

By: Turner of Harris

H.B. No. 1182

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the administration and purposes of the system benefit
3 fund and the eligibility of customers for benefits under certain
4 programs financed by the system benefit fund and other programs.

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

6 SECTION 1. Sections 39.903(a), (b), (c), (d), (e), (f),
7 (g), (h), (i), (j), and (j-1), Utilities Code, are amended to read
8 as follows:

9 (a) The system benefit fund is a trust fund held by the
10 commission outside of the state treasury as trustee solely for the
11 benefit of programs and ~~[an account in the general revenue~~
12 ~~fund. Money in the account may be appropriated only for the]~~
13 purposes provided by this section ~~[or other law]~~. Interest earned
14 on the system benefit fund shall be credited to the fund. The
15 commission shall undertake to spend for the purposes of the system
16 benefit fund programs and purposes all system benefit fund money
17 available. The commission may spend the money from the system
18 benefit fund as provided by this section without additional
19 legislative action, including an appropriation. The commission
20 shall adopt and enforce rules requiring retail electric providers
21 and transmission and distribution utilities to finance
22 the ~~[Section 403.095, Government Code, does not apply to the system~~
23 ~~benefit fund.~~

24 ~~[(b) The]~~ system benefit fund ~~[is financed]~~ by a

1 nonbypassable fee set by the commission in an amount not to exceed
2 65 cents per megawatt hour and [~~. The system benefit fund fee is~~]
3 allocated to customers based on the amount of kilowatt hours used.

4 (b) [~~(c)~~] The commission shall provide for the
5 nonbypassable fee to [~~may not~~] be imposed also on the retail
6 electric customers of a municipally owned utility or electric
7 cooperative beginning on the first day of [~~before~~] the sixth month
8 preceding the date on which the utility or cooperative implements
9 customer choice. Money distributed from the system benefit fund to
10 a municipally owned utility or an electric cooperative shall be
11 proportional to the nonbypassable fee paid by the municipally owned
12 utility or the electric cooperative, subject to the reimbursement
13 provided by Subsection (h) [~~(i)~~]. On request by a municipally owned
14 utility or electric cooperative, the commission shall reduce the
15 nonbypassable fee imposed on retail electric customers served by
16 the municipally owned utility or electric cooperative by an amount
17 equal to the amount provided by the municipally owned utility or
18 electric cooperative or its ratepayers for local low-income
19 programs and local programs that educate customers about the retail
20 electric market in a neutral and nonpromotional manner.

21 (c) [~~(d)~~] The commission shall annually review and approve
22 system benefit fund accounts, projected revenue requirements, and
23 proposed nonbypassable fees. The commission shall report to the
24 electric utility restructuring legislative oversight committee if
25 the system benefit fund fee is insufficient to fund the purposes set
26 forth in Subsection (d) [~~(e)~~] to the extent required by this
27 section.

1 (d) Rules of the commission must provide that
2 money [~~(e) Money~~] in the system benefit fund may be used only
3 [~~appropriated to provide funding solely~~] for the following
4 regulatory purposes, in the following order of priority:

5 (1) programs to:

6 (A) assist low-income electric customers by
7 providing the 10-20 [~~10~~] percent reduced rate prescribed by
8 Subsection (g) [~~(h)~~]; and

9 (B) provide [~~one-time~~] bill payment assistance
10 to electric customers who are or who have in their households one or
11 more seriously ill or disabled low-income persons and who have been
12 threatened with disconnection for nonpayment;

13 (2) [~~customer education programs, administrative~~
14 ~~expenses incurred by the commission in implementing and~~
15 ~~administering this chapter, and expenses incurred by the office~~
16 ~~under this chapter,~~

17 [~~(3)~~] programs to assist low-income electric
18 customers by providing the targeted energy efficiency programs
19 described by Subsection (e)(2) [~~(f)(2)~~]; and

20 (3) customer education programs, administrative
21 expenses incurred by the commission in implementing and
22 administering this chapter, and expenses incurred by the office
23 under this chapter.

24 (e) [~~(4) programs to assist low-income electric customers~~
25 ~~by providing the 20 percent reduced rate prescribed by Subsection~~
26 ~~(h), and~~

27 [~~(5) reimbursement to the commission and the Health~~

1 ~~and Human Services Commission for expenses incurred in the~~
2 ~~implementation and administration of an integrated eligibility~~
3 ~~process created under Section 17.007 for customer service discounts~~
4 ~~relating to retail electric service, including outreach expenses~~
5 ~~the commission determines are reasonable and necessary.~~

6 ~~[(f)]~~ Notwithstanding Section 39.106(b), the commission
7 shall adopt rules regarding programs to assist low-income electric
8 customers on the introduction of customer choice. The programs may
9 not be targeted to areas served by municipally owned utilities or
10 electric cooperatives that have not adopted customer choice. The
11 programs shall include:

12 (1) reduced electric rates as provided by Subsections
13 (g)-(1) ~~[(h)-(1)]~~; and

14 (2) targeted energy efficiency programs to be
15 administered by the Texas Department of Housing and Community
16 Affairs in coordination with existing weatherization programs.

17 (f) ~~[(g)]~~ Until customer choice is introduced in a power
18 region, an electric utility may not reduce, in any manner, programs
19 already offered to assist low-income electric customers.

