

By: Troxclair

H.B. No. 4213

A BILL TO BE ENTITLED

AN ACT

relating to rates for electricity charged by certain municipally owned utilities and to the use of revenue from the rates.

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

SECTION 1. Subchapter B, Chapter 40, Utilities Code, is amended by adding Section 40.0521 to read as follows:

Sec. 40.0521. RATES OF AND USE OF REVENUE BY CERTAIN UTILITIES NOT OFFERING CUSTOMER CHOICE. (a) This section applies only to a municipally owned utility that is governed directly by the governing body of the municipality and is owned by a municipality with a population of more than 750,000.

(b) This section does not require a municipally owned utility to implement or opt for customer choice.

(c) In the case of a conflict between this section and another provision of law, this section prevails.

(d) A municipally owned utility may not:

(1) directly or indirectly subsidize wholesale competitive activities through rates charged for the provision of retail electric service that include fixed or variable costs reasonably attributable to the operation and maintenance of municipally owned utility assets that generate energy for sale at wholesale; or

(2) charge rates for the provision of retail electric service that exceed 50 percent of the average rates available to

1 similarly situated customers in areas of the state that have access
2 to customer choice.

3 (e) The commission by rule shall require a municipally owned
4 utility to submit to the commission information to allow the
5 commission to determine whether the municipally owned utility is
6 complying with the requirements of Subsection (d). The commission
7 shall notify the municipal governing body if the commission
8 determines that the municipally owned utility is not complying with
9 the requirements of Subsection (d).

10 (f) A municipal governing body that receives notice from the
11 commission under Subsection (e):

12 (1) shall require the municipally owned utility to
13 comply with Subsection (d); and

14 (2) may, in a manner consistent with Section
15 40.055(a)(4), reasonably determine the amount of the municipally
16 owned utility's stranded investment and calculate and establish for
17 the municipally owned utility a non-bypassable charge reflecting
18 stranded costs properly attributable to the municipally owned
19 utility's retail electric service customers.

20 (g) The relevant date for identifying stranded investment
21 under Subsection (f) is November 30, 2010, instead of the date
22 specified in Section 40.055(a)(4). The amount and duration of the
23 charge under Subsection (f) must:

24 (1) be calculated in a similar manner to that
25 prescribed by Subchapter F, Chapter 39;

26 (2) include the calculation of nuclear
27 decommissioning costs as allowed by Sections 39.205 and 39.206; and

1 (3) consider the municipally owned utility's capital
2 and debt structure.

3 (h) A person affected by a determination made under this
4 section by a municipal governing body may appeal the determination
5 to the commission by filing with the commission a petition for
6 review not later than the 30th day after the date of the
7 determination. An appeal under this section is de novo. The
8 commission shall enter a final order:

9 (1) approving the determination of the municipal
10 governing body; or

11 (2) substituting the commission's own determination.

12 (i) A municipally owned utility may use the net proceeds of
13 its wholesale competitive activities for utility debt repayment,
14 reduction of purchased power costs, or vegetation management. The
15 municipally owned utility shall:

16 (1) document and book the underlying transactions in
17 auditable form; and

18 (2) on at least an annual basis as part of the
19 budgeting process, disclose to the public the net amount of the
20 proceeds and the intended uses of the proceeds.

21 SECTION 2. A municipally owned utility described by Section
22 40.0521, Utilities Code, as added by this Act, that does not comply
23 with Section 40.0521, Utilities Code, as added by this Act, on the
24 effective date of this Act shall comply with Section 40.0521,
25 Utilities Code, as added by this Act, not later than March 1, 2024.

26 SECTION 3. This Act takes effect September 1, 2023.