

COMMITTEE AMENDMENT NO. _____

BY: _____

Amend proposed S.B. 482 as follows:

(1) On page 3, line 5, strike the sentence beginning with "provided," through line 10.

(2) On page 3, line 27, between "outage" and "." insert, ", provided, however, that a retail electric provider may make claims regarding aspects of reliability related to customer service".

(3) On page 4, strike SECTION 3 of the bill and renumber subsequent sections appropriately.

(4) On page 5, line 3, strike Subsection (c) and substitute the following:

"(c) The commission shall impose an annual charge on a retail electric provider that is subject to this section if at the end of a calendar year the number of residential customer served by the retail electric provider in areas where customer choice is available outside the transmission and distribution utility service territory in which it was required to offer the price to beat is less than 40 percent of the total number of residential customers served by the retail electric provider in all areas open to competition in this state. As used in this subsection, the term "retail electric provider" shall also include providers that were affiliates as of December 31, 2006."

(5) On page 5, line 14, strike Subsection (d) and substitute the following:

"(d) The annual charge under this section shall equal the difference between the number of residential customers that the retail electric provider served on the last day of the relevant calendar year in the transmission and distribution utility service territory in which it was required to offer the price to beat and the number of residential customers that the retail electric provider, or other retail electric providers that as of December 31, 2006 were affiliated with such retail electric provider, served on the last day of the relevant calendar year outside the transmission and distribution utility service territory in which it was required to offer the price to beat multiplied by:

- (1) \$100 at the end of 2007;
- (2) \$200 at the end of 2008; and
- (3) \$300 at the end of 2009.

(6) On page 5, line 27, strike Subsection (e) and substitute the following and renumber subsequent sections appropriately:

"(e) Funds collected from the charge assessed under this section shall be allocated for programs devised and directed by the commission as follows:

- (1) a fund for a customer education program in the

transmission and distribution utility service territory in which the retail electric provider was required to offer the price to beat and a low-income discount program; and

(2) a fund to be paid to residential customers served by the retail electric provider in the transmission and distribution utility service territory in which the retail electric provider was required to offer the price to beat.

(7) On page 6, line 13, between "service" and "from" insert "at, or within 10 percent of, the price to beat rate on December 31, 2006".

(8) On page 6, line 15, strike "require" and substitute "assist".

(9) On page 6, lines 17 and 18, between "a" and "retail" insert "competitive".

(10) On page 6, strike the last sentence of Subsection (r).

(11) On page 6, strike Section 39.2025 and substitute the following:

"Sec. 39.2025. MARKET REVIEW BASED ON PRICE OF ELECTRICITY. (a) If the price charged by a retail electric provider to residential customers is more than two cents per kilowatt hour higher than the simple average of the prices charged for other similar electric service plans in the market for more than six consecutive months, then the commission shall

initiate a review of the retail electric provider's cost of power to serve residential customers. If the commission determines that the retail electric provider's residential retail price charged to customers are not reasonable based on its review of the retail electric provider's power cost for those customers, the commission may reduce the retail electric provider's residential price charged to customers but not more than one cent per kilowatt hour higher than the simple average of the prices charged for other similar electric service plans in the market at the time the downward adjustment is required.

(b) If the retail electric provider's price to customers was lowered as a result of the commission review described in Subsection (a), the retail electric provider must provide forty-five days notice to subsequently raise the price charged to the affected customers.

(c) The commission may adopt and enforce rules as necessary or appropriate to carry out this section.

(d) This section expires on September 1, 2009."

COMMITTEE AMENDMENT NO. _____

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Amend proposed S.B. 483 as follows:

(1) On page 2, line 13, strike "20" and substitute "25".

(2) On page 4, line 19, insert new Subsection (f) to read as follows:

"(f) In determining the percentage market shares of installed generation capacity owned or controlled by a power generation company under this section and Section 39.156, the commission shall not include any capacity generated from integrated gasification combined cycle or other similar clean coal technologies."

COMMITTEE AMENDMENT NO. _____

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Amend proposed S.B. 896 by striking all below the enacting clause and substituting the following:

"SECTION 1. Section 14.101, Utilities Code, is amended by amending Subsections (a), (b), (c), and (d) and adding new Subsection (e) to read as follows:

Sec. 14.101. REPORT OF CERTAIN TRANSACTIONS; COMMISSION CONSIDERATION. (a) Unless a public utility reports the transaction to the commission within a reasonable time, and the commission approves the transaction, the public utility may not:

(1) sell, acquire, or lease a plant as an operating unit or system in this state for a total consideration of more than \$100,000; or

(2) merge or consolidate with another public utility operating in this state.

(b) Prior to the close of each transaction, and prior to the receipt of all necessary regulatory approvals, a [A] public utility shall report to the commission [~~within a reasonable time~~] each transaction that involves the sale of at least 50 percent of the stock of the utility. On the filing of a report with the commission, the commission shall investigate the transaction, with or without a public hearing, to determine whether the action is consistent with the public interest. In

reaching its determination, the commission shall consider:

(1) the reasonable value of the property, facilities, or securities to be acquired, disposed of, merged, transferred, or consolidated;

(2) whether the transaction will:

(A) adversely affect the health or safety of customers or employees;

(B) result in the transfer of jobs of citizens of this state to workers domiciled outside this state; or

(C) result in the decline of service;

(3) whether the public utility will receive consideration equal to the reasonable value of the assets when it sell, leases, or transfers assets; and

(4) whether the transaction is consistent with the public interest.

(c) If the commission finds that a transaction is not in the public interest, the commission shall take appropriate action, which may include:

(1) disapproving the transaction; or

(2) if appropriate, taking the effect of the transaction into consideration in ratemaking proceedings and disallowing [~~disallow~~] the effect of the transaction if the transaction will unreasonably affect rates or service.

(d) This section does not apply to:

(1) the purchase of a unit of property for replacement; or

(2) an addition to the facilities of a public utility by construction. [~~or~~]

~~[(3) transactions that facilitate unbundling, asset valuation, minimization of ownership or control of generation assets, or other purposes consistent with Chapter 39.]~~

(e) In conducting the analysis under this section the commission shall consider the extent to which the transaction facilitates the development of the competitive market, the extent to which the transaction mitigates market power in either the retail or wholesale electricity market, or other purposes consistent with Chapter 39.

SECTION 2. Section 37.154, Utilities Code, is amended by adding new Subsection (c) to read as follows:

(c) Notwithstanding Subsection (a), the commission shall not approve the sale, assignment, or lease of a certificate or a right obtained under a certificate if the commission determines that the purchaser, assignee, or lessee has debts or is capitalized in a manner that would adversely affect the rates or services of the purchaser, assignee, or lessee.

SECTION 3. This act takes effect immediately if it receives a vote of two-thirds of all members elected to each house, as provided by Section 39, Article III, Texas

Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2007."

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1 Amend proposed amendment 1 to S.B. 896 as follows:

2 (1) On page 1, line 7, between "utility" and "the" insert:
3 ", holding company, or affiliate".

4 (2) On page 1, line 9, between "utility" and "may" insert:
5 ", holding company, or affiliate".

6 (3) On page 1, line 17, between "utility" and "shall"
7 insert: ", holding company, or affiliate".

8 (4) On page 1, line 19, between "utility" and "." insert:
9 ", holding company, or affiliate".

10 (1) On page 2, line 11, between "utility" and "will"
11 insert: ", holding company, or affiliate".