

By: Murr

H.B. No. 4971

A BILL TO BE ENTITLED

AN ACT

relating to the permitting of battery storage system facilities by the Public Utility Commission of Texas; authorizing fees.

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

SECTION 1. Chapter 35, Utilities Code, is amended by adding Subchapter F to read as follows:

SUBCHAPTER F. BATTERY STORAGE SYSTEM FACILITY PERMIT

Sec. 35.201. DEFINITIONS; APPLICABILITY. (a) In this subchapter:

(1) "Permit holder" means a person who holds a permit issued under this subchapter.

(2) "Person" includes an electric cooperative and a municipally owned utility.

(3) "Battery storage system facility" means any system or network containing batteries or similar devices that are connected to an energy generation source and intended to receive and store any portion of energy being produced with the intent or purpose of later transmitting or distributing any or all stored energy for sale or consumption in any part of a transmission grid that is located, in whole or in part, in the state.

Sec. 35.202. PERMIT REQUIRED; APPLICATION. (a) A person may not operate a battery storage system facility in this state unless the person holds a permit issued by the commission under this subchapter. A person may not construct or operate a battery storage

1 system facility in this state unless:

2 (1) the person holds a permit to operate a battery  
3 storage system facility issued by the commission under this  
4 subchapter; or

5 (2) the commission by order approves the construction.

6 (b) A person may apply for a permit to operate a battery  
7 storage system facility by filing with the commission:

8 (1) a description of the location of the facility;

9 (2) a description of the type of facility;

10 (3) an affirmative statement identifying the fire  
11 department, volunteer fire department, fire marshal or other first  
12 responder who may reasonably be expected to the primary first  
13 responder to any threat, incident or disaster at the location of the  
14 facility

15 (4) an affirmative statement that the person has  
16 provided written notice to the party or parties identified in  
17 subparagraph (3) above of the person's intent to construct and  
18 operate a battery storage system facility.

19 (5) any other information required by commission rule,  
20 including location restrictions or requirements.

21 Sec. 35.203. NOTICE AND HEARING ON APPLICATION. (a) When  
22 an application for a permit is filed under Section 35.202, or when  
23 an application for a permit amendment is filed, the commission  
24 shall give notice of the application to the county judge of the  
25 county in which all or a majority of the battery storage system  
26 facility is located or intended to be located.

27 (b) The commission may determine to hold a hearing on the

1 application. The commission shall hold a hearing on the  
2 application if the person has failed to provide all information  
3 pursuant to Section 35.202.

4 Sec. 35.204. APPROVAL OR DENIAL OF APPLICATION. (a) The  
5 commission may approve an application if the commission finds that  
6 issuance or amendment of the permit would not violate state or  
7 federal law or rule and meets the requirements set forth in this  
8 chapter.

9 Sec. 35.205. CONDITIONS OF PERMIT. (a) For each permit,  
10 the commission shall prescribe the conditions under which it is  
11 issued.

12 (b) The commission, on its own motion after reasonable  
13 notice and hearing, may require a permit holder to conform to new or  
14 additional conditions to comply with this subchapter or rules  
15 adopted under this subchapter.

16 Sec. 35.206. FEE. (a) A fee is imposed on each permit  
17 holder, the amount of which shall be determined by the commission.

18 Sec. 35.207. POWER TO REGULATE AND SUPERVISE. (a) For  
19 purposes of this subchapter, a provision of Subchapter B or E,  
20 Chapter 14, that authorizes the commission to regulate a public  
21 utility also applies to a person required to obtain a permit under  
22 this subchapter, including an electric cooperative and a  
23 municipally owned utility.

24 (b) The commission may adopt and enforce rules reasonably  
25 required in the exercise of its powers under this subchapter.

26 Sec. 35.208. ENFORCEMENT AND PENALTIES. For the purposes  
27 of enforcing this subchapter, a reference in Chapter 15 to a person

1 includes any person required to obtain a permit under this  
2 subchapter, including an electric cooperative and a municipally  
3 owned utility.

4 SECTION 3. (a) Except as otherwise provided by rules  
5 adopted by the Public Utility Commission of Texas under Subsection  
6 (b) of this section, Subchapter F, Chapter 35, Utilities Code, as  
7 added by this Act, applies to all battery storage system facilities  
8 in this state, including:

9 (1) battery storage system facilities that:

10 (A) in use or operation before the effective date  
11 of this Act; or

12 (B) are interconnected to a transmission  
13 facility before the effective date of this Act; and

14 (2) battery storage system facilities the  
15 construction of which began before the effective date of this Act.

16 (b) The Public Utility Commission of Texas by rule shall  
17 authorize a person who operates or constructs a facility described  
18 by Subsection (a)(1) or (2) of this section to continue to operate  
19 or construct the facility after the effective date of this Act while  
20 the person applies for a permit for the facility as required under  
21 Subchapter F, Chapter 35, Utilities Code, as added by this Act. The  
22 rules may require a person who operates or constructs a facility  
23 described by Subsection (a)(1) or (2) of this section to apply for a  
24 permit for the facility as required under Subchapter F, Chapter 35,  
25 Utilities Code, as added by this Act, by a certain date.

26 SECTION 4. This Act takes effect September 1, 2023.