

By: Rodriguez, Uresti

S.B. No. 1910

A BILL TO BE ENTITLED

AN ACT

relating to the delay of the transition to competition for an electric utility located in the Western Electricity Coordinating Council service area and net metering requirements and energy efficiency goals and programs for such utility.

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

SECTION 1. Chapter 39, Utilities Code, is amended by adding Subchapter L to read as follows:

SUBCHAPTER L. TRANSITION TO COMPETITION FOR CERTAIN

AREAS OUTSIDE ERCOT

Sec. 39.551. APPLICABILITY. (a) This subchapter applies only to an investor-owned electric utility:

(1) that is operating solely outside of 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, J, and K do not apply.

(b) 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. As a result, the introduction of retail competition for such electric utility is delayed until fair competition and reliable service are available to all retail

1 customer classes as determined under this subchapter.

2 Sec. 39.552. COST-OF-SERVICE REGULATION. (a) Until the  
3 date on which an electric utility subject to this subchapter is  
4 authorized by the commission under Section 39.553(f) to implement  
5 retail customer choice, the rates of the utility are subject to  
6 regulation under Chapter 36.

7 (b) Until the date on which an electric utility subject to  
8 this subchapter implements customer choice, the provisions of this  
9 chapter, other than this subchapter and Sections 39.904 and 39.905,  
10 do not apply to that utility.

11 Sec. 39.553. TRANSITION TO COMPETITION. (a) The events  
12 prescribed by Subsections (b)-(f) shall be followed to introduce  
13 retail competition in the service area of an electric utility  
14 subject to this subchapter. The commission shall ensure that the  
15 listed items in each stage are completed before the next stage is  
16 initiated. Unless stated otherwise, the commission shall conduct  
17 each activity with the electric utility and other interested  
18 parties. The commission may modify the sequence of events required  
19 by Subsections (b)-(e), but not the substance of the requirements,  
20 if the commission finds good cause to do so. Full retail  
21 competition may not begin in the service area of an electric utility  
22 subject to this subchapter until all actions prescribed by those  
23 subsections are completed.

24 (b) The first stage for the transition to competition  
25 consists of the following activities:

26 (1) approval of a regional transmission organization  
27 by the Federal Energy Regulatory Commission for the power region

1 that includes the electric utility's service area and commencement  
2 of independent operation of the transmission network under the  
3 approved regional transmission organization;

4 (2) development of retail market protocols to  
5 facilitate retail competition; and

6 (3) completion of an expedited proceeding to develop  
7 nonbypassable delivery rates for the customer choice pilot project  
8 to be implemented under Subsection (c)(1).

9 (c) The second stage for the transition to competition  
10 consists of the following activities:

11 (1) initiation of the customer choice pilot project in  
12 accordance with Section 39.104;

13 (2) development of a balancing energy market, a market  
14 for ancillary services, and a market-based congestion management  
15 system for the wholesale market in the power region in which the  
16 regional transmission organization operates; and

17 (3) implementation of a seams agreement with adjacent  
18 power regions to reduce barriers to entry and facilitate  
19 competition.

20 (d) The third stage for the transition to competition  
21 consists of the following activities:

22 (1) the electric utility filing with the commission:

23 (A) an application for business separation in  
24 accordance with Section 39.051;

25 (B) an application for unbundled transmission  
26 and distribution rates in accordance with Section 39.201;

27 (C) an application for certification of a

1 qualified power region in accordance with Section 39.152; and

2 (D) an application for price-to-beat rates in  
3 accordance with Section 39.202;

4 (2) the commission:

5 (A) approving a business separation plan for the  
6 utility;

7 (B) setting unbundled transmission and  
8 distribution rates for the utility;

9 (C) certifying a qualified power region, which  
10 includes conducting a formal evaluation of wholesale market power  
11 in the region, in accordance with Section 39.152;

12 (D) setting price-to-beat rates for the utility;  
13 and

14 (E) determining which competitive energy  
15 services must be separated from regulated utility activities in  
16 accordance with Section 39.051; and

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

22 (e) The fourth stage for the transition to competition  
23 consists of the following activities:

24 (1) commission evaluation of the results of the pilot  
25 project;

26 (2) initiation by the electric utility of a capacity  
27 auction in accordance with Section 39.153 at a time to be determined

1 by the commission; and

2 (3) separation by the utility of competitive energy  
3 services from its regulated utility activities, in accordance with  
4 the commission order approving the separation of competitive energy  
5 services.

