

By: Goldman

H.B. No. 3916

Substitute the following for H.B. No. 3916:

By: Paddie

C.S.H.B. No. 3916

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the interconnection and operation of certain
3 distributed electric generation facilities.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Section 39.002, Utilities Code, is amended to
6 read as follows:

7 Sec. 39.002. APPLICABILITY. This chapter, other than
8 Sections 39.1516, 39.155, 39.157(e), 39.203, 39.904, 39.9051,
9 39.9052, ~~and~~ 39.914(e), and 39.9161, does not apply to a
10 municipally owned utility or an electric cooperative. Sections
11 39.157(e), 39.203, and 39.904, however, apply only to a municipally
12 owned utility or an electric cooperative that is offering customer
13 choice. If there is a conflict between the specific provisions of
14 this chapter and any other provisions of this title, except for
15 Chapters 40 and 41, the provisions of this chapter control.

16 SECTION 2. Subchapter 7, Chapter 39, Utilities Code, is
17 amended by adding Section 39.9161 to read as follows:

18 Sec. 39.9161. INTERCONNECTION AND OPERATION OF CERTAIN
19 DISTRIBUTED GENERATION FACILITIES. (a) In this section:

20 (1) "Distributed generation facility" means a
21 facility installed on the customer's side of the meter:

22 (A) with a nameplate capacity of at least 250
23 kilowatts and not more than 2,500 kilowatts; and

24 (B) that is capable of providing backup or

1 supplementary power to the customer's premises.

2 (2) "Electric utility" includes an electric utility, a
3 municipally owned utility, and an electric cooperative.

4 (b) A person who owns or operates a distributed generation
5 facility in the ERCOT power region may sell electric power
6 generated by the distributed generation facility:

7 (1) in areas where retail customer choice exists, to
8 the retail electric customer on whose side of the meter the
9 distributed generation facility is installed and operated;

10 (2) notwithstanding Sections 37.051 and 39.105, in
11 areas where retail customer choice does not exist, to the retail
12 electric customer on whose side of the meter the distributed
13 generation facility is installed and operated for on-site use:

14 (A) during an emergency declared by the
15 independent organization certified under Section 39.151 for the
16 ERCOT power region;

17 (B) during times of service interruption or
18 inadequacy at the customer's premises;

19 (C) during construction on the customer's
20 premises;

21 (D) for maintenance and testing of the
22 distributed generation facility; and

23 (E) up to an additional 75 hours per calendar
24 year in a situation not described by Paragraph (A), (B), (C), or
25 (D); and

26 (3) at wholesale in the ERCOT power region market,
27 including for ancillary services in that market.

1 (c) An electric cooperative, municipally owned utility, or
2 retail electric provider that provides retail electric service to
3 the owner or operator of a distributed generation facility may
4 purchase electric power provided to the cooperative, utility, or
5 provider by the owner or operator of the distributed generation
6 facility at a value agreed to by the cooperative, utility, or
7 provider and the owner or operator of the distributed generation
8 facility. The value of the electric power may be based wholly or
9 partly on the ERCOT power region market clearing price of energy at
10 the time of day and at the location at which the electric power is
11 made available.

12 (d) An electric utility shall allow interconnection and
13 provide distribution and transmission service to a distributed
14 generation facility on a nondiscriminatory basis and in a timely
15 manner. An electric utility may recover from the owner or operator
16 of the distributed generation facility the reasonable costs
17 directly attributable to the interconnection of the facility,
18 including the reasonable costs of necessary system upgrades and
19 improvements directly attributable and proportionate to the
20 capacity of the distributed generation facility.

21 (e) When an electric utility receives a request for
22 interconnection from the owner or operator of a distributed
23 generation facility, the electric utility:

24 (1) shall provide the owner or operator with a written
25 good-faith cost estimate for interconnection-related costs; and

26 (2) may not incur a cost for the interconnection
27 without entering into a written agreement for payment of the costs

1 by the owner or operator of the distributed generation facility.

2 (f) An electric utility shall interconnect a distributed
3 generation facility not later than the 90th day after the date the
4 electric utility receives a request from the owner or operator of
5 the facility for interconnection, except that the process may be
6 extended for up to an additional 30 days if the request for
7 interconnection requires the construction of an additional feeder
8 line or upgrades to an existing line.

9 (g) An electric utility may charge the owner or operator of
10 a distributed generation facility reasonable and nondiscriminatory
11 rates for distribution service only to the extent that the rates are
12 in accordance with a tariff filed with the commission.

13 (h) If the distributed generation facility is located in the
14 certificated area of an electric utility that owns and operates
15 generation and that has adopted retail customer choice, the owner
16 or operator of the distributed generation facility shall contract
17 with the electric utility for any services required to participate
18 in the ERCOT power region wholesale market if the electric utility
19 offers the services on a nondiscriminatory basis at a commercially
20 reasonable cost. If the owner or operator of the distributed
21 generation facility, in the owner's or operator's sole reasonable
22 discretion, determines that the services are not offered on a
23 nondiscriminatory basis at a commercially reasonable cost, the
24 owner or operator may contract with a third-party provider to
25 obtain the services.

26 (i) Except as provided by this section, an electric utility
27 or political subdivision may not impose an additional charge or

1 pricing difference on a development, building permit application,
2 ERCOT power region wholesale market access request, or
3 interconnection agreement related to the connection or
4 reconnection of a distributed generation facility.

5 (j) The commission has jurisdiction to resolve a dispute
6 between an electric utility and the owner or operator of a
7 distributed generation facility that arises under this section.

8 (k) A distributed generation facility must comply with
9 emissions limitations established by the Texas Commission on
10 Environmental Quality for electric generation facilities installed
11 after January 1, 1995, that are subject to standard permit
12 requirements under Section 39.264 of this code or Chapter 382,
13 Health and Safety Code.

14 SECTION 3. This Act takes effect immediately if it receives
15 a vote of two-thirds of all the members elected to each house, as
16 provided by Section 39, Article III, Texas Constitution. If this
17 Act does not receive the vote necessary for immediate effect, this
18 Act takes effect September 1, 2021.