

BILL ANALYSIS

Senate Research Center
81R6574 TJS-D

S.B. 1492
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The 79th Legislature, Regular Session, 2005, enacted H.B. 1567, which put Energy Gulf States, Inc. (EGSI), on a path toward introducing retail electric competition in its Texas service territory and setting milestones along the path. One of those milestones was the filing of a transition to competition plan (TTC plan) at the Public Utility Commission (PUC) not later than January 1, 2007. EGSI filed its TTC plan on December 29, 2006. Among other things, the TTC plan calls for the creation of EGSI-Texas, a separate, Texas-only utility, the integration of EGSI-Texas into the Electric Reliability Council of Texas (ERCOT), and the introduction of retail electric competition in EGSI-Texas territory. PUC declined to accept the plan as filed, and the case is still pending before PUC over two years later.

The TTC plan also estimates that its implementation would increase the retail rates of EGSI's residential customers and the transmission rates in ERCOT to a point where the costs could outweigh the benefits. After nearly two years of hearings in a contested docket, there has been no support shown from the numerous stakeholders who intervened in the matter for the move over to ERCOT. Additionally, EGSI and the electric cooperatives operating within its service territory would be required to make difficult and expensive long-term decisions regarding the planning, contracting for, and/or construction of generation and transmission facilities.

This bill provides a statutory postponement of the introduction of retail electric competition in the Texas portion of the Southeastern Electric Reliability Council to provide EGSI and the affected cooperatives the necessary certainty to make long-term commitments and assure cost-of-service rates for electric consumers in EGSI's service territory until the legislature acts to introduce retail electric competition in this area.

As proposed, S.B. 1492 amends current statute relating to the delay of retail electric competition in the areas of the state covered by the Southern Electric Reliability Council and to the recovery of certain transmission costs by electric utilities in those areas.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 36.209(a), Utilities Code, to provide that this section applies only to an electric utility that operates solely outside of Electric Reliability Council of Texas (ERCOT) in areas of this state included in the Southeastern Electric Reliability Council (SERC), the Southwest Power Pool, or the Western Electricity Coordinating Council and that owns or operates transmission facilities. Makes nonsubstantive changes.

SECTION 2. Amends Subchapter J, Chapter 39, Utilities Code, by adding Section 39.4515, as follows:

Sec. 39.4515. DELAY OF RETAIL COMPETITION. (a) Prohibits the Public Utility Commission of Texas (PUC), notwithstanding any other provision of this chapter, from implementing or considering the implementation of retail electric competition in an area in the SERC that is not currently engaged in retail electric competition unless a law enacted after the effective date of this section requires that action.

(b) Requires that an area included in the SERC, notwithstanding any other provision of this chapter, remain in the SERC.

(c) Provides that this section prevails over any other provision of this subchapter to the extent of any conflict.

SECTION 3. (a) Requires an electric utility operating in the SERC that is subject to traditional cost of service rate regulation and on the effective date of this Act has a transition to competition plan on file with PUC, not later than the 180th day after the effective date of this Act, to:

(1) withdraw the plan from PUC;

(2) cease all activities related to the plan; and

(3) file with PUC an application for recovery of any costs incurred as a result of the preparation, filing, and implementation of the plan.

(b) Entitles an electric utility described by Subsection (a) of this section to recover the costs described by Subsection (a)(3) of this section.

SECTION 4. Effective date: upon passage or September 1, 2009.