

1-1 By: Williams S.B. No. 1492
1-2 (In the Senate - Filed March 6, 2009; March 17, 2009, read
1-3 first time and referred to Committee on Business and Commerce;
1-4 April 17, 2009, reported adversely, with favorable Committee
1-5 Substitute by the following vote: Yeas 6, Nays 0; April 17, 2009,
1-6 sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 1492 By: Fraser

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

1-10 relating to the delay of retail electric competition in the areas of
1-11 the state covered by the Southeastern Electric Reliability Council
1-12 and to the recovery of certain transmission costs by electric
1-13 utilities in those areas.

1-14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-15 SECTION 1. Subsection (a), Section 36.209, Utilities Code,
1-16 is amended to read as follows:

1-17 (a) This section applies only to an electric utility that
1-18 operates solely outside of ERCOT in areas of this state included in
1-19 the Southeastern Electric Reliability Council, the Southwest Power
1-20 Pool, or the Western Electricity Coordinating Council and that owns
1-21 or operates transmission facilities.

1-22 SECTION 2. Section 39.452, Utilities Code, is amended by
1-23 amending Subsection (b) and adding Subsection (i) to read as
1-24 follows:

1-25 (b) ~~[Notwithstanding Subsection (a), except for adjustments~~
1-26 ~~authorized by Sections 36.203, 39.454, 39.455, and 39.456, and~~
1-27 ~~except for proceedings and cost recovery mechanisms authorized by~~
1-28 ~~Sections 39.458-39.463, a person may not file a proceeding to~~
1-29 ~~change, alter, or revoke any rate offered or charged by an electric~~
1-30 ~~utility subject to this subchapter before June 30, 2007, with an~~
1-31 ~~effective date no earlier than June 30, 2008. As part of a~~
1-32 ~~Subchapter C, Chapter 36, rate proceeding, the] An electric utility
1-33 subject to this subchapter shall propose a competitive generation
1-34 tariff to allow eligible customers the ability to contract for
1-35 competitive generation. The commission shall approve, reject, or
1-36 modify the proposed tariff not later than September 1, 2010. The
1-37 tariffs subject to this subsection may not be considered to offer a
1-38 discounted rate or rates under Section 36.007, and the utility's
1-39 rates shall be set, in the proceeding in which the tariff is
1-40 adopted, to recover any costs unrecovered as a result of the
1-41 implementation of the tariff. The commission shall ensure that a
1-42 competitive generation tariff shall not be implemented in a manner
1-43 that harms the sustainability or competitiveness of manufacturers
1-44 that choose not to take advantage of competitive generation.
1-45 Pursuant to the competitive generation tariff, an electric utility
1-46 subject to this subsection shall purchase competitive generation
1-47 service, selected by the customer, and provide the generation at
1-48 retail to the customer. An electric utility subject to this
1-49 subsection shall provide and price retail transmission service,
1-50 including necessary ancillary services, to retail customers who
1-51 choose to take advantage of the competitive generation tariff at a
1-52 rate that is unbundled from the utility's cost of service. Such
1-53 customers shall not be considered wholesale transmission
1-54 customers. Notwithstanding any other provision of this chapter,
1-55 the commission may not issue a decision relating to a competitive
1-56 generation tariff that is contrary to an applicable decision, rule,
1-57 or policy statement of a federal regulatory agency having
1-58 jurisdiction.~~

1-59 (i) Notwithstanding any other provision of this chapter, if
1-60 the commission has not approved the transition to competition plan
1-61 under this section before January 1, 2009, an electric utility
1-62 subject to this subchapter shall cease all activities relating to
1-63 the transition to competition under this section. The commission

2-1 may, on its own motion or the motion of any affected person,
2-2 initiate a proceeding under Section 39.152 to certify a power
2-3 region to which the utility belongs as a qualified power region when
2-4 the conditions supporting such a proceeding exist. The commission
2-5 may not approve a plan under Subsection (g) until the expiration of
2-6 four years from the time that the commission certifies a power
2-7 region under Subsection (f).

2-8 SECTION 3. Not later than the 90th day after the effective
2-9 date of this Act, an electric utility operating in the Southeastern
2-10 Electric Reliability Council that is subject to traditional cost of
2-11 service rate regulation and on the effective date of this Act has a
2-12 transition to competition plan on file with the Public Utility
2-13 Commission of Texas shall:

2-14 (1) withdraw the plan from the commission; and

2-15 (2) cease all activities related to the plan.

2-16 SECTION 4. This Act takes effect immediately if it receives
2-17 a vote of two-thirds of all the members elected to each house, as
2-18 provided by Section 39, Article III, Texas Constitution. If this
2-19 Act does not receive the vote necessary for immediate effect, this
2-20 Act takes effect September 1, 2009.

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