

BILL ANALYSIS

Senate Research Center

S.B. 265
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

This legislation is designed to give elderly, low-income, and medically disadvantaged Texans additional consumer protections by preventing electricity disconnections from occurring during the months of July through September, which are typically the hottest months of the year. During the summer of 2008 nearly 450,000 disconnections occurred, leaving many without air-conditioning and placing an increased risk for heat-related death and illness.

This bill creates a series of deferred payment plans for customers who cannot pay a high electric bill incurred during the months of July through September. The bill waives the security deposit requirement in order to create an account for residents who are 62 years of age or have no more than one late payment in the previous 12 months with their previous electric provider which is located in Texas. The bill authorizes monies located in the System Benefit Fund to be used to provide a discount to customers who qualify for its use, while being held in a trust account outside the state treasury. The bill requires the Public Utility Commission (PUC) to adopt and enforce rules for the establishment of the fund, as well as adopt rules regarding contributions to and disbursement from the fund.

As proposed, S.B. 265 amends current law relating to benefits and protections for certain residential electric customers.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Public Utility Commission of Texas in SECTION 2 (Section 39.903, Utilities Code) and SECTION 3 of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 39.101, Utilities Code, by adding Subsections (i)-(l), as follows:

- (i) Requires a retail electric provider, power generation company, aggregator, or other entity that provides retail electric service to waive any deposit requirement for a residential customer who is at least 62 years of age or has a payment history for electric service in this state that includes not more than one late payment in the preceding 12 months.
- (j) Prohibits a service provider, during the period beginning July 1 and ending September 30 of each year, from disconnecting service to a residential customer who requests a deferred payment plan and meets certain requirements.
- (k) Requires a service provider to offer a residential customer described by Subsection (j)(1) (relating to the disconnection of service of a low-income electric customer) who requests a deferred payment plan a payment plan that allows the customer to avoid disconnection of service during the period described by Subsection (j) if certain conditions are met.
- (l) Requires a service provider to offer to a residential customer, described by Subsection (j)(1) and is at least 62 years of age or by Subsection (j)(2) (relating the disconnection of service of a person who is likely to become seriously ill or more seriously ill), a deferred payment plan that allows the customer to avoid disconnection of service during the period described by Subsection (j), without any payment of the current month's service

charges until after September 30, if the customer agrees to pay 25 percent of the deferred charges when the first bill issued after September 30 is due and the remaining balances in equal installments over the next five billing cycles after the bill issued after September 30.

SECTION 2. Amends Sections 39.903(a), (b), (d), (e), and (h), Utilities Code, as follows:

(a) Requires the Public Utility Commission of Texas (PUC) to adopt and enforce rules requiring electric utilities to establish a system benefit fund as a trust fund outside of the state treasury to be used only for the purposes provided by this section. Deletes text providing that the system benefit fund is an account in the general revenue fund from which money may be appropriated only for the purposes provided by this section or other law. Requires PUC to provide for the fund to be held by a financial institution eligible to be a depository for state funds under Chapter 404 (State Treasury Operations of Comptroller), Government Code. Requires interest earned on the fund, rather than the system benefit fund, to be credited to the fund. Deletes existing text providing that Section 403.095 (Use of Dedicated Revenue), Government Code, does not apply to the system benefit fund.

(b) Provides that the system benefit fund is financed by a nonbypassable fee set by PUC in an amount not to exceed 65 cents per megawatt hour and allocated to customers based on the amount of kilowatt hours used, rather than providing that the system benefit fund fee is allocated to customers based on the amount of kilowatt hours used. Requires an electric utility to remit the fees to the fund in accordance with procedures approved by PUC.

(d) Requires PUC to annually review and approve system benefit fund accounts, projected requirements, and proposed nonbypassable fees. Requires PUC by rule to adopt review procedures, including a method for administrative review, as PUC determines is necessary to ensure that the fund is funded and that disbursements from the fund are properly made. Authorizes PUC to provide for the fund to be operated by a contractor. Authorizes PUC to require an electric utility or retail electric provider to provide information as necessary to assess contributions to and disbursements from the fund, and that information is not subject to disclosure under Chapter 552 (Public Information), Government Code. Requires PUC to provide for disbursements from the fund to be made promptly and efficiently so that an electric utility or retail electric provider does not experience an unnecessary cash-flow problem as a result of administrative delay rather than requiring PUC to report to the electric utility restructuring legislative oversight committee if the system benefit fund fee is insufficient to fund the purposes set forth in Subsection (c) to the extent required by this section.

(e) Authorizes money in the system benefit fund to be used solely for certain programs, listed by priority rather than money in the system benefit fund be appropriated to provide funding solely for certain regulatory purposes.

(h) Authorizes PUC to reduce the rate reduction to less than 10 percent if the fee is set at 65 cents per megawatt hour and, rather than or if, PUC determines that money in the fund is, rather than appropriations are, insufficient to fund the 10 percent rate reduction.

SECTION 3. Requires PUC to adopt rules to implement Sections 39.101(j)-(1), as added by this Act, as quickly as practicable so that low-income electric customers and elderly or vulnerable electric customers are provided protections prescribed by those sections before September 30, 2009.

SECTION 4. Requires PUC to adopt rules under Section 39.903 (System Benefit Fund), Utilities Code, as amended by this Act, as quickly as practicable. Requires fees for the system benefit fund collected under Section 39.903, Utilities Code, before the effective date of this Act to be remitted to the comptroller of public accounts for deposit in the general revenue fund and fees collected after the effective date of this Act to be remitted to PUC not later than 31 days after the fees are collected until PUC adopts rules governing the remittance of the fees to the trust fund established under that section, as amended by this Act. Requires PUC to hold fees

remitted to it under this Act in trust for the benefit of the system benefit fund until that fund is established as provided by this Act and to transfer those fees to the fund on the date the fund is established.

SECTION 5. Effective date: September 1, 2009.