

1-1 By: Rodriguez S.B. No. 1910
1-2 (In the Senate - Filed April 19, 2011; April 20, 2011, read
1-3 first time and referred to Committee on Business and Commerce;
1-4 April 27, 2011, reported adversely, with favorable Committee
1-5 Substitute by the following vote: Yeas 9, Nays 0; April 27, 2011,
1-6 sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 1910 By: Lucio

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to the delay of the transition to competition for an
1-11 electric utility located in the Western Electricity Coordinating
1-12 Council service area and net metering requirements and energy
1-13 efficiency goals and programs for such utility.

1-14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-15 SECTION 1. Chapter 39, Utilities Code, is amended by adding
1-16 Subchapter L to read as follows:

1-17 SUBCHAPTER L. TRANSITION TO COMPETITION FOR CERTAIN
1-18 AREAS OUTSIDE ERCOT

1-19 Sec. 39.551. APPLICABILITY. (a) This subchapter applies
1-20 only to an investor-owned electric utility:

1-21 (1) that is operating solely outside of ERCOT in areas
1-22 of this state that were included in the Western Electricity
1-23 Coordinating Council on January 1, 2011;

1-24 (2) that was not affiliated with ERCOT on January 1,
1-25 2011; and

1-26 (3) to which Subchapters I, J, and K do not apply.

1-27 (b) The legislature finds that an electric utility subject
1-28 to this subchapter is unable at this time to offer fair competition
1-29 and reliable service to all retail customer classes in the area
1-30 served by the utility. As a result, the introduction of retail
1-31 competition for such electric utility is delayed until fair
1-32 competition and reliable service are available to all retail
1-33 customer classes as determined under this subchapter.

1-34 Sec. 39.552. COST-OF-SERVICE REGULATION. (a) Until the
1-35 date on which an electric utility subject to this subchapter is
1-36 authorized by the commission under Section 39.553(f) to implement
1-37 retail customer choice, the rates of the utility are subject to
1-38 regulation under Chapter 36.

1-39 (b) Until the date on which an electric utility subject to
1-40 this subchapter implements customer choice, the provisions of this
1-41 chapter, other than this subchapter and Sections 39.904 and 39.905,
1-42 do not apply to that utility.

1-43 Sec. 39.553. TRANSITION TO COMPETITION. (a) The events
1-44 prescribed by Subsections (b)-(f) shall be followed to introduce
1-45 retail competition in the service area of an electric utility
1-46 subject to this subchapter. The commission shall ensure that the
1-47 listed items in each stage are completed before the next stage is
1-48 initiated. Unless stated otherwise, the commission shall conduct
1-49 each activity with the electric utility and other interested
1-50 parties. The commission may modify the sequence of events required
1-51 by Subsections (b)-(e), but not the substance of the requirements,
1-52 if the commission finds good cause to do so. Full retail
1-53 competition may not begin in the service area of an electric utility
1-54 subject to this subchapter until all actions prescribed by those
1-55 subsections are completed.

1-56 (b) The first stage for the transition to competition
1-57 consists of the following activities:

1-58 (1) approval of a regional transmission organization
1-59 by the Federal Energy Regulatory Commission for the power region
1-60 that includes the electric utility's service area and commencement
1-61 of independent operation of the transmission network under the
1-62 approved regional transmission organization;

1-63 (2) development of retail market protocols to

2-1 facilitate retail competition; and

2-2 (3) completion of an expedited proceeding to develop
 2-3 nonbypassable delivery rates for the customer choice pilot project
 2-4 to be implemented under Subsection (c)(1).

2-5 (c) The second stage for the transition to competition
 2-6 consists of the following activities:

2-7 (1) initiation of the customer choice pilot project in
 2-8 accordance with Section 39.104;

2-9 (2) development of a balancing energy market, a market
 2-10 for ancillary services, and a market-based congestion management
 2-11 system for the wholesale market in the power region in which the
 2-12 regional transmission organization operates; and

2-13 (3) implementation of a seams agreement with adjacent
 2-14 power regions to reduce barriers to entry and facilitate
 2-15 competition.

2-16 (d) The third stage for the transition to competition
 2-17 consists of the following activities:

2-18 (1) the electric utility filing with the commission:

2-19 (A) an application for business separation in
 2-20 accordance with Section 39.051;

2-21 (B) an application for unbundled transmission
 2-22 and distribution rates in accordance with Section 39.201;

2-23 (C) an application for certification of a
 2-24 qualified power region in accordance with Section 39.152; and

2-25 (D) an application for price-to-beat rates in
 2-26 accordance with Section 39.202;

2-27 (2) the commission:

2-28 (A) approving a business separation plan for the
 2-29 utility;

2-30 (B) setting unbundled transmission and
 2-31 distribution rates for the utility;

2-32 (C) certifying a qualified power region, which
 2-33 includes conducting a formal evaluation of wholesale market power
 2-34 in the region, in accordance with Section 39.152;

2-35 (D) setting price-to-beat rates for the utility;
 2-36 and

2-37 (E) determining which competitive energy
 2-38 services must be separated from regulated utility activities in
 2-39 accordance with Section 39.051; and

2-40 (3) completion of the testing of retail and wholesale
 2-41 systems, including those systems necessary for switching customers
 2-42 to the retail electric provider of their choice and for settlement
 2-43 of wholesale market transactions, by the regional transmission
 2-44 organization, the registration agent, and market participants.