20 (g) ~~[(h)]~~ The commission shall adopt rules for a retail
21 electric provider to determine a reduced rate for eligible
22 customers to be discounted off the standard retail service package
23 as approved by the commission under Section 39.106, or the price to
24 beat established by Section 39.202, whichever is
25 lower. Municipally owned utilities and electric cooperatives
26 shall establish a reduced rate for eligible customers to be
27 discounted off the standard retail service package established

1 under Section 40.053 or 41.053, as appropriate. The reduced rate
2 for a retail electric provider shall result in a total charge that
3 is at least 10 percent and, if sufficient money in the system
4 benefit fund is available, up to 20 percent, lower than the amount
5 the customer would otherwise be charged. To the extent the system
6 benefit fund is insufficient to fund the initial 10 percent rate
7 reduction, the commission may increase the fee to an amount not more
8 than 65 cents per megawatt hour, as provided by Subsection (a)
9 ~~[(b)]. [If the fee is set at 65 cents per megawatt hour or if the~~
10 ~~commission determines that appropriations are insufficient to fund~~
11 ~~the 10 percent rate reduction, the commission may reduce the rate~~
12 ~~reduction to less than 10 percent.]~~ For a municipally owned
13 utility or electric cooperative, the reduced rate shall be equal to
14 an amount that can be fully funded by that portion of the
15 nonbypassable fee proceeds paid by the municipally owned utility or
16 electric cooperative that is allocated to the utility or
17 cooperative by the commission under Subsection (d) ~~[(e)]~~ for
18 programs for low-income customers of the utility or
19 cooperative. The reduced rate for municipally owned utilities and
20 electric cooperatives under this section is in addition to any rate
21 reduction that may result from local programs for low-income
22 customers of the municipally owned utilities or electric
23 cooperatives.

24 (h) ~~[(i)]~~ A retail electric provider, municipally owned
25 utility, or electric cooperative seeking reimbursement from the
26 system benefit fund may not charge an eligible low-income customer
27 a rate higher than the appropriate reduced rate determined under

1 Subsection (g) [~~(h)~~]. Commission rules must provide for:

2 (1) a [A] retail electric provider not subject to the
3 price to beat, or a municipally owned utility or electric
4 cooperative subject to the nonbypassable fee under Subsection (b),
5 to [~~(c), shall~~] be reimbursed from the system benefit fund for the
6 difference between the reduced rate and the rate established under
7 Section 39.106 or, as appropriate, the rate established under
8 Section 40.053 or 41.053; and

9 (2) a [~~A~~] retail electric provider who is subject to
10 the price to beat to [~~shall~~] be reimbursed from the system benefit
11 fund for the difference between the reduced rate and the price to
12 beat. [~~The commission shall adopt rules providing for the~~
13 ~~reimbursement.~~]

14 (i) [~~(j)~~] The commission shall adopt rules providing for
15 methods of enrolling customers eligible to receive reduced rates
16 under Subsection (g) [~~(h)~~]. The rules must provide for automatic
17 enrollment as one enrollment option. The Texas Department of Human
18 Services, on request of the commission, shall assist in the
19 adoption and implementation of these rules. The commission and the
20 Texas Department of Human Services shall enter into a memorandum of
21 understanding establishing the respective duties of the commission
22 and the department in relation to the automatic enrollment.
23 Commission rules must provide that:

24 (1) an electric customer eligible for the reduced rate
25 determined under Subsection (g) is also eligible for reduced rates
26 for telecommunications service offered for low-income customers;
27 and

1 (2) a customer eligible for reduced rates for
2 telecommunications service offered for low-income customers is
3 also eligible for the reduced rate determined under Subsection (g).

4 (j) [~~(j-1)~~] The commission shall adopt rules governing the
5 bill payment assistance program provided under Subsection
6 (d)(1)(B) [~~(e)(1)(B)~~]. The rules must provide that a customer is
7 eligible to receive the assistance only if the assistance is
8 necessary to prevent the disconnection of service for nonpayment of
9 bills and the electric customer is or has in the customer's
10 household one or more seriously ill or disabled low-income persons
11 whose health or safety may be injured by the disconnection. The
12 commission may prescribe the documentation necessary to
13 demonstrate eligibility for the assistance and may establish
14 additional eligibility criteria. The Health and Human Services
15 Commission, on request of the commission, shall assist in the
16 adoption and implementation of these rules.

17 SECTION 2. The Public Utility Commission of Texas shall
18 adopt or revise rules governing the system benefit fund under
19 Section 39.903, Utilities Code, as amended by this Act, not later
20 than January 1, 2010.

21 SECTION 3. Fees for the system benefit fund collected under
22 Section 39.903, Utilities Code, before the effective date of this
23 Act shall be remitted to the comptroller of public accounts for
24 deposit in the general revenue fund. Fees for the system benefit
25 fund collected under Section 39.903, Utilities Code, after the
26 effective date of this Act shall be remitted to the Public Utility
27 Commission of Texas not later than 31 days after the fees are

1 collected until the commission adopts rules governing the
2 remittance of the fees to the trust fund established under that
3 section, as amended by this Act. The Public Utility Commission of
4 Texas shall hold fees remitted to it under this Act in trust for the
5 benefit of the system benefit fund until that fund is established as
6 provided by this Act and shall transfer those fees to the fund on
7 the date the fund is established.

8 SECTION 4. This Act takes effect September 1, 2009.