

By: Rodriguez

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 for a certain non-ERCOT electric utility and relating to energy efficiency goals and programs for a certain non-ERCOT 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 OF 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 an electric utility is delayed until fair

1 competition and reliable service are available to all retail
2 customer classes as determined under this subchapter.

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

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

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

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

27 (1) approval of a regional transmission organization

1 by the Federal Energy Regulatory Commission for the power region
2 that includes the electric utility's service area and commencement
3 of independent operation of the transmission network under the
4 approved regional transmission organization;

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

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

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

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

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

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

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

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

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

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

1 (C) an application for certification of a
2 qualified power region in accordance with Section 39.152; and

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

5 (2) the commission:

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

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

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

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

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

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

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

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

27 (2) initiation by the electric utility of a capacity

1 auction in accordance with Section 39.153 at a time to be determined
2 by the commission; and

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

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

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

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

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

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

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

1 (1) "Distributed renewable generation" means electric
2 generation with a capacity of not more than 2,000 kilowatts
3 provided by a renewable energy technology, as defined by Section
4 39.904, that is installed on a retail electric customer's side of
5 the meter.

6 (2) "Renewable energy" means any technology that
7 exclusively relies on an energy source that is naturally
8 regenerated over a short period of time.

9 (3) "Distributed renewable generation owner" has the
10 same meaning as that assigned under Section 39.916(a).

11 (4) "Interconnection" means the right of a distributed
12 renewable generation owner to physically connect distributed
13 renewable generation to an electricity distribution system, and the
14 technical requirements, rules, or processes for the connection.

15 (5) "Surplus electricity" means electricity generated
16 by distributed renewable generation that is not consumed at the
17 place the distributed renewable generation is installed and that
18 flows onto the electric distribution system of an electric utility
19 that this subsection applies.

20 (6) "Net consumption" means the total load of the
21 electric utility's retail customers less the power supplied by the
22 qualifying facility to meet any portion of that load.

23 (7) "Net production" means the total power supplied by
24 the qualifying facility less the power requirements of the retail
25 electric customer.

26 (b) A distributed renewable generation owner may request
27 interconnection by filing an application for interconnection with

the electric utility. A retail customer's application for interconnection with an electricity utility in accordance with this subsection is subject to the safety and reliability requirements of the electric utility. Procedures of the electric utility for the submission and processing of a distributed renewable generation owner's application for interconnection shall be consistent with rules adopted by the commission regarding interconnection.

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

(d) For a retail electric customer:

(1) that is an apartment house for occupancy by low-income elderly tenants, reasonably expected to generate no less than 50% of its annual energy use with distributed renewable generation and qualifying for master metering pursuant to Utilities Code Section 184.012(b); or,

(2) having a qualifying facility with a design capacity which is 50 kW or less, and such distributed renewable generation or qualifying facility is rated to produce an amount of electricity that is less than or equal to the amount of electricity

the retail electricity customer consumed in the twelve month period prior to installation of the qualifying facility or for new facilities their estimated annual kilowatt hour consumption, in addition to the metering options in PURA § 39.916(f) shall also be provided with the additional option of interconnection with the electric utility through a single meter that runs forward and backward. Any net consumption for a given billing period shall be billed in accordance with the standard tariff applicable to the customer class to which the user of the qualifying facility's output belongs. Any production in excess of consumption for a given billing period shall be purchased in accordance with the provisions of the electric utility's rate schedule as approved by the commission in its most recent rate case.

(e) An electric utility that purchases surplus generated electricity from a distributed renewable generation owner in accordance with this subsection shall purchase surplus generated electricity generated by the 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 customers 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 customer.

1 Sec. 39.555 MARKETING OF ENERGY EFFICIENCY AND RENEWABLE
2 ENERGY PROGRAMS. (a) an electric utility subject to this
3 subchapter may directly market energy efficiency and renewable
4 energy programs to retail electric customers within its service
5 territory and provide rebate or incentive funds directly to its
6 customers to promote or facilitate the success of the programs
7 subject to Section 39.905.

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