

By: Anchía

H.B. No. 2793

A BILL TO BE ENTITLED

AN ACT

relating to the interconnection and integration of distributed energy resources.

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

SECTION 1. Section 31.002, Utilities Code, is amended by adding Subdivisions (2-a) and (4-c) and amending Subdivision (10) to read as follows:

(2-a) "Aggregated distributed energy resource" means a group of distributed energy resources joined together to be operated as a single distributed energy resource, where each individual resource in the aggregation produces not more than one megawatt of electricity, for the purpose of providing electric energy or ancillary services in the wholesale market.

(4-c) "Distributed energy resource" means a source of not more than 10 megawatts of electricity connected at a voltage less than 60 kilovolts, including electric energy storage, distributed generation, distributed natural gas generation, or electric vehicles that provide electricity onto the distribution system and are located on the customer's side of the point of common coupling meter point. The term does not include a facility that provides temporary emergency electric energy under Section 39.918.

~~(10) "Power generation company" means a person including a person who owns or operates a distributed natural gas generation facility,~~ that:

1 (A) generates electricity that is intended to be
2 sold at wholesale, including the owner or operator of electric
3 energy storage equipment or facilities to which Subchapter E,
4 Chapter 35, applies;

5 (B) does not own a transmission or distribution
6 facility in this state other than an essential interconnecting
7 facility, a facility not dedicated to public use, or a facility
8 otherwise excluded from the definition of "electric utility" under
9 this section; and

10 (C) does not have a certificated service area,
11 although its affiliated electric utility or transmission and
12 distribution utility may have a certificated service area.

13 SECTION 2. Subchapter H, Chapter 39, Utilities Code, is
14 amended by adding Section 39.3515 to read as follows:

15 Sec. 39.3515. REGISTRATION OF DISTRIBUTED ENERGY
16 RESOURCES. (a) An owner or operator of a distributed energy
17 resource may provide energy or ancillary services in the wholesale
18 market in the ERCOT power region through generating electricity and
19 providing that electricity onto a distribution system only if:

20 (1) the owner or operator is registered with the
21 commission as a power generation company under Section 39.351 and
22 authorized by the independent organization certified under Section
23 39.151 for the ERCOT power region; or

24 (2) the distributed energy resource is part of an
25 aggregated distributed energy resource and:

26 (A) the aggregated distributed energy resource
27 is registered in its own corporate capacity as a power generation

1 company with the commission under Section 39.351, the independent
2 organization certified under Section 39.151 for the ERCOT power
3 region, and the interconnecting transmission and distribution
4 utility; or

5 (B) the owner is not registered separately as a
6 power generation company, but the distributed energy resource is
7 operated by, and included in the registration of, a power
8 generation company that is registered with the commission under
9 Section 39.351, the independent organization certified under
10 Section 39.151 for the ERCOT power region, and the interconnecting
11 transmission and distribution utility.

12 (b) A retail customer may participate as part of an
13 aggregated distributed energy resource that is registered with the
14 independent organization certified under Section 39.151 for the
15 ERCOT power region and the interconnecting transmission and
16 distribution utility without being individually registered with
17 the commission as a power generation company under Section 39.351.

18 (c) The commission may establish simplified filing
19 requirements for load-serving entities to facilitate the
20 registration of aggregated distributed energy resources. The
21 filing requirements must require the registrant to disclose the
22 name of the power generation company that operates the aggregated
23 distributed energy resource.

24 (d) A facility described by Section 39.914 or 39.916 is not
25 considered to be a distributed energy resource unless:

26 (1) electricity from the facility provides energy or
27 ancillary services in the wholesale market in the ERCOT power

1 region in a manner described by this section; or

2 (2) at the time the facility is installed, the
3 estimated annual amount of electricity to be produced by the
4 facility is more than the retail electric customer's estimated
5 annual electricity consumption.

6 (e) The commission by rule shall:

7 (1) authorize the registrations described by
8 Subsection (a); and

9 (2) adopt procedures for the creation of aggregated
10 distributed energy resources.

11 SECTION 3. Chapter 39, Utilities Code, is amended by adding
12 Subchapter O to read as follows:

13 SUBCHAPTER O. INTERCONNECTION OF DISTRIBUTED ENERGY RESOURCES

14 Sec. 39.701. INTERCONNECTION. (a) Except as otherwise
15 provided by this title, the requirements of this section apply to a
16 distributed energy resource interconnected to a transmission and
17 distribution utility's distribution system in the ERCOT power
18 region.

19 (b) A transmission and distribution utility may allow
20 interconnection only if:

21 (1) the distributed energy resource meets applicable
22 safety, technical, and operational performance and cybersecurity
23 standards; and

24 (2) the owner or operator of the distributed energy
25 resource meets any applicable qualifications and testing
26 requirements of the independent organization certified under
27 Section 39.151 for the ERCOT power region.