2-45 (e) The fourth stage for the transition to competition
 2-46 consists of the following activities:

2-47 (1) commission evaluation of the results of the pilot
 2-48 project;

2-49 (2) initiation by the electric utility of a capacity
 2-50 auction in accordance with Section 39.153 at a time to be determined
 2-51 by the commission; and

2-52 (3) separation by the utility of competitive energy
 2-53 services from its regulated utility activities, in accordance with
 2-54 the commission order approving the separation of competitive energy
 2-55 services.

2-56 (f) The fifth stage for the transition to competition
 2-57 consists of the following activities:

2-58 (1) evaluation by the commission of whether the
 2-59 electric utility can offer fair competition and reliable service to
 2-60 all retail customer classes in the area served by the utility and:

2-61 (A) if the commission concludes that the electric
 2-62 utility can offer fair competition and reliable service to all
 2-63 retail customer classes in the area served by the utility, issuance
 2-64 by the commission of an order initiating retail competition for the
 2-65 utility; and

2-66 (B) if the commission determines that the
 2-67 electric utility cannot offer fair competition and reliable service
 2-68 to all retail customer classes in the area served by the utility,
 2-69 issuance by the commission of an order further delaying retail

3-1 competition for the utility; and

3-2 (2) on the issuance of an order by the commission
 3-3 initiating retail competition for the utility, completion by the
 3-4 utility of the business separation and unbundling in accordance
 3-5 with the commission order approving the unbundling.

3-6 Sec. 39.554. INTERCONNECTION OF DISTRIBUTED RENEWABLE
 3-7 GENERATION. (a) In this section:

3-8 (1) "Distributed renewable generation" means electric
 3-9 generation with a capacity of not more than 2,000 kilowatts
 3-10 provided by a renewable energy technology, as defined by Section
 3-11 39.904, that is installed on a retail customer's side of the meter.

3-12 (2) "Distributed renewable generation owner" has the
 3-13 meaning assigned under Section 39.916(a).

3-14 (3) "Interconnection" means the right of a distributed
 3-15 renewable generation owner to physically connect distributed
 3-16 renewable generation to an electricity distribution system and the
 3-17 technical requirements, rules, or processes for the connection.

3-18 (b) A distributed renewable generation owner may request
 3-19 interconnection by filing an application for interconnection with
 3-20 the electric utility. A retail customer's application for
 3-21 interconnection with an electric utility in accordance with this
 3-22 subsection is subject to the safety and reliability requirements of
 3-23 the electric utility. Procedures of the electric utility for the
 3-24 submission and processing of a distributed renewable generation
 3-25 owner's application for interconnection shall be consistent with
 3-26 rules adopted by the commission regarding interconnection.

3-27 (c) The electric utility shall install, own, and maintain
 3-28 the meter and metering equipment. The retail customer shall
 3-29 install a customer-furnished meter socket or metering cabinet, or
 3-30 both, at the electric utility's designated location solely on the
 3-31 retail customer's premises. The electric utility, at its own
 3-32 expense, may install load research metering equipment solely on the
 3-33 retail customer's premises. The retail customer shall also supply,
 3-34 at no expense to the electric utility, a suitable location for
 3-35 meters and associated equipment that will be used for billing and
 3-36 for load research.

3-37 (d) For a retail customer (1) that is an apartment house for
 3-38 occupancy by low-income elderly tenants reasonably expected to
 3-39 generate not less than 50 percent of its annual energy use with
 3-40 distributed renewable generation and qualifying for master
 3-41 metering pursuant to Section 184.012(b), or (2) that has a
 3-42 qualifying facility with a design capacity that is 50 kilowatts or
 3-43 less, and such distributed renewable generation or qualifying
 3-44 facility identified in this subsection is rated to produce an
 3-45 amount of electricity that is less than or equal to the amount of
 3-46 electricity the retail customer consumed in the 12-month period
 3-47 prior to installation of the qualifying facility or, for new
 3-48 facilities, the estimated annual kilowatt-hour consumption, in
 3-49 addition to the metering options in Section 39.916(f), the electric
 3-50 utility shall also provide such customer with the additional option
 3-51 of interconnection with the electric utility through a single meter
 3-52 that runs forward and backward. Any renewable generation
 3-53 production for a given billing period by a retail customer choosing
 3-54 this additional option shall offset consumption for the billing
 3-55 period by the customer, and excess production from the renewable
 3-56 generation above the retail customer's consumption for a given
 3-57 billing period shall be credited to the customer in accordance with
 3-58 the provisions of Subsection (e).

3-59 (e) An electric utility that purchases surplus generated
 3-60 electricity from a distributed renewable generation owner in
 3-61 accordance with this subsection shall purchase surplus generated
 3-62 electricity generated by the distributed renewable generation
 3-63 owner at the cost of the electric utility as determined by
 3-64 commission rule and:

3-65 (1) the electric utility shall take reasonable steps
 3-66 to inform the distributed renewable generation owner of the amount
 3-67 of surplus electricity purchased as measured in kilowatt hours
 3-68 during the retail customer's most recent billing cycle; and

3-69 (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.

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