

AN ACT

relating to the use of customer-sited distributed generation facilities owned by certain non-ERCOT electric utilities.

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

SECTION 1. Subchapter E, Chapter 36, Utilities Code, is amended by adding Section 36.215 to read as follows:

Sec. 36.215. RECOVERY OF INVESTMENT IN DISTRIBUTED GENERATION AND RATES FOR BACKUP ELECTRIC SERVICE FOR CERTAIN NON-ERCOT UTILITIES. (a) In this section:

(1) "Customer-sited distributed generation facility" means a dispatchable generation facility that is installed on the electric utility's side of the retail meter and owned and operated by the electric utility:

(A) with a nameplate capacity of not more than 10 megawatts;

(B) that is capable of generating and providing backup electric service to a customer during a power grid outage; and

(C) sited at or adjacent to the customer's premises.

(2) "Host customer" means a customer receiving backup electric service under this section.

(b) This section applies only to an electric utility that operates solely outside of ERCOT in areas of this state included in

1 the Southeastern Electric Reliability Council.

2 (c) An electric utility may provide backup electric service
3 to a nonresidential retail customer through a customer-sited
4 distributed generation facility.

5 (d) The commission, on the petition of an electric utility,
6 shall establish just and reasonable rates for backup electric
7 service supplied using a customer-sited distributed generation
8 facility, consistent with this chapter, provided that costs are
9 allocated as follows:

10 (1) if the facility is capable of directly supplying
11 energy to the distribution system or of disconnecting the host
12 customer from the distribution system when not being used to supply
13 backup electric service to the host customer and thereby reducing
14 system load, the commission shall allocate the cost of owning and
15 operating the facility between the host customer and the electric
16 utility's broader customer base, including an allocation of any
17 margins from energy sales attributable to the facility to the host
18 customer in reasonable proportion to the allocation of nonfuel
19 costs as provided by Subdivision (2); and

20 (2) the allocation of nonfuel costs to the host
21 customer must be based on the cost to purchase, install,
22 interconnect, own, operate, and maintain the facility that is above
23 the electric utility's levelized avoided cost to install, own,
24 operate, and maintain a single-cycle combustion turbine, on a per
25 kilowatt basis, grossed up for avoided line losses based on the
26 utility's transmission and distribution line loss factors last
27 approved by the commission.

1 (e) In a rate proceeding in which an electric utility seeks
2 to recover the utility's investment in a customer-sited distributed
3 generation facility that is interconnected to the utility's
4 distribution system:

5 (1) the full cost of the utility's investment is
6 eligible for recovery; and

7 (2) the cost of the facility and backup electric
8 service revenues must be allocated among customer classes on the
9 same basis used to allocate the utility's distribution-level
10 investments.

11 SECTION 2. This Act takes effect immediately if it receives
12 a vote of two-thirds of all the members elected to each house, as
13 provided by Section 39, Article III, Texas Constitution. If this
14 Act does not receive the vote necessary for immediate effect, this
15 Act takes effect September 1, 2023.

S.B. No. 1866

President of the Senate

Speaker of the House

I hereby certify that S.B. No. 1866 passed the Senate on April 25, 2023, by the following vote: Yeas 30, Nays 0.

Secretary of the Senate

I hereby certify that S.B. No. 1866 passed the House on May 6, 2023, by the following vote: Yeas 137, Nays 0, one present not voting.

Chief Clerk of the House

Approved:

Date

Governor