

By: Solomons

H.B. No. 1866

A BILL TO BE ENTITLED

AN ACT

relating to distributed renewable generation of electric power.

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

SECTION 1. Section 17.002, Utilities Code, is amended by adding Subdivision (4-a) to read as follows:

(4-a) "Distributed renewable generation" has the meaning assigned by Section 39.916.

SECTION 2. Section 17.004, Utilities Code, is amended by adding Subsection (a-1) to read as follows:

(a-1) All buyers of retail electric services are entitled to the opportunity to interconnect distributed renewable generation according to conditions established by commission rule.

SECTION 3. Section 17.006, Utilities Code, is amended to read as follows:

Sec. 17.006. PROTECTIONS FOR CUSTOMERS OF ELECTRIC COOPERATIVES. (a) An electric cooperative shall not be deemed to be a "service provider" or "billing agent" for purposes of Sections 17.156(b) and (e), except that, for purposes of enforcing Section 17.004(a-1), an electric cooperative is a "service provider" under Section 17.156(b).

(b) An [The] electric cooperative shall adopt, implement, and enforce rules that shall have the effect of accomplishing the objectives set out in Sections 17.004(a), (a-1), and (b) and Section 17.102. The board of directors of an [the] electric

1 cooperative or its designee shall perform the dispute resolution
2 function provided for by Section 17.157 for electric customers
3 served by the electric cooperative within its certificated service
4 area. With respect to electric customers served by an electric
5 cooperative outside its certificated service area or otherwise
6 served through others' distribution facilities, after the
7 legislature authorizes retail competition, the provisions of this
8 chapter as administered by the commission shall apply. Nothing in
9 this chapter shall be deemed to apply to a wholesale customer of an
10 electric cooperative.

11 SECTION 4. Section 31.002(6), Utilities Code, is amended to
12 read as follows:

13 (6) "Electric utility" means a person or river
14 authority that owns or operates for compensation in this state
15 equipment or facilities to produce, generate, transmit,
16 distribute, sell, or furnish electricity in this state. The term
17 includes a lessee, trustee, or receiver of an electric utility and a
18 recreational vehicle park owner who does not comply with Subchapter
19 C, Chapter 184, with regard to the metered sale of electricity at
20 the recreational vehicle park. The term does not include:

- 21 (A) a municipal corporation;
- 22 (B) a qualifying facility;
- 23 (C) a power generation company;
- 24 (D) an exempt wholesale generator;
- 25 (E) a power marketer;
- 26 (F) a corporation described by Section 32.053 to
27 the extent the corporation sells electricity exclusively at

1 wholesale and not to the ultimate consumer;

2 (G) an electric cooperative;

3 (H) a retail electric provider;

4 (I) this state or an agency of this state; ~~[or]~~

5 (J) a person not otherwise an electric utility

6 who:

7 (i) furnishes an electric service or
8 commodity only to itself, its employees, or its tenants as an
9 incident of employment or tenancy, if that service or commodity is
10 not resold to or used by others;

11 (ii) owns or operates in this state
12 equipment or facilities to produce, generate, transmit,
13 distribute, sell, or furnish electric energy to an electric
14 utility, if the equipment or facilities are used primarily to
15 produce and generate electric energy for consumption by that
16 person; or

17 (iii) owns or operates in this state a
18 recreational vehicle park that provides metered electric service in
19 accordance with Subchapter C, Chapter 184; or

20 (K) a distributed renewable generation owner, as
21 defined by Section 39.916, or a person with whom a retail electric
22 customer contracts to install or maintain distributed renewable
23 generation on the customer's side of the meter.

24 SECTION 5. Section 39.916(d), Utilities Code, is amended to
25 read as follows:

26 (d) The commission by rule shall establish safety,
27 technical, and performance standards for distributed renewable

1 generation that may be interconnected. In adopting the rules, the
2 commission shall consider standards published by the Underwriters
3 Laboratories, the National Electric Code, the National Electric
4 Safety Code, and the Institute of Electrical and Electronics
5 Engineers. The commission may not require a distributed renewable
6 generation owner or a person who contracts with a customer to
7 install or maintain distributed renewable generation on the
8 customer's side of the meter to register as a power generation
9 company.

10 SECTION 6. Section 41.004, Utilities Code, is amended to
11 read as follows:

12 Sec. 41.004. JURISDICTION OF COMMISSION. Except as
13 specifically provided otherwise in this chapter, the commission has
14 jurisdiction over electric cooperatives only as follows:

15 (1) to regulate wholesale transmission rates and
16 service, including terms of access, to the extent provided in
17 Subchapter A, Chapter 35;

18 (2) to regulate certification to the extent provided
19 in Chapter 37;

20 (3) to establish a code of conduct as provided in
21 Section 39.157(e) subject to Section 41.054;

22 (4) to establish terms and conditions, but not rates,
23 for open access to distribution facilities for electric
24 cooperatives providing customer choice, as provided in Section
25 39.203; ~~and~~

26 (5) to require reports of electric cooperative
27 operations only to the extent necessary to:

1 (A) ensure the public safety;

2 (B) enable the commission to satisfy its
3 responsibilities relating to electric cooperatives under this
4 chapter;

5 (C) enable the commission to determine the
6 aggregate electric load and energy requirements in the state and
7 the resources available to serve that load; or

8 (D) enable the commission to determine
9 information relating to market power as provided in Section 39.155;
10 and

11 (6) to establish conditions under which customers may
12 interconnect distributed renewable generation, as defined by
13 Section 39.916.

14 SECTION 7. Section 41.055, Utilities Code, is amended to
15 read as follows:

16 Sec. 41.055. JURISDICTION OF BOARD OF DIRECTORS. A board
17 of directors has exclusive jurisdiction to:

18 (1) set all terms of access, conditions, and rates
19 applicable to services provided by the electric cooperative, except
20 as provided by Sections 41.004, 41.054, and 41.056, including
21 nondiscriminatory and comparable rates for distribution but
22 excluding wholesale transmission rates, terms of access, and
23 conditions for wholesale transmission service set by the commission
24 under Subchapter A, Chapter 35, provided that the rates for
25 distribution established by the electric cooperative shall be
26 comparable to the distribution rates that apply to the electric
27 cooperative and its subsidiaries;

1 (2) determine whether to unbundle any energy-related
2 activities and, if the board of directors chooses to unbundle,
3 whether to do so structurally or functionally;

4 (3) reasonably determine the amount of the electric
5 cooperative's stranded investment;

6 (4) establish nondiscriminatory transition charges
7 reasonably designed to recover the stranded investment over an
8 appropriate period of time;

9 (5) determine the extent to which the electric
10 cooperative will provide various customer services, including
11 nonelectric services, or accept the services from other providers;

12 (6) manage and operate the electric cooperative's
13 utility systems, including exercise of control over resource
14 acquisition and any related expansion programs;

15 (7) establish and enforce service quality standards,
16 reliability standards, and consumer safeguards designed to protect
17 retail electric customers;

18 (8) determine whether a base rate reduction is
19 appropriate for the electric cooperative;

20 (9) determine any other utility matters that the board
21 of directors believes should be included;

22 (10) sell electric energy and capacity at wholesale,
23 regardless of whether the electric cooperative participates in
24 customer choice;

25 (11) determine the extent to which the electric
26 cooperative offers energy efficiency programs and how the programs
27 are administered by the electric cooperative; and

1 (12) make any other decisions affecting the electric
2 cooperative's method of conducting business that are not
3 inconsistent with the provisions of this chapter.

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