

## **BILL ANALYSIS**

C.S.H.B. 1243  
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State Affairs  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

The technology of small solar and wind powered electricity generators has become advanced enough that some generators of those types generate more electricity than the owner requires. In such cases, excess electricity can be placed in the electrical grid, but electrical companies are not currently required to compensate the owner of a small electrical generator for the excess electricity produced.

C.S.H.B. 1243 amends the law relating to distributed renewable generation and distributed renewable generation owners. The bill applies specified parts of that law, as amended, to electric cooperatives and adds new law relating to distributed renewable generation among municipally owned electric utilities. The bill makes changes relating to contracts by a distributed renewable generation owner to sell surplus electricity to an electric utility, retail electric provider, or electric cooperative and includes provisions relating to the price at which the distributed renewable generation owner is to be paid for that electricity. The bill adds new law concerning interactions between a distributed renewable generation owner and a municipally owned utility. The bill adds new Internet posting requirements relating to distributed renewable generation.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that rulemaking authority is expressly granted to the Public Utility Commission of Texas in SECTIONS 4, 5, and 6 of this bill.

### **ANALYSIS**

C.S.H.B. 1243 amends the Utilities Code to expand the definition of "distributed renewable generation owner" to include a retail electric customer who contracts with another person to finance, install, or maintain distributed renewable generation on the customer's side of the meter, regardless of whether the customer takes ownership of the installed distributed renewable generation. The bill provides that the term includes, additionally, a person who by contract is assigned ownership rights to renewable resources located at the premises of a customer on the customer's side of the meter.

C.S.H.B. 1243 clarifies the definition of "electric utility," for purposes of the provisions of the Public Utility Regulatory Act applicable to electric utilities, to specify that the term does not include a distributed renewable generation owner.

C.S.H.B. 1243 makes provisions relating to distributed renewable generation applicable to an electric cooperative, in addition to an electric utility, a retail electric provider, and a transmission and distribution utility, as under existing law.

C.S.H.B. 1243 prohibits the Public Utility Commission of Texas (PUC) from considering a distributed renewable generation owner to be a power generation company or requiring the distributed renewable generation owner to register as a power generation company if, at the time distributed renewable generation is installed on the retail electric customer's side of the meter,

the estimated annual amount of electric energy to be produced by the distributed renewable generation is less than or equal to the customer's estimated annual electric energy consumption.

C.S.H.B. 1243 amends provisions relating to contracts between an electric utility, a retail electric provider, or an electric cooperative, and a distributed renewable generation owner for the purpose of making surplus electricity from distributed renewable generation available for sale to the transmission grid and distribution system. The bill, rather than authorizing a contract as under existing law, requires a contract if requested by the distributed renewable generation owner. The bill requires that the distributed renewable generation owner be credited, under such a contract, with the fair market value of the surplus electricity, rather than with the net value of that electricity as provided by existing law.

C.S.H.B. 1243 requires a distributed renewable generation owner who chooses to sell the owner's surplus electricity in an area in which customer choice has not been introduced to sell the owner's surplus electricity to the electric utility or electric cooperative that serves the owner's load. The bill requires the distributed renewable generation to sell the owner's surplus electricity at a fair market value, or alternatively allows the owner's surplus electricity to be exchanged for a credit applied at fair market value. The bill makes conforming changes.

C.S.H.B. 1243 requires the PUC by rule to provide a methodology for determining a fair market value price for surplus electricity generated by distributed renewable generation. The bill prohibits the fair market value from being less than an amount equal to 80 percent of the customer's applicable retail rate minus any nonbypassable charges. The bill requires the PUC to post on its Internet website the fair market value prices derived from the methodology.

C.S.H.B. 1243 establishes provisions governing the price to be paid by a retail electric provider to a distributed renewable generation owner for surplus electricity generated by the owner's distributed renewable generation in an area in which customer choice has been introduced. The bill requires payment of the local market clearing price for energy at the time of day the surplus electricity is made available to the grid, or a price that is not less than the fair market value price determined in accordance with the provided methodology. The bill establishes that a distributed renewable generation owner is qualified to be paid for surplus electricity under the bill's provisions only if the owner's distributed renewable generation is installed on a residential retail electric customer's side of the meter, has a generating capacity of not greater than 10 kilowatts, and is rated to produce an amount of electricity less than or equal to the amount of electricity the residential retail electric customer for whom the distributed renewable generation is installed is reasonably expected to consume. The bill requires a distributed renewable generation owner who does not meet the prescribed qualifications to sell the owner's surplus electricity to the provider that serves the owner's load, or to exchange the surplus electricity for a credit to the owner's account, at a value agreed to between the owner and that provider.

C.S.H.B. 1243 authorizes the PUC by rule to establish standards that distributed renewable generation must meet to be eligible for compensation, including interconnection standards and standards for the generating equipment. The bill requires the standards to be designed so that small-scale distributed renewable generation at residential addresses is eligible for compensation. The bill requires the PUC by rule to require an electric utility, retail electric provider, or electric cooperative that purchases surplus electricity from distributed renewable generation to include line items, on each bill of the distributed renewable generation owner, to inform the owner of the amount of surplus electricity from the distributed renewable generation in terms of kilowatt hours, of the price credited to the owner for each kilowatt hour, and of the amount of any credit for surplus electricity applied or carried forward from the previous billing period. The bill authorizes an electric utility, retail electric provider, or electric cooperative to charge an administrative fee to a distributed renewable generation owner on a monthly or annual basis.

