

## **BILL ANALYSIS**

Senate Research Center

S.B. 1910  
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Business & Commerce  
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Enrolled

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

S.B. 1910 amends current law relating to the delay of the transition to competition in the Western Electricity Coordinating Council service area and to net metering and energy efficiency goals and programs for utilities in that area.

### **RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to the Public Utility Commission of Texas in SECTION 1 (Section 39.554, Utilities Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Chapter 39, Utilities Code, by adding Subchapter L, as follows:

#### **SUBCHAPTER L. TRANSITION TO COMPETITION AND OTHER PROVISIONS FOR CERTAIN AREAS OUTSIDE OF ERCOT**

Sec. 39.551. **APPLICABILITY.** (a) Provides that this subchapter applies only to an investor-owned electric utility:

(1) that is operating solely outside of the Electric Reliability Council of Texas (ERCOT) in areas of this state that were included in the Western Electricity Coordinating Council on January 1, 2011;

(2) that was not affiliated with ERCOT on January 1, 2011; and

(3) to which Subchapters I (Provisions for Certain Non-ERCOT Utilities), J (Transition to Competition in Certain Non-ERCOT Areas), and K (Transition to Competition for Certain Areas Outside of ERCOT) do not apply.

(b) Provides that the legislature finds that an electric utility subject to this subchapter is unable at this time to offer fair competition and reliable service to all retail customer classes in the area served by the utility. Provides that, as a result, the introduction of retail competition for such an electric utility is delayed until fair competition and reliable service are available to all retail customer classes as determined under this subchapter.

Sec. 39.552. **COST-OF-SERVICE REGULATION.** (a) Provides that until the date on which an electric utility subject to this subchapter is authorized by the Public Utility Commission of Texas (PUC) under Section 39.553(f) to implement retail customer choice, the rates of the utility are subject to regulation under Chapter 36 (Rates).

(b) Provides that, until the date on which an electric utility subject to this subchapter implements customer choice, the provisions of this chapter, other than this subchapter and Sections 39.904 (Goal for Renewable Energy) and 39.905 (Goal for Energy Efficiency), do not apply to that utility.

Sec. 39.553. TRANSITION TO COMPETITION. (a) Requires that the events prescribed by Subsections (b)-(f) be followed to introduce retail competition in the service area of an electric utility subject to this subchapter. Requires PUC to ensure that the listed items in each stage are completed before the next stage is initiated. Requires PUC, unless stated otherwise, to conduct each activity with the electric utility and other interested parties. Authorizes PUC to modify the sequence of events required by Subsections (b)-(e), but not the substance of the requirements, if PUC finds good cause to do so. Prohibits full retail competition from beginning in the service area of an electric utility subject to this subchapter until all actions prescribed by those subsections are completed.

(b) Provides that the first stage for the transition to competition consists of the following activities:

- (1) approval of a regional transmission organization by the Federal Energy Regulatory Commission for the power region that includes the electric utility's service area and commencement of independent operation of the transmission network under the approved regional transmission organization;
- (2) development of retail market protocols to facilitate retail competition; and
- (3) completion of an expedited proceeding to develop nonbypassable delivery rates for the customer choice pilot project to be implemented under Subsection (c)(1).

(c) Provides that the second stage for the transition to competition consists of the following activities:

- (1) initiation of the customer choice pilot project in accordance with Section 39.104 (Customer Choice Pilot Projects);
- (2) development of a balancing energy market, a market for ancillary services, and a market-based congestion management system for the wholesale market in the power region in which the regional transmission organization operates; and
- (3) implementation of a seams agreement with adjacent power regions to reduce barriers to entry and facilitate competition.

(d) Provides that the third stage for the transition to competition consists of the following activities:

- (1) the electric utility filing with PUC:
  - (A) an application for business separation in accordance with Section 39.051 (Unbundling);
  - (B) an application for unbundled transmission and distribution rates in accordance with Section 39.201 (Cost of Service Tariffs and Charges);
  - (C) an application for certification of a qualified power region in accordance with Section 39.152 (Qualifying Power Regions); and
  - (D) an application for price-to-beat rates in accordance with Section 39.202 (Price to Beat);

(2) PUC:

- (A) approving a business separation plan for the utility;
- (B) setting unbundled transmission and distribution rates for the utility;
- (C) certifying a qualified power region, which includes conducting a formal evaluation of wholesale market power in the region, in accordance with Section 39.152;
- (D) setting price-to-beat rates for the utility; and
- (E) determining which competitive energy services must be separated from regulated utility activities in accordance with Section 39.051; and

(3) completion of the testing of retail and wholesale systems, including those systems necessary for switching customers to the retail electric provider of their choice and for settlement of wholesale market transactions, by the regional transmission organization, the registration agent, and market participants.

(e) Provides that the fourth stage for the transition to competition consists of the following activities:

- (1) PUC evaluation of the results of the pilot project;
- (2) initiation by the electric utility of a capacity auction in accordance with Section 39.153 (Capacity Auction) at a time to be determined by PUC; and
- (3) separation by the utility of competitive energy services from its regulated utility activities, in accordance with PUC order approving the separation of competitive energy services.