1 (c) An interconnecting transmission and distribution
2 utility is not required to provide an owner or operator of a
3 distributed energy resource access to the utility's meter
4 equipment.

5 Sec. 39.702. INTEGRATION AND COST RECOVERY. (a) The
6 commission by rule shall establish for the ERCOT power region:

7 (1) requirements for the dispatchability,
8 reliability, and other characteristics of each type or
9 classification of distributed energy resource;

10 (2) appropriate disclosure requirements and other
11 customer protections for customers who purchase or lease
12 distributed energy resources or purchase electric energy or
13 ancillary services from distributed energy resources;

14 (3) information an owner or operator of a distributed
15 energy resource must provide to the interconnecting transmission
16 and distribution utility to ensure the resource will not adversely
17 affect the transmission or distribution system;

18 (4) interconnection guidelines that address:

19 (A) the determination of whether a given
20 interconnection or combination of interconnections would exceed a
21 transmission and distribution utility's system capacity in a
22 particular location;

23 (B) considerations for feeder locations related
24 to distributed energy resources;

25 (C) considerations of the size or capacity of a
26 distributed energy resource;

27 (D) the assessment of potential adverse impacts

1 to other customers in the area of the distributed energy resource;

2 (E) means of recognizing and accounting for the
3 fact that a distributed energy resource may be unavailable during a
4 firm load shedding event or a power outage of the distribution
5 system; and

6 (F) other operating parameters necessary for the
7 transmission and distribution utility's reliable operation of its
8 transmission and distribution system;

9 (5) a methodology for the appropriate allocation and
10 recovery of the transmission and distribution utility's costs to
11 interconnect a distributed energy resource; and

12 (6) requirements for the independent organization
13 certified under Section 39.151 for the ERCOT power region to report
14 to the commission periodically:

15 (A) the categories and generation levels of
16 distributed energy resources allowed to participate in the ERCOT
17 wholesale market;

18 (B) the categories and megawatt levels of
19 aggregated distributed energy resources allowed to participate in
20 the ERCOT wholesale market;

21 (C) accreditation of distributed energy
22 resources allowed to participate in the ERCOT wholesale market;

23 (D) performance metrics for distributed energy
24 resources allowed to participate in the ERCOT wholesale market; and

25 (E) other information the commission may
26 require.

27 (b) The commission shall authorize a transmission and

1 distribution utility to:

2 (1) defer for recovery in a later ratemaking
3 proceeding the incremental operations and maintenance expenses, or
4 other expenses, and the return, not otherwise recovered in a rate
5 proceeding, associated with the installation, modification,
6 upgrade, or maintenance of its transmission or distribution
7 facilities required by an interconnection under Sections 39.701(b)
8 and (c); and

9 (2) request recovery of the costs associated with an
10 interconnection under Sections 39.701(b) and (c), including any
11 deferred expenses, through a proceeding under Section 35.004 or
12 36.210 or in another ratemaking proceeding regardless of whether
13 the utility first requested recovery in a base-rate proceeding.

14 (c) Facilities required by an interconnection under
15 Sections 39.701(b) and (c) are considered used and useful in
16 providing service to the public and are prudent and includable in
17 the rate base, regardless of the extent of the actual use of the
18 facilities.

19 (d) This subchapter does not:

20 (1) require or authorize a distribution utility to
21 procure distributed energy resource services to enable the
22 operation of the distribution utility system;

23 (2) require a distribution utility to disclose to any
24 third party the utility's system planning information, studies,
25 models, critical infrastructure information, or other confidential
26 information; or

27 (3) diminish a distribution utility's rights or

1 obligations to own or operate its distribution system and provide
2 electric delivery service to retail customers in the utility's
3 certificated service area.

4 Sec. 39.703. LIABILITY. An interconnecting transmission
5 and distribution utility or retail electric provider providing
6 service to a distributed energy resource to which this subchapter
7 applies is not liable for:

8 (1) a violation of reliability or service metrics
9 caused by distributed energy resource operations;

10 (2) damage, injury, or loss caused by distributed
11 energy resource operations; or

12 (3) a distributed energy resource's inability or
13 failure to provide services or a penalty for such inability or
14 failure.

15 SECTION 4. (a) This section takes effect only if the Act of
16 the 88th Legislature, Regular Session, 2023, relating to
17 nonsubstantive additions to and corrections in enacted codes
18 becomes law.

19 (b) Subchapter 2, Chapter 39, Utilities Code, is amended by
20 adding Section 39.9166 to read as follows:

21 Sec. 39.9166. DISTRIBUTED ENERGY RESOURCES. (a) A
22 customer who purchases or leases a distributed energy resource or
23 enters into a power purchase agreement for a distributed energy
24 resource in the ERCOT power region is entitled to the information
25 and disclosures required under Chapter 115, Business & Commerce
26 Code, and is entitled to protection from fraudulent, unfair,
27 misleading, or deceptive practices.

