with the commission order approving the unbundling.

2-66 SECTION 2. This Act takes effect September 1, 2009.

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