

By: Turner, Miles

H.B. No. 519

Substitute the following for H.B. No. 519:

By: Oliveira

C.S.H.B. No. 519

A BILL TO BE ENTITLED

1 AN ACT

2 relating to financing programs for low-income electric customers  
3 and certain other electric customers.

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

5 SECTION 1. Section 17.007, Utilities Code, is amended to  
6 read as follows:

7 Sec. 17.007. ELIGIBILITY PROCESS FOR CUSTOMER SERVICE  
8 DISCOUNTS. The commission by rule shall provide for an integrated  
9 eligibility process for customer service discounts, including  
10 discounts under Sections 39.9035 [~~39.903~~] and 55.015.

11 SECTION 2. Section 39.002, Utilities Code, is amended to  
12 read as follows:

13 Sec. 39.002. APPLICABILITY. This chapter, other than  
14 Sections 39.155, 39.157(e), 39.203, 39.903, 39.9035, 39.904,  
15 39.9051, 39.9052, and 39.914(e), does not apply to a municipally  
16 owned utility or an electric cooperative. Sections 39.157(e),  
17 39.203, and 39.904, however, apply only to a municipally owned  
18 utility or an electric cooperative that is offering customer  
19 choice. If there is a conflict between the specific provisions of  
20 this chapter and any other provisions of this title, except for  
21 Chapters 40 and 41, the provisions of this chapter control.

22 SECTION 3. Subchapter Z, Chapter 39, Utilities Code, is  
23 amended by amending Section 39.903 and adding Section 39.9035 to  
24 read as follows:

1           Sec. 39.903. SYSTEM BENEFIT FUND. (a) The system benefit  
2 fund is an account in the general revenue fund. Money in the  
3 account may be appropriated only for the purposes provided by this  
4 section [~~or other law~~]. Interest earned on the system benefit fund  
5 shall be credited to the fund. Section 403.095, Government Code,  
6 does not apply to the system benefit fund.

7           (b) The system benefit fund is financed by a nonbypassable  
8 system benefit fund fee set by the commission in an amount not to  
9 exceed two [~~65~~] cents per megawatt hour. The system benefit fund  
10 fee is allocated to customers based on the amount of kilowatt hours  
11 used.

12           (c) The nonbypassable fee may not be imposed on the retail  
13 electric customers of a municipally owned utility or electric  
14 cooperative before the sixth month preceding the date on which the  
15 utility or cooperative implements customer choice. Money  
16 distributed from the system benefit fund to a municipally owned  
17 utility or an electric cooperative shall be proportional to the  
18 nonbypassable fee paid by the municipally owned utility or the  
19 electric cooperative[~~, subject to the reimbursement provided by~~  
20 ~~Subsection (i)~~]. On request by a municipally owned utility or  
21 electric cooperative, the commission shall reduce the  
22 nonbypassable fee imposed on retail electric customers served by  
23 the municipally owned utility or electric cooperative by an amount  
24 equal to the amount provided by the municipally owned utility or  
25 electric cooperative or its ratepayers for [~~local low-income~~  
26 ~~programs and~~] local programs that educate customers about the  
27 retail electric market in a neutral and nonpromotional manner. The

1 commission shall adopt rules providing for reimbursements from  
2 appropriated system benefit fund money for activities authorized  
3 for funding under this section.

4 (d) The commission shall annually review and approve system  
5 benefit fund accounts, projected revenue requirements, and  
6 proposed nonbypassable fees. The commission shall report to the  
7 electric utility restructuring legislative oversight committee if  
8 the system benefit fund fee is insufficient to fund the purposes set  
9 forth in Subsection (e) to the extent required by this section.

10 (e) Money in the system benefit fund may be appropriated to  
11 provide funding solely for the following regulatory purposes [~~7~~ ~~in~~  
12 ~~the following order of priority~~]:

13 (1) [~~programs to:~~  
14 [~~(A) assist low-income electric customers by~~  
15 ~~providing the 10 percent reduced rate prescribed by Subsection (h);~~  
16 ~~and~~

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

21 [~~(2)~~] customer education programs;

22 (2) [~~7~~] administrative expenses incurred by the  
23 commission in implementing and administering this chapter;

24 (3) [~~7~~ ~~and~~] expenses incurred by the office under this  
25 chapter; and

26 (4) [~~(3)~~ ~~programs to assist low-income electric~~  
27 ~~customers by providing the targeted energy efficiency programs~~

1 ~~described by Subsection (f)(2),~~

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

5 ~~[(5)]~~ reimbursement to the commission and the Health  
6 and Human Services Commission for expenses incurred in the  
7 implementation and administration of an integrated eligibility  
8 process created under Section 17.007 for customer service discounts  
9 relating to retail electric service, including outreach expenses  
10 the commission determines are reasonable and necessary.

