

By: Carona

S.B. No. 319

A BILL TO BE ENTITLED

AN ACT

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

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

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

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

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

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

SECTION 3. Subchapter Z, Chapter 39, Utilities Code, is  
amended by amending Section 39.903 and adding Section 39.9035 to  
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

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

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

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

(1) [~~programs to:~~

~~[(A) assist low-income electric customers by providing the 10 percent reduced rate prescribed by Subsection (h), and~~

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

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

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

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

(4) [~~(3) programs to assist low-income electric 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

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

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

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

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

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

(1) not more than 85 percent of the money available in the fund must be used to provide a 10 to 20 percent reduced rate for low-income households over a 12-month period;

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

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

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

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

(g) Until customer choice is introduced in a power region, an electric utility may not reduce, in any manner, programs already offered to assist low-income electric customers. Until a municipally owned utility or electric cooperative implements 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 to exceed the maximum amount ~~[more than 65 cents per~~  
26 ~~megawatt hour, as]~~ provided by Subsection (c) ~~[(b)]~~. If the fee is  
27 set at that maximum amount ~~[65 cents per megawatt hour]~~ or if the

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 utilities, this chapter controls over any other provision of this  
2 title, except for sections in which the term "municipally owned  
3 utility" is specifically used.

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

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

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

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

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

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

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

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

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

1 program under Section 39.9044(b); and

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

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

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

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

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

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

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