C.S.H.B. 1243 requires a retail electric provider in an area open to competition, until the PUC

provides the methodology for determining a fair market value price, to pay a price for surplus electricity that is not less than five cents per kilowatt hour for electricity generated by a solar energy technology or not less than four cents per kilowatt hour for electricity generated by another renewable energy technology. The bill requires an electric utility or electric cooperative in an area not open to competition, until the PUC provides that same methodology, to pay a price for surplus electricity that is not less than the avoided cost to the electric utility or electric cooperative.

C.S.H.B. 1243 adds provisions governing distributed renewable generation within municipally owned electric utilities and, for purposes of those added provisions, defines "distributed renewable generation owner" in the same manner as redefined elsewhere by amendatory provisions of the bill. The bill defines "distributed renewable generation" and "interconnection," both unamended by the bill, consistent with existing law on distributed renewable generation. The bill specifies that it is the goal of the legislature that municipally owned utilities shall allow interconnection and net metering by distributed renewable generation owners. The bill requires a municipally owned utility to provide its customers access to the interconnection and to net metering of distributed renewable generation.

C.S.H.B. 1243 requires the governing body of a municipally owned utility to provide oversight and adopt rates, rules, and procedures to allow interconnection and to provide net metering, consistent with the goals of statutory provisions, as amended by the bill, relating to distributed renewable generation. The bill specifies that the added provisions relating to municipally owned utilities do not prevent the governing body of a municipally owned utility from adopting rates, rules, and procedures for interconnection and net metering that are more favorable to a distributed renewable generation owner than those established by the statutory provisions on distributed renewable generation or established by PUC rules. The bill specifies that if a municipally owned utility implements customer choice, the PUC has jurisdiction over the municipally owned utility's distributed renewable generation interconnection and net metering, and is required to establish by rule minimum standards and procedures for interconnection and net metering by the municipally owned utility.

C.S.H.B. 1243 requires a municipally owned utility that had retail sales of 500,000 megawatt hours or greater in 2008 to file its interconnection and net metering rates, rules, and procedures with the State Energy Conservation Office not later than January 1, 2010, and to make timely updates to the utility's filed rates, rules, and procedures.

C.S.H.B. 1243 requires a municipally owned utility that has adopted rules and procedures related to interconnection and net metering to make available, on a publicly accessible Internet website or at the customary location for publicly posted notices, information on the purchase price offered per kilowatt hour for surplus electricity produced by distributed renewable generation, and information instructing customers with distributed renewable generation how to request and obtain the purchase rates offered.

C.S.H.B. 1243 requires the governing body of a municipally owned utility that had retail sales of less than 500,000 megawatt hours in 2008 to provide oversight and adopt rules and procedures related to interconnection and net metering of distributed renewable generation systems sized with a generating capacity deemed appropriate by the municipally owned utility on or before the 120th day after the date the governing body receives a bona fide request for interconnection.

C.S.H.B. 1243 adds other provisions to require the PUC, at its website at <http://www.powertochoose.org>, to provide for access to easily comparable information regarding retail electric providers' offers to distributed renewable generation owners for their surplus electricity, including information regarding their contract terms, for each retail electric provider using that website. The bill requires the PUC on the same website to provide for access to easily comparable information regarding offers of renewable energy credit marketers to distributed renewable generation owners, for each renewable energy credit marketer using the

website. The bill requires the PUC by rule to require electric utilities, electric cooperatives, and retail electric providers to provide, on publicly accessible Internet websites, information on purchase price offers per kilowatt hour for surplus electricity produced by distributed renewable generation and information instructing customers with distributed renewable generation on how to request and obtain the purchase rates offered.

### **EFFECTIVE DATE**

On passage, or, if the act does not receive the necessary vote, the act takes effect September 1, 2009.

### **COMPARISON OF ORIGINAL AND SUBSTITUTE**

C.S.H.B. 1243 removes provisions in the original requiring the Public Utility Commission of Texas (PUC) by rule to require an electric utility, retail electric provider, electric cooperative, or municipally owned utility to offer net metering service to all retail customers of the utility, provider, or cooperative. The substitute removes provisions in the original authorizing the PUC by rule to establish standards for an on-site generating facility to be eligible for compensation and defining "net metering service."

C.S.H.B. 1243 adds a provision not in the original to clarify the definition of "electric utility," as applicable to portions of the Public Utility Regulatory Act regarding electric utilities, to specify that the term does not include a distributed renewable generation owner.

C.S.H.B. 1243 adds provisions not in the original to specify that the existing law relating to distributed renewable generation applies to an electric cooperative, and to specify that certain new law from the bill, on the same subject of distributed renewable generation, applies to a municipally owned utility.

C.S.H.B. 1243 differs from the original by significantly adding to and amending the law on net metering for retail electric service customers and compensation for excess electricity generated by a retail electric customer's on-site generation. The substitute redefines "distributed renewable generation owner," adds provisions relating to when such an owner may be considered to be or may be required to register as a power generation company, establishes provisions relating to contracts with, and the price to be paid to, distributed renewable generation owners for surplus electricity, and adds provisions relating to distributed renewable generation as it relates to municipally owned utilities.

C.S.H.B. 1243 adds provisions not in the original relating to Internet access to information regarding the purchase of surplus electricity produced by distributed renewable generation.