11 Sec. 39.9035. LOW-INCOME ELECTRIC CUSTOMERS PROGRAM FUND.

12 (a) The commission shall adopt and enforce rules requiring  
13 transmission and distribution utilities to establish a low-income  
14 electric customers program fund under commission oversight. The  
15 rules must provide for:

16 (1) the fund to be established as a trust fund outside  
17 of the state treasury;

18 (2) the fund to be held by an administrator selected by  
19 the transmission and distribution utilities in accordance with  
20 standards adopted by the commission; and

21 (3) any interest earned on money in the fund to be  
22 credited to the fund.

23 (b) The administrator serves as trustee of the fund for the  
24 benefit of low-income electric customer programs described by this  
25 section, and in accordance with commission rules, the administrator  
26 may make any payments or reimbursements from the fund to further the  
27 programs. Commission rules must prescribe the maximum percentage

1 of money available in the fund that may be used for the expenses of  
2 administering the fund and for annual independent auditing of the  
3 fund and expenditures and other transactions related to the fund.  
4 The commission or its agents may at any time examine any records  
5 related to the fund or investigate any fund-related expenditures or  
6 expenses. The administrator and each transmission and distribution  
7 utility shall fully cooperate with any investigation regarding the  
8 fund conducted by the commission or its agents.

9 (c) The commission by rule shall impose a nonbypassable  
10 low-income electric customers program fund fee to be set by the  
11 commission in an amount not to exceed 63 cents per megawatt hour,  
12 allocated to customers based on the amount of kilowatt hours used.

13 (d) The commission shall provide for a nonbypassable fee in  
14 the same amount as the fee imposed under Subsection (c) to be  
15 imposed on the retail electric customers of a municipally owned  
16 utility or electric cooperative beginning on the first day of the  
17 sixth month preceding the date on which the utility or cooperative  
18 implements customer choice.

19 (e) Commission rules adopted under this section must  
20 provide that the low-income electric customers program fund fees  
21 collected for the programs described by this section are collected  
22 through the rates of the transmission and distribution service  
23 providers and deposited into the low-income electric customers  
24 program fund.

25 (f) Money in the low-income electric customers program fund  
26 may be spent only for the following regulatory purposes and must be  
27 allocated as follows:

1           (1) not more than 85 percent of the money available in  
2 the fund must be used to provide a reduced rate that results in a  
3 discount for low-income electric customers that is equal to 10 to 20  
4 percent of the rate for the standard retail service package  
5 approved by the commission under Section 39.106;

6           (2) not more than 4 percent of the money available in  
7 the fund must be used for bill payment assistance for electric  
8 customers designated under commission rules as critical care  
9 residential customers; and

10           (3) not less than 11 percent of the money available in  
11 the fund must be used to finance low-income electric customer  
12 weatherization programs to be operated by a statewide network of  
13 federal weatherization program providers under federal  
14 weatherization program guidelines. [Notwithstanding Section  
15 39.106(b), the commission shall adopt rules regarding programs to  
16 assist low-income electric customers on the introduction of  
17 customer choice. The programs may not be targeted to areas served  
18 by municipally owned utilities or electric cooperatives that have  
19 not adopted customer choice. The programs shall include:

20           ~~[(1) reduced electric rates as provided by Subsections~~  
21 ~~(h)-(1), and~~

22           ~~[(2) targeted energy efficiency programs to be~~  
23 ~~administered by the Texas Department of Housing and Community~~  
24 ~~Affairs in coordination with existing weatherization programs.]~~

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

1       ~~[(h)]~~ The commission shall adopt rules for a retail electric  
 2 provider to determine a reduced rate for eligible customers to be  
 3 discounted off the standard retail service package as approved by  
 4 the commission under Section 39.106 and shall require a retail  
 5 electric provider to apply the same reduction to any rate plan under  
 6 which an eligible low-income electric customer is receiving service  
 7 ~~[, or the price to beat established by Section 39.202, whichever is~~  
 8 ~~lower]~~. Municipally owned utilities and electric cooperatives  
 9 shall establish a reduced rate for eligible customers to be  
 10 discounted off the standard retail service package established  
 11 under Section 40.053 or 41.053, as appropriate. The reduced rate  
 12 for a retail electric provider shall result in a discount available  
 13 during each month of the year that is equal to ~~[total charge that~~  
 14 ~~is]~~ at least 10 percent and, if sufficient money in the low-income  
 15 electric customers program ~~[system benefit]~~ fund is available, up  
 16 to 20 percent, of the rate for the standard retail service package  
 17 approved by the commission under Section 39.106 ~~[lower than the~~  
 18 ~~amount the customer would otherwise be charged]~~. To the extent the  
 19 low-income electric customers program ~~[system benefit]~~ fund is  
 20 insufficient to pay for ~~[fund]~~ the initial 10 percent discount  
 21 ~~[rate reduction]~~, the commission shall ~~[may]~~ increase the fee to an  
 22 amount not to exceed the maximum amount ~~[more than 65 cents per~~  
 23 ~~megawatt hour, as]~~ provided by Subsection (c) ~~[(b)]~~. If the fee is  
 24 set at that maximum amount and ~~[65 cents per megawatt hour or if]~~  
 25 the commission determines that revenues anticipated to be due for  
 26 deposit to the fund are ~~[appropriations are]~~ insufficient to pay  
 27 for ~~[fund]~~ the 10 percent discount ~~[rate reduction]~~, the commission

