

By: Turner

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 65 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 10 to 20 percent reduced rate for
3 low-income households over a 12-month period;

4 (2) not more than 4 percent of the money available in
5 the fund must be used for bill payment assistance for customers on
6 life support with total household income not to exceed 400 percent
7 of the federal poverty guidelines; and

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

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

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

23 (g) Until customer choice is introduced in a power region,
24 an electric utility may not reduce, in any manner, programs already
25 offered to assist low-income electric customers. Until a
26 municipally owned utility or electric cooperative implements
27 customer choice, the utility or cooperative may not reduce, in any

1 manner, programs already offered to assist low-income electric
2 customers. A retail electric provider or electric utility may not
3 reduce programs offered to assist low-income electric customers on
4 or after September 11, 2013, except as provided by commission
5 rules.

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

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

15 (i) A retail electric provider, municipally owned utility,
16 or electric cooperative seeking reimbursement from the low-income
17 electric customers program [~~system benefit~~] fund may not charge an
18 eligible low-income customer a rate higher than the appropriate
19 rate determined under Subsection (h). Commission rules must
20 provide for [~~A retail electric provider not subject to the price to~~
21 ~~beat, or~~] a municipally owned utility or electric cooperative
22 subject to the nonbypassable fee under Subsection (d) to [~~(e)~~,
23 ~~shall~~] be reimbursed from the [~~system benefit~~] fund for the
24 difference between the reduced rate and the rate established under
25 [~~Section 39.106 or, as appropriate, the rate established under~~]
26 Section 40.053 or 41.053, as appropriate. A retail electric
27 provider [~~who is subject to the price to beat~~] shall be reimbursed

1 from the [~~system benefit~~] fund for the difference between the
2 reduced rate and the rate plan under which the customer is receiving
3 service [~~the price to beat~~]. The commission shall adopt rules
4 providing for the reimbursement.

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

16 (1) an electric customer eligible for the reduced
17 rates determined under Subsection (h) is also eligible for reduced
18 rates for telecommunications services offered for low-income
19 customers; and

20 (2) a customer eligible for reduced rates for
21 telecommunications services offered for low-income customers is
22 also eligible for the reduced rates established under Subsection
23 (h).

24 (k) [~~(j-1)~~] The commission shall adopt rules governing the
25 bill payment assistance program provided under Subsection (f)(2)
26 [~~(e)(1)(B)~~]. The rules must provide that a customer is eligible to
27 receive the assistance only if the assistance is necessary to

1 prevent the disconnection of service for nonpayment of bills for a
2 household in which the customer or another member of the household
3 is on life support and [~~the electric customer is or has in the~~
4 ~~customer's household one or more seriously ill or disabled~~
5 ~~low-income persons~~] whose health or safety may be injured by the
6 disconnection. The commission may prescribe the documentation
7 necessary to demonstrate eligibility for the assistance and may
8 establish additional eligibility criteria. The Health and Human
9 Services Commission, on request of the commission, shall assist in
10 the adoption and implementation of these rules.

11 (1) [~~(k)~~] A retail electric provider is prohibited from
12 charging the customer a fee for participation in the reduced rate
13 program.

14 [~~(1) For the purposes of this section, a "low-income~~
15 ~~electric customer" is an electric customer:~~

16 [~~(1) whose household income is not more than 125~~
17 ~~percent of the federal poverty guidelines, or~~

18 [~~(2) who receives food stamps from the Texas~~
19 ~~Department of Human Services or medical assistance from a state~~
20 ~~agency administering a part of the medical assistance program.]~~

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

23 (f) Unless funding is provided under Section 39.9035
24 [~~39.903~~], each unbundled transmission and distribution utility
25 shall include in its energy efficiency plan a weatherization
26 [~~targeted low-income energy efficiency~~] program as described by
27 Section 39.9035(f)(3) [~~39.903(f)(2)~~], and the savings achieved by

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

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

22 (a) Notwithstanding any other provision of law, except
23 Sections 39.155, 39.157(e), 39.203, 39.903, 39.9035, and 39.904,
24 this chapter governs the transition to and the establishment of a
25 fully competitive electric power industry for municipally owned
26 utilities. With respect to the regulation of municipally owned
27 utilities, this chapter controls over any other provision of this

1 title, except for sections in which the term "municipally owned
2 utility" is specifically used.

3 SECTION 6. Section 40.004, Utilities Code, is amended to
4 read as follows:

5 Sec. 40.004. JURISDICTION OF COMMISSION. Except as
6 specifically otherwise provided in this chapter, the commission has
7 jurisdiction over municipally owned utilities only for the
8 following purposes:

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

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

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

16 (4) to establish a code of conduct as provided by
17 Section 39.157(e) applicable to anticompetitive activities and to
18 affiliate activities limited to structurally unbundled affiliates
19 of municipally owned utilities, subject to Section 40.054;

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

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

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

1 (8) [~~(7)~~] to require reports of municipally owned
2 utility operations only to the extent necessary to:

3 (A) enable the commission to determine the
4 aggregate load and energy requirements of the state and the
5 resources available to serve that load; or

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

8 SECTION 7. Section 41.001, Utilities Code, is amended to
9 read as follows:

10 Sec. 41.001. APPLICABLE LAW. Notwithstanding any other
11 provision of law, except Sections 39.155, 39.157(e), 39.203,
12 39.903, 39.9035, and 39.904, this chapter governs the transition to
13 and the establishment of a fully competitive electric power
14 industry for electric cooperatives. Regarding the regulation of
15 electric cooperatives, this chapter shall control over any other
16 provision of this title, except for sections in which the term
17 "electric cooperative" is specifically used.

18 SECTION 8. The Public Utility Commission of Texas shall
19 adopt or revise, as necessary to implement this Act, rules
20 governing the system benefit fund and the low-income electric
21 customers program fund under Section 39.903, Utilities Code, as
22 amended by this Act, and Section 39.9035, Utilities Code, as added
23 by this Act, not later than January 1, 2012.

24 SECTION 9. This Act takes effect September 1, 2013.