1 (b) An owner or operator of a distributed energy resource
2 may provide energy or ancillary services in the wholesale market in
3 the ERCOT power region through generating electricity and providing
4 that electricity onto a distribution system in an area in which
5 customer choice has been introduced in the manner provided by this
6 section.

7 (c) A person who owns or operates a distributed energy
8 resource in an area in which customer choice has been introduced and
9 is part of an aggregated distributed energy resource, or has not
10 individually registered with the commission as its own power
11 generation company, must sell the surplus electricity or ancillary
12 services that are produced by the distributed energy resource and
13 that are not consumed by the owner's premise to the retail electric
14 provider that serves the premise's load at a value agreed to between
15 the distributed energy resource owner and the retail electric
16 provider that serves the premise's load. The value may be an agreed
17 value based on the clearing price of energy or ancillary service at
18 the time of day that the electricity is made available to the grid.

19 (d) A retail electric provider may direct the offering or
20 dispatch of aggregated distributed energy resources for which the
21 retail electric provider facilitated aggregation.

22 (e) The independent organization certified under Section
23 39.151 for the ERCOT power region shall adopt procedures to ensure
24 that the amount of electricity purchased from a distributed energy
25 resource owner under this section is accounted for when settling
26 the total load served by the retail electric provider that serves
27 that premise owner's load.

1 (f) A distributed energy resource owner that requests net
2 metering services for purposes of this section must have metering
3 devices capable of providing measurements consistent with the
4 independent organization's settlement requirements.

5 (g) A transmission and distribution utility may provide to
6 customers educational information regarding the technical
7 requirements for the interconnection of distributed energy
8 resources to the distribution system. The provision of information
9 under this subsection is not considered a competitive energy
10 service.

11 (h) This section does not apply to a purchase or agreement
12 entered into under Section [39.914](#) or [39.916](#).

13 SECTION 5. (a) This section takes effect only if the Act of
14 the 88th Legislature, Regular Session, 2023, relating to
15 nonsubstantive additions to and corrections in enacted codes does
16 not become law.

17 (b) Subchapter [2](#), Chapter [39](#), Utilities Code, is amended by
18 adding Section 39.9166 to read as follows:

19 Sec. 39.9166. DISTRIBUTED ENERGY RESOURCES. (a) A
20 customer who purchases or leases a distributed energy resource or
21 enters into a power purchase agreement for a distributed energy
22 resource in the ERCOT power region is entitled to the information
23 and disclosures required under Chapter [113](#), Business & Commerce
24 Code, as added by Chapter 561 (S.B. 398), Acts of the 87th
25 Legislature, Regular Session, 2021, and is entitled to protection
26 from fraudulent, unfair, misleading, or deceptive practices.

27 (b) An owner or operator of a distributed energy resource

1 may provide energy or ancillary services in the wholesale market in
2 the ERCOT power region through generating electricity and providing
3 that electricity onto a distribution system in an area in which
4 customer choice has been introduced in the manner provided by this
5 section.

6 (c) A person who owns or operates a distributed energy
7 resource in an area in which customer choice has been introduced and
8 is part of an aggregated distributed energy resource, or has not
9 individually registered with the commission as its own power
10 generation company, must sell the surplus electricity or ancillary
11 services that are produced by the distributed energy resource and
12 that are not consumed by the owner's premise to the retail electric
13 provider that serves the premise's load at a value agreed to between
14 the distributed energy resource owner and the retail electric
15 provider that serves the premise's load. The value may be an agreed
16 value based on the clearing price of energy or ancillary service at
17 the time of day that the electricity is made available to the grid.

18 (d) A retail electric provider may direct the offering or
19 dispatch of aggregated distributed energy resources for which the
20 retail electric provider facilitated aggregation.

21 (e) The independent organization certified under Section
22 39.151 for the ERCOT power region shall adopt procedures to ensure
23 that the amount of electricity purchased from a distributed energy
24 resource owner under this section is accounted for when settling
25 the total load served by the retail electric provider that serves
26 that premise owner's load.

27 (f) A distributed energy resource owner that requests net

1 metering services for purposes of this section must have metering
2 devices capable of providing measurements consistent with the
3 independent organization's settlement requirements.

4 (g) A transmission and distribution utility may provide to
5 customers educational information regarding the technical
6 requirements for the interconnection of distributed energy
7 resources to the distribution system. The provision of information
8 under this subsection is not considered a competitive energy
9 service.

10 (h) This section does not apply to a purchase or agreement
11 entered into under Section [39.914](#) or [39.916](#).

12 SECTION 6. As soon as practicable after the effective date
13 of this Act, the Public Utility Commission of Texas shall adopt
14 rules necessary to implement the changes in law made by this Act.

15 SECTION 7. This Act takes effect immediately if it receives
16 a vote of two-thirds of all the members elected to each house, as
17 provided by Section [39](#), Article III, Texas Constitution. If this
18 Act does not receive the vote necessary for immediate effect, this
19 Act takes effect September 1, 2023.