

## **BILL ANALYSIS**

Senate Research Center  
81R4170 TJS-D

S.B. 547  
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As Filed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Currently, all of the Southwestern Electric Power Company's service area is located outside of the Electric Reliability Council of Texas and within the Southwest Power Pool (SPP). The Public Utility Commission has determined that the SPP is not ready to support electric utility competition, and that certain criteria will determine when full retail competition can begin in this area. These criteria include the establishment of an independent transmission operator, a balancing energy market, a market based congestion management system, and market protocols. Furthermore, continued support of a customer choice pilot program and demonstration of fair competition and reliable service is required within each defined customer class.

As proposed, S.B. 547 codifies a transition to competition plan for the Southwestern Electric Power Company's service area included in the SPP.

### **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 Chapter 39, Utilities Code, by adding Subchapter K, as follows:

#### **SUBCHAPTER K. TRANSITION TO COMPETITION FOR CERTAIN AREAS OUTSIDE OF ERCOT**

Sec. 39.501. **APPLICABILITY.** (a) Provides that this subchapter applies to an investor-owned electric utility that is operating solely outside of the Electric Reliability Council of Texas (ERCOT) in areas of this state that were included in the Southwest Power Pool on January 1, 2008; that was not affiliated with the Southeastern Electric Reliability Council on January 1, 2008; and to which Subchapter I (Provisions for Certain Non-ERCOT Utilities) does not apply.

(b) Provides that the legislature finds that an electric utility subject to this subchapter is unable at this time to offer fair competition and reliable service to all retail customer classes in this state. Provides that as a result, the introduction of retail competition for such an electric utility is delayed until fair competition and reliable service are available to all retail customer classes in this state.

Sec. 39.502. **COST-OF-SERVICE REGULATION.** (a) Provides that until the date on which an electric utility subject to this subchapter is authorized by the Public Utility Commission of Texas (PUC) under Section 39.503(g) to implement retail customer choice, the rates of the utility are subject to regulation under Chapter 36 (Rates).

(b) Provides that until the date on which an electric utility subject to this subchapter implements customer choice, the provisions of this chapter, other than this subchapter and Sections 39.904 (Goal for Renewable Energy) and 39.905 (Goal for Energy Efficiency), do not apply to that utility.

Sec. 39.503. **TRANSITION TO COMPETITION.** (a) Requires that the sequence of events prescribed by Subsections (b)-(g) be followed to introduce retail competition in

the service area of an electric utility subject to this subchapter. Requires that all listed items in a subsection be completed before the events provided by the next subsection are initiated. Prohibits full retail competition from being in the service area of an electric utility subject to this subchapter until all actions prescribed by those subsections are complete.

(b) Provides that the first stage of the transition to competition consists of the approval of a regional transmission organization by the Federal Energy Regulatory Commission for the power region that includes the electric utility's service area and commencement of independent operation of the transmission network under the approved regional transmission organization, development of retail market protocols to facilitate retail competition, and completion of an expedited proceeding to develop non-bypassable delivery rates for the customer choice pilot project to be implemented under Subsection (c)(1).

(c) Provides that the second stage for the transition to competition consists of the initiation of the consumer choice pilot project in accordance with Section 39.104 (Customer Choice Pilot Projects), development of a balancing energy market, a market for ancillary services, and a market-based congestion management system for the wholesale market in the power region in which the regional transmission organization operates, and implementation of a seams agreement with adjacent power regions to reduce barriers to entry and facilitate competition.

(d) Provides that the third stage for the transition to competition consists of the electric utility filing with PUC certain applications and PUC approving a business separation plan for the utility, setting unbundled transmission and distribution rates for the utility, certifying a qualified power region, which includes conducting a formal evaluation of wholesale market power in the region, in accordance with Section 39.152 (Qualifying Power Regions), setting price-to-beat rates for the utility, determining which competitive energy services must be separated from regulated utility activities in accordance with Section 39.051 (Unbundling), and completion of the testing of retail and wholesale systems, including those systems necessary for switching customers to the retail electric provider of their choice and for settlement of wholesale market transactions, by the regional transmission organization, the statewide registration agent, and market participants.

(e) Provides that the fourth stage for the transition to competition consists of PUC evaluation of the results of the pilot project, initiation by the electric utility of a capacity auction in accordance with Section 39.153 (Capacity Auction) at a time to be determined by PUC, and separation by the utility of competitive energy services from its regulated utility activities, in accordance with the PUC order approving the separation of competitive energy services.

(f) Provides that the fifth stage for the transition to competition consists of evaluation by PUC of whether the electric utility can offer fair competition and reliable service to all retail customer classes in this state and, if PUC concludes that the electric utility can offer fair competition and reliable service to all retail customer classes in this state, PUC submitting a report to the legislature recommending the enactment by the legislature of a law authorizing the implementation of retail competition by the utility; and, if PUC determines that the electric utility cannot offer fair competition and reliable service to all retail customer classes in this state, PUC issuing an order further delaying retail competition for the utility.

(g) Provides that the sixth stage for the transition to competition consists of the enactment of a law by the legislature authorizing the implementation of retail competition by the utility; if the legislature enacts that law, the issuance of an order from PUC authorizing the utility to implement retail competition; and on the issuance of an order from PUC authorizing the implementation of retail

competition by the utility, completion by the utility of the business separation and unbundling in accordance with PUC order approving the unbundling.

SECTION 2. Effective date: September 1, 2009.