

By: Lucio

S.B. No. 1420

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the sale of electric energy produced by distributed
3 renewable generation owners.

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

5 SECTION 1. Section 31.002(6), Utilities Code, is amended to
6 read as follows:

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

- 15 (A) a municipal corporation;
16 (B) a qualifying facility;
17 (C) a power generation company;
18 (D) an exempt wholesale generator;
19 (E) a power marketer;
20 (F) a corporation described by Section 32.053 to
21 the extent the corporation sells electricity exclusively at
22 wholesale and not to the ultimate consumer;
23 (G) an electric cooperative;
24 (H) a retail electric provider;

1 (I) this state or an agency of this state; or
2 (J) a person not otherwise an electric utility
3 who:

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

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

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

17 (iv) is a distributed renewable generation
18 owner as defined by Section 39.916.

19 SECTION 2. Section 39.914(a), Utilities Code, is amended to
20 read as follows:

21 (a) After December 1, 2009, on the request of an independent
22 school district, an ~~An~~ electric utility or retail electric
23 provider shall provide for net metering and contract with the ~~an~~
24 ~~independent school~~ district so that under the contract:

25 (1) surplus electricity produced by a school
26 building's solar electric generation panels is made available for
27 sale to the electric transmission grid and distribution system; and

1 (2) the retail [~~net~~] value of that surplus electricity
2 is credited to the district.

3 SECTION 3. Section 39.916(a)(1), Utilities Code, is amended
4 to read as follows:

5 (1) "Distributed renewable generation" means electric
6 generation with a capacity of not more than 2,000 kilowatts
7 provided by a renewable energy technology, as defined by Section
8 39.904, that is installed on a retail electric customer's side of
9 the meter, including electric generation by solar generating
10 equipment connected to the customer's side of the meter but that is
11 located elsewhere on the same property or is located on contiguous
12 property or on property separated by an easement, a public road, or
13 a right-of-way for transportation or utility purposes.

14 SECTION 4. Section 39.916, Utilities Code, is amended by
15 adding Subsection (k) to read as follows:

16 (k) The commission by rule shall require a retail electric
17 provider that offers to purchase excess electricity produced by
18 distributed renewable generation to include line items on each bill
19 of a customer who is a distributed renewable generation owner that
20 inform the customer of:

21 (1) the capacity of the customer's distributed
22 renewable generation system;

23 (2) the amount of excess electricity produced by the
24 customer's distributed renewable generation system purchased by
25 the retail electric provider, in terms of kilowatt hours; and

26 (3) the average price the retail electric utility paid
27 for each kilowatt hour of the excess electricity produced by the

1 customer's distributed renewable generation system.

2 SECTION 5. Subchapter Z, Chapter 39, Utilities Code, is
3 amended by adding Sections 39.926 and 39.927 to read as follows:

4 Sec. 39.926. INFORMATION ON INTERNET REGARDING PURCHASE OF
5 EXCESS ELECTRICITY PRODUCED BY DISTRIBUTED RENEWABLE GENERATION.

6 (a) On the Internet website found at <http://www.powertochoose.org>,
7 the commission shall provide for access to easily comparable
8 information regarding retail electric providers' offers to
9 distributed renewable generation owners for their surplus
10 electricity, including information regarding contract terms and
11 whether the retail electric provider makes no offer for surplus
12 electricity.

13 (b) On the Internet website found at
14 <http://www.powertochoose.org>, the commission shall provide for
15 access to easily comparable information regarding offers of
16 renewable energy credit marketers to distributed renewable
17 generation owners.

18 (c) The commission by rule shall require transmission and
19 distribution utilities and retail electric providers to provide on
20 publicly accessible Internet websites information on purchase
21 price offers per kilowatt hour for excess electricity produced by
22 distributed renewable generation and information instructing
23 customers with distributed renewable generation on how to request
24 and obtain the purchase rates offered.

25 Sec. 39.927. VIABILITY OF MARKET FOR DISTRIBUTED RENEWABLE
26 GENERATION EXCESS ENERGY. (a) In this section:

27 (1) "Distributed renewable generation" has the

1 meaning assigned by Section 39.916.

2 (2) "Excess energy" means electric energy produced by
3 a customer's distributed renewable generation installed on the
4 customer's side of the meter and made available for sale to the
5 electric transmission grid and distribution system.

6 (b) On or before December 1, 2010, the commission by rule
7 shall establish criteria for determining whether there is a viable
8 market in ERCOT for the sale of excess energy. To be considered
9 viable, the market must provide for:

10 (1) each customer in ERCOT to have available at least
11 one offer for excess energy at a rate equal to at least 80 percent of
12 the retail price for energy; and

13 (2) each customer in ERCOT to have available at least
14 two different offers for excess energy in addition to an offer
15 described by Subdivision (1).

16 (c) The commission shall require the independent
17 organization certified under Section 39.151 to monitor the
18 development and implementation of a competitive market in ERCOT for
19 the sale of excess energy. The rules must provide a mechanism for
20 the organization to monitor retail electric providers' offers to
21 purchase excess energy and rates of customers' sales of excess
22 energy.

23 (d) Not later than September 1, 2010, the organization shall
24 publish and provide to the commission a report that identifies the
25 rates of excess energy market participation by retail electric
26 providers and customers with distributed renewable generation in
27 ERCOT. The report must include:

1 (1) the organization's assessment of the development
2 of the market in ERCOT for the sale of excess energy and whether
3 that market is viable according to the criteria adopted under
4 Subsection (b);

5 (2) the rate of adoption by customers in ERCOT of
6 distributed renewable generation by solar energy technologies; and

7 (3) the following information regarding each retail
8 electric provider in ERCOT:

9 (A) whether the provider offers to purchase
10 excess energy;

11 (B) for a provider that offers to purchase excess
12 energy, the provider's:

13 (i) average ratio of retail prices to
14 excess energy purchase prices for kilowatt hour units;

15 (ii) average monthly purchases; and

16 (iii) average purchases for the year for
17 each customer class; and

18 (C) the percentage and number of the provider's
19 customers who have adopted distributed renewable generation by
20 solar energy technologies.

21 (e) If the independent organization's report under
22 Subsection (d) concludes that the market for the sale of excess
23 energy is not viable according to the criteria adopted under
24 Subsection (b), not later than December 1, 2010, the commission by
25 rule shall require all retail electric providers to offer net
26 metering services and advanced meter information networks to all
27 customers in all customer classes.

1 (f) Subsections (a)-(d) and this subsection expire
2 September 2, 2011.

3 SECTION 6. Section 39.351, Utilities Code, is amended by
4 adding Subsection (d) to read as follows:

5 (d) Notwithstanding Subsection (a), a distributed renewable
6 generation owner as defined by Section 39.916 may generate
7 electricity without registering as a power generation company.

8 SECTION 7. This Act takes effect September 1, 2009.