(f) Provides that the fifth stage for the transition to competition consists of the following activities:

- (1) evaluation by PUC of whether the electric utility can offer fair competition and reliable service to all retail customer classes in the area served by the utility, and:
  - (A) if PUC concludes that the electric utility can offer fair competition and reliable service to all retail customer classes in the area served by the utility, PUC issuing an order initiating retail competition for the utility; and
  - (B) if PUC determines that the electric utility cannot offer fair competition and reliable service to all retail customer classes in the area served by the utility, PUC issuing an order further delaying retail competition for the utility; and
- (2) on the issuance of an order from PUC initiating retail competition for the utility, completion by the utility of the business separation and unbundling in accordance with PUC order approving the unbundling.

Sec. 39.554. INTERCONNECTION OF DISTRIBUTED RENEWABLE GENERATION. (a) Defines, in this section, "distributed renewable generation," "distributed renewable generation owner," and "interconnection."

(b) Authorizes a distributed renewable generation owner in the service area of an electric utility subject to this subchapter to request interconnection by filing an application for interconnection with the utility. Provides that an application for interconnection is subject to the utility's safety and reliability requirements. Requires that the utility's procedures for the submission and processing of an application for interconnection be consistent with rules adopted by PUC regarding interconnection.

(c) Provides that an electric utility that approves an application of a distributed renewable generation owner under Subsection (b):

(1) is required to install, maintain, and retain ownership of the meter and metering equipment; and

(2) is authorized to install load research metering equipment on the premises of the owner, at no expense to the owner.

(d) Requires the owner, at the request of an electric utility that approves an application of a distributed renewable generation owner under Subsection (b), to:

(1) provide and install a meter socket, a metering cabinet, or both a socket and cabinet at a location designated by the utility on the premises of the owner; and

(2) provide, at no expense to the utility, a suitable location for the utility to install meters and equipment associated with billing and load research.

(e) Requires an electric utility that approves an application of a distributed renewable generation owner under Subsection (b) to provide to the owner the metering options described by Section 39.916(f) (relating to requiring a transmission and distribution utility or electric utility to make available to a distributed renewable generation metering) and an option to interconnect with the utility through a single meter that runs forward and backward if:

(1) the owner intends to interconnect the distributed renewable generation at an apartment house, as defined by Section 184.011 (Definitions), occupied by low-income elderly tenants that qualifies for master metering under Section 184.012(b) (relating to providing that this section does not prohibit a political subdivision from issuing a permit to a nonprofit organization for construction of a new apartment for low-income elderly tenants) and the distributed renewable generation is reasonably expected to generate not less than 50 percent of the apartment house's annual electricity use; or has a qualifying facility with a design capacity of not more than 50 kilowatts; and

(2) the distributed renewable generation or qualifying facility that is the subject of the application is rated to produce an amount of electricity that is less than or equal to the owner's estimated annual kilowatt hour consumption for a new apartment house or qualifying facility, or the amount of electricity the owner consumed in the year before installation of the distributed renewable generation or qualifying facility.

(f) Provides that for a distributed renewable generation owner that chooses interconnection through a single meter under Subsection (e):

(1) the amount of electricity the owner generates through distributed renewable generation or a qualifying facility for a given billing period offsets the owner's consumption for that billing period; and

(2) any electricity the owner generates through distributed renewable generation or a qualifying facility that exceeds the owner's consumption for a given billing period shall be credited to the owner under Subsection (g).

(g) Requires an electric utility that purchases surplus electricity under Subsection (f)(2) to purchase the electricity from the distributed renewable generation owner at the cost of the utility as determined by PUC rule. Requires the utility to take reasonable steps to inform the owner of the amount of surplus electricity purchased from the owner in kilowatt hours during the owner's most recent billing cycle. Authorizes a credit balance of not more than \$50 on the owner's monthly bill to be carried forward onto the owner's next monthly bill. Requires the utility to refund to the owner a credit balance that is not carried forward or the portion of a credit balance that exceeds \$50 if the credit balance is carried forward.

(h) Requires PUC, in a base rate proceeding or fuel cost recovery proceeding conducted under Chapter 36 (Rates) to ensure that any additional cost associated with the metering and payment options described by Subsections (e), (f), and (g) is allocated only to customer classes that include distributed renewable generation owners who have chosen those metering options.

Sec. 39.555. MARKETING OF ENERGY EFFICIENCY AND RENEWABLE ENERGY PROGRAMS. Authorizes an electric utility subject to this subchapter to market an energy efficiency or renewable energy program directly to a retail electric customer in its service territory and provide rebate or incentive funds directly to a customer to promote or facilitate the success of programs implemented under Section 39.905 (Goal for Energy Efficiency).

SECTION 2. Effective date: upon passage or September 1, 2011.