6 (f) The fifth stage for the transition to competition  
7 consists of the following activities:

8 (1) evaluation by the commission of whether the  
9 electric utility can offer fair competition and reliable service to  
10 all retail customer classes in the area served by the utility and:

11 (A) if the commission concludes that the electric  
12 utility can offer fair competition and reliable service to all  
13 retail customer classes in the area served by the utility, issuance  
14 by the commission of an order initiating retail competition for the  
15 utility; and

16 (B) if the commission determines that the  
17 electric utility cannot offer fair competition and reliable service  
18 to all retail customer classes in the area served by the utility,  
19 issuance by the commission of an order further delaying retail  
20 competition for the utility; and

21 (2) on the issuance of an order by the commission  
22 initiating retail competition for the utility, completion by the  
23 utility of the business separation and unbundling in accordance  
24 with the commission order approving the unbundling.

25 Sec. 39.554. INTERCONNECTION OF DISTRIBUTED RENEWABLE  
26 GENERATION. (a) In this section:

27 (1) "Distributed renewable generation" means electric

1 generation with a capacity of not more than 2,000 kilowatts  
2 provided by a renewable energy technology, as defined by Section  
3 39.904, that is installed on a retail customer's side of the meter.

4 (2) "Distributed renewable generation owner" has the  
5 meaning assigned under Section 39.916(a).

6 (3) "Interconnection" means the right of a distributed  
7 renewable generation owner to physically connect distributed  
8 renewable generation to an electricity distribution system and the  
9 technical requirements, rules, or processes for the connection.

10 (b) A distributed renewable generation owner may request  
11 interconnection by filing an application for interconnection with  
12 the electric utility. A retail customer's application for  
13 interconnection with an electric utility in accordance with this  
14 subsection is subject to the safety and reliability requirements of  
15 the electric utility. Procedures of the electric utility for the  
16 submission and processing of a distributed renewable generation  
17 owner's application for interconnection shall be consistent with  
18 rules adopted by the commission regarding interconnection.

19 (c) The electric utility shall install, own, and maintain  
20 the meter and metering equipment. The retail customer shall  
21 install a customer-furnished meter socket or metering cabinet, or  
22 both, at the electric utility's designated location solely on the  
23 retail customer's premises. The electric utility, at its own  
24 expense, may install load research metering equipment solely on the  
25 retail customer's premises. The retail customer shall also supply,  
26 at no expense to the electric utility, a suitable location for  
27 meters and associated equipment that will be used for billing and

1 for load research.

2       (d) For a retail customer (1) that is an apartment house for  
3 occupancy by low-income elderly tenants reasonably expected to  
4 generate not less than 50 percent of its annual energy use with  
5 distributed renewable generation and qualifying for master  
6 metering pursuant to Section 184.012(b), or (2) that has a  
7 qualifying facility with a design capacity that is 50 kilowatts or  
8 less, and such distributed renewable generation or qualifying  
9 facility identified in this subsection is rated to produce an  
10 amount of electricity that is less than or equal to the amount of  
11 electricity the retail customer consumed in the 12-month period  
12 prior to installation of the qualifying facility or, for new  
13 facilities, the estimated annual kilowatt-hour consumption, in  
14 addition to the metering options in Section 39.916(f), the electric  
15 utility shall also provide such customer with the additional option  
16 of interconnection with the electric utility through a single meter  
17 that runs forward and backward. Any renewable generation  
18 production for a given billing period by a retail customer choosing  
19 this additional option shall offset consumption for the billing  
20 period by the customer, and excess production from the renewable  
21 generation above the retail customer's consumption for a given  
22 billing period shall be credited to the customer in accordance with  
23 the provisions of Subsection (e).

24       (e) An electric utility that purchases surplus generated  
25 electricity from a distributed renewable generation owner in  
26 accordance with this subsection shall purchase surplus generated  
27 electricity generated by the distributed renewable generation

owner at the cost of the electric utility as determined by  
commission rule and:

(1) the electric utility shall take reasonable steps  
to inform the distributed renewable generation owner of the amount  
of surplus electricity purchased as measured in kilowatt hours  
during the retail customer's most recent billing cycle; and

(2) the amount of any credit balance on a monthly bill  
of a retail electric customer with distributed renewable energy may  
be carried forward on the retail customer's bill until the credit  
exceeds \$50, at which time the electric utility must provide a  
refund of the credit balance to the retail customer.

Sec. 39.555. MARKETING OF ENERGY EFFICIENCY AND RENEWABLE  
ENERGY PROGRAMS. An electric utility subject to this subchapter  
may directly market energy efficiency and renewable energy programs  
to retail customers within its service territory and provide rebate  
or incentive funds directly to its customers to promote or  
facilitate the success of the programs subject to Section 39.905.

SECTION 2. This Act takes effect immediately if it receives  
a vote of two-thirds of all the members elected to each house, as  
provided by Section 39, Article III, Texas Constitution. If this  
Act does not receive the vote necessary for immediate effect, this  
Act takes effect September 1, 2011.