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S.B. No. 2194

A BILL TO BE ENTITLED

AN ACT

relating to the regulation of certain retail electric products.

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

SECTION 1. Subchapter C, Chapter 39, Utilities Code, is amended by adding Section 39.110 to read as follows:

Sec. 39.110. WHOLESALE INDEXED PRODUCTS PROHIBITED. (a) In this section, "wholesale indexed product" means a retail electric product in which the price a customer pays for electricity includes a direct pass-through of real-time settlement point prices determined by the independent organization certified under Section 39.151 for the ERCOT power region.

(b) A retail electric provider may not offer a wholesale indexed product to a residential or small commercial customer.

(c) A retail electric provider may enroll a customer other than a residential and small commercial customer in a wholesale indexed product if the provider obtains before the customer's enrollment the customer's written and signed acknowledgment that the customer accepts the potential price risks associated with a wholesale indexed product.

(d) An acknowledgment described by Subsection (c) must include the following statements, in clear, boldfaced text, accompanied by the signature of the customer:

(1) "I understand the volatility and fluctuation of wholesale energy pricing. I understand that I will be responsible

1 for the fluctuations in wholesale energy prices and that my energy  
2 bill can be multiple times higher in a month with high wholesale  
3 energy prices.";

4 (2) "I understand that the maximum wholesale energy  
5 rate in the wholesale energy market is much higher than the average  
6 wholesale energy rate and that energy prices can remain at the  
7 maximum wholesale energy rate for many hours."; and

8 (3) "I acknowledge that management of energy use  
9 during periods of high energy prices times is critical to  
10 maintaining financial solvency."

11 (e) A retail electric provider must keep on file an  
12 acknowledgment described by Subsection (c) for each customer while  
13 the customer is enrolled with the provider in a wholesale indexed  
14 product.

15 SECTION 2. Section 39.112, Utilities Code, is amended to  
16 read as follows:

17 Sec. 39.112. NOTICE OF EXPIRATION AND PRICE CHANGE. (a) In  
18 this section, "fixed rate product" means a retail electric product  
19 with a term of at least three months for which the price for each  
20 billing period, including recurring charges, does not change  
21 throughout the term of the contract, except that the price may vary  
22 to reflect actual changes in transmission and distribution utility  
23 charges, changes to ERCOT or Texas Regional Entity administrative  
24 fees charged to loads, or changes to federal, state, or local laws  
25 that result in new or modified fees or costs that are not within the  
26 retail electric provider's control.

27 (b) A retail electric provider shall provide a residential

1 customer who has a fixed rate product with at least three ~~[one]~~  
2 written notices ~~[notice]~~ of the date the fixed rate product will  
3 expire. The notices ~~[notice]~~ must be provided:

4 (1) not less than 90 days and not more than 119 days  
5 before the date the contract will expire, for the first notice;

6 (2) not less than 60 days and not more than 89 days  
7 before the date that the contract will expire, for the second  
8 notice; and

9 (3) not less than 30 days and not more than 59 days  
10 before the date that the contract will expire, for the third notice.

11 (c) Each notice under Subsection (b) must be provided to the  
12 customer:

13 (1) by mail at the customer's billing address;

14 (2) by e-mail, if the customer's e-mail address is  
15 available to the provider and if the customer has agreed to receive  
16 notices by e-mail; and

17 (3) by text message, if the customer's text messaging  
18 contact information is available to the provider and if the  
19 customer has agreed to receive notices by text message.

20 (d) A notice provided under Subsection (b) must:

21 ~~(1) [be sent to the customer's billing address by mail~~  
22 ~~at least 30, but not more than 60, days preceding the date the~~  
23 ~~contract will expire,~~

24 ~~[(2) be sent to the customer's e-mail address, if~~  
25 ~~available to the provider and if the customer has agreed to receive~~  
26 ~~notices electronically, at least 30, but not more than 60, days~~  
27 ~~preceding the date the contract will expire,~~

1           ~~(3)~~ for a notice provided by mail, include in a manner  
2 visible from ~~on~~ the outside of the envelope in which the notice is  
3 sent, a statement that reads: "Contract Expiration Notice. See  
4 Enclosed.";

5           (2) ~~(4)~~ if included with a customer's bill, be  
6 printed on a separate page or included as a separate document; ~~and~~

7           (3) ~~(5)~~ include a description of any fees or charges  
8 associated with the early termination of the customer's fixed rate  
9 product;

10           (4) describe any renewal offers the retail electric  
11 provider chooses to make available to the customer and identify  
12 methods by which the customer may obtain the contract documents for  
13 each of those products; and

14           (5) include the pricing terms for the default renewal  
15 product required under Subsection (f).

16           (e) ~~(c)~~ A retail electric provider shall include on each  
17 billing statement, in boldfaced and underlined text, the end date  
18 of the fixed rate product.

19           (f) Except as provided by Subsection (h), if a customer does  
20 not select another retail electric product before the expiration of  
21 the customer's contract term with a retail electric provider, the  
22 provider shall automatically serve the customer through a default  
23 renewal product. The default renewal product may be:

24                   (1) a fixed rate product; or

25                   (2) a month-to-month product in which the price the  
26 customer pays for electricity may vary between billing cycles.

27           (g) A default renewal product that is a month-to-month

1 product must be based on clear and easily understood terms  
2 described in the customer's most recent contract with the retail  
3 electric provider.

4 (h) If a retail electric provider does not provide notice of  
5 the expiration of a customer's contract with the provider in  
6 accordance with this section and the customer does not select  
7 another retail electric product before the expiration of the  
8 customer's contract term with the provider, the customer's fixed  
9 rate product remains in effect until:

10 (1) the provider provides notice of the expiration of  
11 the contract in accordance with this section and enrolls the  
12 customer in a default renewal product; or

13 (2) the customer selects another retail electric  
14 product.

15 (i) [~~(d)~~] No provision in this section shall be construed to  
16 prohibit the commission from adopting rules that would provide a  
17 greater degree of customer protection.

18 SECTION 3. The changes in law made by this Act apply only to  
19 an enrollment or re-enrollment of a customer in a retail electric  
20 product that is executed on or after the effective date of this Act.  
21 An enrollment or re-enrollment of a customer in a retail electric  
22 product that is executed before the effective date of this Act is  
23 governed by the law as it existed immediately before the effective  
24 date of this Act, and that law is continued in effect for that  
25 purpose.

26 SECTION 4. This Act takes effect September 1, 2021.