1 shall [~~may~~] reduce the discount to an amount that is less than 10  
2 percent of the rate of the standard retail service package. The  
3 commission shall provide for a discount of at least 10 percent for  
4 any period for which the commission determines that revenues  
5 anticipated to be due for deposit to the fund are sufficient to pay  
6 for the discount [~~rate reduction to less than 10 percent~~]. For a  
7 municipally owned utility or electric cooperative, the reduced rate  
8 shall be equal to an amount that can be fully funded by that portion  
9 of the nonbypassable fee proceeds paid by the municipally owned  
10 utility or electric cooperative that is allocated to the utility or  
11 cooperative by the commission under Subsection (f) [~~(e)~~] for  
12 programs for low-income customers of the utility or cooperative.  
13 The reduced rate for municipally owned utilities and electric  
14 cooperatives under this section is in addition to any rate  
15 reduction that may result from local programs for low-income  
16 customers of the municipally owned utilities or electric  
17 cooperatives.

18 (h) [~~(i)~~] A retail electric provider, municipally owned  
19 utility, or electric cooperative seeking reimbursement from the  
20 low-income electric customers program [~~system benefit~~] fund may not  
21 charge an eligible low-income customer a rate higher than the  
22 appropriate rate determined under Subsection (g) [~~(h)~~]. Commission  
23 rules must provide for [~~A retail electric provider not subject to~~  
24 ~~the price to beat, or~~] a municipally owned utility or electric  
25 cooperative subject to the nonbypassable fee under Subsection (d)  
26 to [~~(c), shall~~] be reimbursed from the [~~system benefit~~] fund for the  
27 difference between the reduced rate and the rate established under

1 ~~[Section 39.106 or, as appropriate, the rate established under]~~  
2 Section 40.053 or 41.053, as appropriate. A retail electric  
3 provider ~~[who is subject to the price to beat]~~ shall be reimbursed  
4 from the ~~[system benefit]~~ fund for the difference between the  
5 reduced rate and the rate plan under which the customer is receiving  
6 service ~~[the price to beat]~~. The commission shall adopt rules  
7 providing for the reimbursement.

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

20 (1) an electric customer eligible for the reduced  
21 rates determined under Subsection (g) is also eligible for reduced  
22 rates for telecommunications services offered for low-income  
23 customers; and

24 (2) a customer eligible for reduced rates for  
25 telecommunications services offered for low-income customers is  
26 also eligible for the reduced rates established under Subsection  
27 (g).

1            (j) [~~(j-1)~~] The commission shall adopt rules governing the  
2 bill payment assistance program provided under Subsection (f)(2)  
3 [~~(e)(1)(B)~~]. The rules must provide that a customer is eligible to  
4 receive the assistance only if the assistance is necessary to  
5 prevent the disconnection of service for a customer designated  
6 under commission rules as a critical care residential customer  
7 [~~nonpayment of bills and the electric customer is or has in the~~  
8 ~~customer's household one or more seriously ill or disabled~~  
9 ~~low-income persons whose health or safety may be injured by the~~  
10 ~~disconnection~~]. The commission may prescribe the documentation  
11 necessary to demonstrate eligibility for the assistance and may  
12 establish additional eligibility criteria. Money distributed to a  
13 retail electric provider for bill payment assistance must be  
14 proportional to the number of critical care residential customers  
15 the provider serves for whom eligibility is established under  
16 commission rules. The Health and Human Services Commission, on  
17 request of the commission, shall assist in the adoption and  
18 implementation of [~~these~~] rules under this subsection.

19            (k) A retail electric provider is prohibited from charging  
20 the customer a fee for participation in the reduced rate program.

21            (l) For the purposes of this section, a "low-income electric  
22 customer" is an electric customer:

23                    (1) whose household income is not more than 125  
24 percent of the federal poverty guidelines; or

25                    (2) who receives supplemental nutrition assistance  
26 [~~food stamps~~] from the Health and [~~Texas Department of~~] Human  
27 Services Commission or medical assistance from a state agency

1 administering a part of the medical assistance program.

