

1-1 By: Hancock S.B. No. 853
 1-2 (In the Senate - Filed February 10, 2023; March 1, 2023,
 1-3 read first time and referred to Committee on Business & Commerce;
 1-4 April 5, 2023, reported adversely, with favorable Committee
 1-5 Substitute by the following vote: Yeas 8, Nays 3; April 5, 2023,
 1-6 sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	X			
1-10	X			
1-11	X			
1-12	X			
1-13	X			
1-14		X		
1-15	X			
1-16		X		
1-17	X			
1-18	X			
1-19		X		

1-20 COMMITTEE SUBSTITUTE FOR S.B. No. 853 By: King

1-21 A BILL TO BE ENTITLED
 1-22 AN ACT

1-23 relating to electricity service provided by certain municipally
 1-24 owned utilities.

1-25 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-26 SECTION 1. Chapter 33, Utilities Code, is amended by adding

1-27 Subchapter F to read as follows:

1-28 SUBCHAPTER F. REVIEW OF RATES OF CERTAIN MUNICIPAL UTILITIES

1-29 Sec. 33.151. APPLICABILITY. This subchapter applies only
 1-30 to a municipally owned utility that provides service in the Capitol
 1-31 complex, as defined by Section 443.0071, Government Code.

1-32 Sec. 33.152. REVIEW OF RATES; CUSTOMER CHOICE. (a)
 1-33 Notwithstanding any other law, a group of retail customers may file
 1-34 a petition for commission review of current or proposed rates of a
 1-35 municipally owned utility that apply to the petitioning customers.
 1-36 The petition must be signed by at least 10,000 of those customers.
 1-37 The signature of a retail customer of a municipally owned utility
 1-38 may be counted as a valid signature only on the first filed petition
 1-39 on which that customer's signature appears.

1-40 (b) The commission shall initiate a proceeding not later
 1-41 than the 90th day after the petition is submitted to determine
 1-42 whether the rates of the municipally owned utility are consistent
 1-43 with the rates available to similarly situated customers in areas
 1-44 of the state that have access to customer choice. If the commission
 1-45 determines that the rates of the municipally owned utility are
 1-46 consistent with the rates available to similarly situated customers
 1-47 in areas of the state that have access to customer choice, the
 1-48 commission shall deny the petition.

1-49 (c) If the commission does not deny the petition under
 1-50 Subsection (b), not later than the 90th day after the date of the
 1-51 determination described by Subsection (b), the municipally owned
 1-52 utility shall file a rate application with the commission that
 1-53 complies in all material respects with the rules and forms
 1-54 prescribed by the commission. The commission for good cause may
 1-55 extend the deadline for filing the rate application.

1-56 (d) The commission shall conduct a full review of the rates
 1-57 applicable to the petitioning customer or group to determine
 1-58 whether those rates are just and reasonable using the standards
 1-59 prescribed by Chapter 36, notwithstanding the lack of consistency
 1-60 between those rates and rates available to similarly situated
 1-61 customers in areas of the state that have access to customer choice.
 1-62 If the commission determines that the rates are just and

2-1 reasonable, the commission shall deny the petition. If the
2-2 commission determines that the rates are not just and reasonable,
2-3 the commission shall set rates for the petitioning customer or
2-4 group that are just, reasonable, and consistent with the rates
2-5 available to similarly situated customers in areas of the state
2-6 that have access to customer choice.

2-7 (e) The commission shall:
2-8 (1) allow the municipally owned utility an opportunity
2-9 to respond to a review conducted under this section; and
2-10 (2) make publicly available on the commission's
2-11 Internet website the commission's review and the utility's
2-12 response.

2-13 Sec. 33.153. LIMITED DURATION. (a) Except as provided by
2-14 Subsection (b), the commission may review the rates of a
2-15 municipally owned utility under this subchapter only until
2-16 September 1, 2028.

2-17 (b) The commission may review the rates of a municipally
2-18 owned utility under this subchapter after September 1, 2028, if:

2-19 (1) the municipally owned utility did not initiate a
2-20 base rate proceeding during the period beginning September 1, 2023,
2-21 and ending September 1, 2028; and

2-22 (2) the rates being reviewed are proposed for or were
2-23 adopted in the first base rate proceeding initiated by the
2-24 municipally owned utility after September 1, 2028.

2-25 SECTION 2. Section 40.004, Utilities Code, is amended to
2-26 read as follows:

2-27 Sec. 40.004. JURISDICTION OF COMMISSION. Except as
2-28 specifically otherwise provided in this chapter, the commission has
2-29 jurisdiction over municipally owned utilities only for the
2-30 following purposes:

2-31 (1) to regulate wholesale transmission rates and
2-32 service, including terms of access, to the extent provided by
2-33 Subchapter A, Chapter 35;

2-34 (2) to regulate certification of retail service areas
2-35 to the extent provided by Chapter 37;

2-36 (3) to regulate rates:
2-37 (A) under Subchapter F, Chapter 33, subject to
2-38 Section 40.051(c); and

2-39 (B) on appeal under Subchapters D and E, Chapter
2-40 33, subject to Section 40.051(c);

2-41 (4) to establish a code of conduct as provided by
2-42 Section 39.157(e) applicable to anticompetitive activities and to
2-43 affiliate activities limited to structurally unbundled affiliates
2-44 of municipally owned utilities, subject to Section 40.054;

2-45 (5) to establish terms and conditions for open access
2-46 to transmission and distribution facilities for municipally owned
2-47 utilities providing customer choice, as provided by Section 39.203;

2-48 (6) to administer the renewable energy credits program
2-49 under Section 39.904(b) and the natural gas energy credits program
2-50 under Section 39.9044(b);

2-51 (7) to require reports of municipally owned utility
2-52 operations only to the extent necessary to:

2-53 (A) enable the commission to determine the
2-54 aggregate load and energy requirements of the state and the
2-55 resources available to serve that load; or

2-56 (B) enable the commission to determine
2-57 information relating to market power as provided by Section 39.155;
2-58 and

2-59 (8) to evaluate and monitor the cybersecurity
2-60 preparedness of a municipally owned utility described by Section
2-61 39.1516(a)(3) or (4).

2-62 SECTION 3. Section 40.051(c), Utilities Code, is amended to
2-63 read as follows:

2-64 (c) After a decision to offer customer choice has been made,
2-65 Subchapters D, ~~and~~ E, and F, Chapter 33, do not apply to any
2-66 action taken under this chapter.

2-67 SECTION 4. This Act takes effect September 1, 2023.

2-68 * * * * *