

By: Hancock
(Goldman)

S.B. No. 853

A BILL TO BE ENTITLED

AN ACT

relating to electricity service provided by certain municipally
owned utilities.

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

SECTION 1. Chapter 33, Utilities Code, is amended by adding
Subchapter F to read as follows:

SUBCHAPTER F. REVIEW OF RATES OF CERTAIN MUNICIPAL UTILITIES

Sec. 33.151. APPLICABILITY. This subchapter applies only
to a municipally owned utility that provides service in the Capitol
complex, as defined by Section 443.0071, Government Code.

Sec. 33.152. REVIEW OF RATES; CUSTOMER CHOICE. (a)
Notwithstanding any other law, a group of retail customers may file
a petition for commission review of current or proposed rates of a
municipally owned utility that apply to the petitioning customers.
The petition must be signed by at least five percent of the
municipally owned utility's customers. The signature of a retail
customer of a municipally owned utility may be counted as a valid
signature only on the first filed petition on which that customer's
signature appears.

(b) The commission shall initiate a proceeding not later
than the 90th day after the petition is submitted to determine
whether the rates of the municipally owned utility are consistent
with the rates available to similarly situated customers in areas
of the state that have access to customer choice. If the commission

1 determines that the rates of the municipally owned utility are
2 consistent with the rates available to similarly situated customers
3 in areas of the state that have access to customer choice, the
4 commission shall deny the petition.

5 (c) For the purposes of Subsection (b), the rates of the
6 municipally owned utility are inconsistent with the rates available
7 to similarly situated customers in areas of the state that have
8 access to customer choice if an average rate paid by the customers
9 of the municipally owned utility during the most recent five years
10 is at least 10 percent higher than the comparable average rate paid
11 during the same five-year period by similarly situated customers in
12 areas of the state that have access to customer choice.

13 (d) If the commission does not deny the petition under
14 Subsection (b), not later than the 90th day after the date of the
15 determination described by Subsection (b), the municipally owned
16 utility shall file a rate application with the commission that
17 complies in all material respects with the rules and forms
18 prescribed by the commission. The commission for good cause may
19 extend the deadline for filing the rate application.

20 (e) The commission shall conduct a full review of the rates
21 applicable to the petitioning customer or group to determine
22 whether those rates are just and reasonable using the standards
23 prescribed by Chapter 36, notwithstanding the lack of consistency
24 between those rates and rates available to similarly situated
25 customers in areas of the state that have access to customer choice.
26 If the commission determines that the rates are just and
27 reasonable, the commission shall deny the petition. If the

1 commission determines that the rates are not just and reasonable,
2 the commission shall set rates for the petitioning customer or
3 group that are just, reasonable, and consistent with the rates
4 available to similarly situated customers in areas of the state
5 that have access to customer choice.

6 (f) The commission shall:

7 (1) allow the municipally owned utility an opportunity
8 to respond to a review conducted under this section; and

9 (2) make publicly available on the commission's
10 Internet website the commission's review and the utility's
11 response.

12 Sec. 33.153. LIMITATION. The commission may not conduct
13 more than one review under this subchapter for each municipally
14 owned utility.

15 SECTION 2. Section 40.004, Utilities Code, is amended to
16 read as follows:

17 Sec. 40.004. JURISDICTION OF COMMISSION. Except as
18 specifically otherwise provided in this chapter, the commission has
19 jurisdiction over municipally owned utilities only for the
20 following purposes:

21 (1) to regulate wholesale transmission rates and
22 service, including terms of access, to the extent provided by
23 Subchapter A, Chapter 35;

24 (2) to regulate certification of retail service areas
25 to the extent provided by Chapter 37;

26 (3) to regulate rates:

27 (A) under Subchapter F, Chapter 33, subject to

1 Section 40.051(c); and

2 (B) on appeal under Subchapters D and E, Chapter
3 33, subject to Section 40.051(c);

4 (4) to establish a code of conduct as provided by
5 Section 39.157(e) applicable to anticompetitive activities and to
6 affiliate activities limited to structurally unbundled affiliates
7 of municipally owned utilities, subject to Section 40.054;

8 (5) to establish terms and conditions for open access
9 to transmission and distribution facilities for municipally owned
10 utilities providing customer choice, as provided by Section 39.203;

11 (6) to administer the renewable energy credits program
12 under Section 39.904(b) and the natural gas energy credits program
13 under Section 39.9044(b);

14 (7) to require reports of municipally owned utility
15 operations only to the extent necessary to:

16 (A) enable the commission to determine the
17 aggregate load and energy requirements of the state and the
18 resources available to serve that load; or

19 (B) enable the commission to determine
20 information relating to market power as provided by Section 39.155;
21 and

22 (8) to evaluate and monitor the cybersecurity
23 preparedness of a municipally owned utility described by Section
24 39.1516(a)(3) or (4).

25 SECTION 3. Section 40.051(c), Utilities Code, is amended to
26 read as follows:

27 (c) After a decision to offer customer choice has been made,

1 Subchapters D, [~~and~~] E, and F, Chapter 33, do not apply to any
2 action taken under this chapter.

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