2 SECTION 4. Section 39.905(f), Utilities Code, is amended to  
3 read as follows:

4 (f) Unless funding is provided under Section 39.9035  
5 [~~39.903~~], each unbundled transmission and distribution utility  
6 shall include in its energy efficiency plan a weatherization  
7 [~~targeted low-income energy efficiency~~] program as described by  
8 Section 39.9035(f)(3) [~~39.903(f)(2)~~], and the savings achieved by  
9 the program shall count toward the transmission and distribution  
10 utility's energy efficiency goal. The commission shall determine  
11 the appropriate level of funding to be allocated to both the  
12 required weatherization programs [~~targeted~~] and standard offer  
13 low-income energy efficiency programs in each unbundled  
14 transmission and distribution utility service area. The total  
15 expenditures for both the required weatherization programs  
16 [~~targeted~~] and standard offer low-income energy efficiency  
17 programs will be based on the amount spent by the transmission and  
18 distribution utility on the commission's hard-to-reach program in  
19 calendar year 2003. This level of funding for the required  
20 weatherization programs and low-income energy efficiency programs  
21 shall be provided from money approved by the commission for the  
22 transmission and distribution utility's energy efficiency  
23 programs. The state agency that administers the federal  
24 weatherization assistance program shall provide reports as  
25 required by the commission to provide the most current information  
26 available on energy and peak demand savings achieved in each  
27 transmission and distribution utility service area.

1 SECTION 5. Section 40.001(a), Utilities Code, is amended to  
2 read as follows:

3 (a) Notwithstanding any other provision of law, except  
4 Sections 39.155, 39.157(e), 39.203, 39.903, 39.9035, and 39.904,  
5 this chapter governs the transition to and the establishment of a  
6 fully competitive electric power industry for municipally owned  
7 utilities. With respect to the regulation of municipally owned  
8 utilities, this chapter controls over any other provision of this  
9 title, except for sections in which the term "municipally owned  
10 utility" is specifically used.

11 SECTION 6. Section 40.004, Utilities Code, is amended to  
12 read as follows:

13 Sec. 40.004. JURISDICTION OF COMMISSION. Except as  
14 specifically otherwise provided in this chapter, the commission has  
15 jurisdiction over municipally owned utilities only for the  
16 following purposes:

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

20 (2) to regulate certification of retail service areas  
21 to the extent provided by Chapter 37;

22 (3) to regulate rates on appeal under Subchapters D  
23 and E, Chapter 33, subject to Section 40.051(c);

24 (4) to establish a code of conduct as provided by  
25 Section 39.157(e) applicable to anticompetitive activities and to  
26 affiliate activities limited to structurally unbundled affiliates  
27 of municipally owned utilities, subject to Section 40.054;

1           (5) to establish terms and conditions for open access  
2 to transmission and distribution facilities for municipally owned  
3 utilities providing customer choice, as provided by Section 39.203;

4           (6) to require collection of the nonbypassable fees  
5 [~~fee~~] established under Section 39.903(b) and Section 39.9035(d);

6           (7) [~~and~~] to administer the renewable energy credits  
7 program under Section 39.904(b) and the natural gas energy credits  
8 program under Section 39.9044(b); and

9           (8) [~~(7)~~] to require reports of municipally owned  
10 utility operations only to the extent necessary to:

11                   (A) enable the commission to determine the  
12 aggregate load and energy requirements of the state and the  
13 resources available to serve that load; or

14                   (B) enable the commission to determine  
15 information relating to market power as provided by Section 39.155.

16           SECTION 7. Section 41.001, Utilities Code, is amended to  
17 read as follows:

18           Sec. 41.001. APPLICABLE LAW. Notwithstanding any other  
19 provision of law, except Sections 39.155, 39.157(e), 39.203,  
20 39.903, 39.9035, and 39.904, this chapter governs the transition to  
21 and the establishment of a fully competitive electric power  
22 industry for electric cooperatives. Regarding the regulation of  
23 electric cooperatives, this chapter shall control over any other  
24 provision of this title, except for sections in which the term  
25 "electric cooperative" is specifically used.

26           SECTION 8. The Public Utility Commission of Texas shall  
27 adopt or revise, as necessary to implement this Act, rules

1 governing the system benefit fund and the low-income electric  
2 customers program fund under Section 39.903, Utilities Code, as  
3 amended by this Act, and Section 39.9035, Utilities Code, as added  
4 by this Act, not later than September 1, 2012.

5 SECTION 9. (a) Except as provided by Subsection (b) of this  
6 section, this Act takes effect September 1, 2013.

7 (b) Section 8 of this Act takes effect September 1, 2011.