

BILL ANALYSIS

Senate Research Center

H.B. 1386
By: King, Phil (Fraser)
Business & Commerce
5/16/2007
Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Currently there is no state mechanism in place to regulate the decommissioning costs of new nuclear electric generation units in the state. These are costs associated with final site clean up at the end of the operational life of a nuclear plant. The Nuclear Regulatory Commission requires applicants to demonstrate how they will fund such decommissioning costs in order for the applicant to obtain a license to build and operate a nuclear electric generator.

H.B. 1386 provides a structure for funding of nuclear decommissioning trusts that places the obligation on owners of the plants, with ratepayers only providing a guarantee for funding. This is the more conservative of two approaches suggested by the Public Utility Commission of Texas in its *Scope of Competition Report* and will allow developers to avoid up front funding of these costs; the other option would have placed all decommissioning costs on ratepayers. This measure is intended to encourage development of nuclear power in the state. Owners will be obligated to pay decommissioning costs with negligible risk to ratepayers.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Public Utility Commission of Texas in SECTION 1 (Section 39.206, Utilities Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subchapter E, Chapter 39, Utilities Code, by adding Section 39.206, as follows:

Sec. 39.206. NUCLEAR-POWERED ELECTRIC GENERATING UNIT DECOMMISSIONING COSTS. (a) Defines "decommissioning," "nuclear decommissioning trust," "nuclear generating unit," and "retail electric customer."

(b) Provides that this section applies only to a nuclear generating unit (unit) that is constructed in this state after January 1, 2002 and is owned by a power generation company (company).

(c) Requires a company that owns a unit to fund out of operating revenues on an annual basis the costs associated with funding the decommissioning obligations for the unit or the company's portion of the decommissioning costs for the unit in proportion to the company's ownership interest in the unit.

(d) Requires the company to establish a nuclear decommissioning trust (trust) for a unit it owns or for the proportionate share of a unit of which it owns a part. Requires the funding obligations for the trust to begin before the unit receives its initial fuel load and begins commercial operation to generate power for sale. Requires the terms of the trust to be consistent with trust terms and conditions the federal Nuclear Regulatory Commission requires for providing financial assurance for decommissioning.

(e) Requires the Public Utility Commission of Texas (PUC), by order, to establish for a unit the amount of annual decommissioning funding necessary to meet the decommissioning obligations for the unit over the unit's operating license period as established by the federal Nuclear Regulatory Commission.

Requires the company to conduct a study on the costs of decommissioning to establish the decommissioning obligations before the unit begins commercial operation to generate power for sale. Requires the study to be conducted by the company at least once in each three-year period during the unit's operating license period using the most current reasonably available information on the cost of decommissioning. Requires PUC to conduct a proceeding at least once in each three-year period to review the study and other current reasonably available information on the cost of decommissioning, and to determine whether the study's conclusions are reasonable.

(f) Requires the company to file an annual report to provide the status of the nuclear decommissioning trust fund (trust fund). Requires PUC to conduct a proceeding at least once in each three-year period to review the balance of each trust and the projected amount of annual decommissioning funding for the associated unit. Requires PUC by order, on the conclusion of the review proceeding, to revise the amount of annual funding for the unit as necessary.

(g) Requires a company that owns all or part of a unit to remit the appropriate amount of annual decommissioning funding to the trust created for its proportionate ownership position in a unit in accordance with PUC's funding order issued under Subsection (e) or (f). Authorizes PUC to terminate the company's registration to operate if the company violates this subsection.

(h) Provides that a company that owns a unit is the funds administrator of the trust for the associated unit. Requires the company, as funds administrator, to invest the trust funds in accordance with guidelines established by PUC rule and consistent with the federal Nuclear Regulatory Commission guidelines so that the decommissioning funds will be available at the time of decommissioning. Requires PUC to adopt rules to define the company's specific duties as funds administrator and requirements regarding prudent management and investment of trust funds.

(i) Requires PUC to adopt certain rules.

(j) Requires PUC to determine the manner in which any shortfall in the actual costs of decommissioning a unit shall be recovered from retail electric customers in this state, consistent with law. Provides that the retail electric customers in this state are responsible for funding any shortfall in the cost of decommissioning the unit under certain circumstances.

(k) Provides that for retail electric customers of a municipally owned utility or an electric cooperative that has an agreement to purchase power from a unit, the amount of the shortfall in the cost of decommissioning the unit that the customers are responsible for is limited to a portion of that shortfall that bears the same proportion to the total shortfall as the amount of electric power generated by the unit and purchased by the municipally owned utility or electric cooperative bears to the total amount of power the unit generated.

(l) Requires the company or new owner, if retail electric customers in this state become responsible for the costs of decommissioning a unit and incur costs under Subsection (j) or (k) and the unit is recommissioned by the company whose registration to operate was terminated under Subsection (g) or by a new owner, to repay the costs the retail electric customers in this state incurred in the manner determined by PUC as a condition of operating the unit. Authorizes PUC to authorize the repayment to occur over a period established by PUC if the trust is adequately funded on an annual basis as determined by PUC in Subsection (e) or (f).

(m) Authorizes PUC by rule to ensure that money for decommissioning a unit is prudently collected, managed, and spent for its intended purposes and that decommissioning money that remains unspent after decommissioning of the unit is complete is returned to the appropriate retail electric customers.

SECTION 2. Effective date: September 1, 2007.