

By: Turner of Harris, Reynolds

H.B. No. 550

Substitute the following for H.B. No. 550:

By: Cook

C.S.H.B. No. 550

A BILL TO BE ENTITLED

1 AN ACT

2 relating to financing programs for low-income electric customers
3 and certain other electric customers; lowering the amount of a fee;
4 imposing a fee.

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

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

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

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

14 Sec. 39.002. APPLICABILITY. This chapter, other than
15 Sections 39.155, 39.157(e), 39.203, 39.903, 39.9035, 39.904,
16 39.9051, 39.9052, and 39.914(e), does not apply to a municipally
17 owned utility or an electric cooperative. Sections 39.157(e),
18 39.203, and 39.904, however, apply only to a municipally owned
19 utility or an electric cooperative that is offering customer
20 choice. If there is a conflict between the specific provisions of
21 this chapter and any other provisions of this title, except for
22 Chapters 40 and 41, the provisions of this chapter control.

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

1 read as follows:

2 Sec. 39.903. SYSTEM BENEFIT FUND. (a) The system benefit
3 fund is an account in the general revenue fund. Money in the
4 account may be appropriated only for the purposes provided by this
5 section [~~or other law~~]. Interest earned on the system benefit fund
6 shall be credited to the fund. Section 403.095, Government Code,
7 does not apply to the system benefit fund.

8 (b) The system benefit fund is financed by a nonbypassable
9 system benefit fund fee set by the commission in an amount not to
10 exceed two [~~65~~] cents per megawatt hour. The system benefit fund
11 fee is allocated to customers based on the amount of kilowatt hours
12 used.

13 (c) The nonbypassable system benefit fund fee may not be
14 imposed on the retail electric customers of a municipally owned
15 utility or electric cooperative before the sixth month preceding
16 the date on which the utility or cooperative implements customer
17 choice. Money distributed from the system benefit fund to a
18 municipally owned utility or an electric cooperative shall be
19 proportional to the nonbypassable fee paid by the municipally owned
20 utility or the electric cooperative [~~, subject to the reimbursement~~
21 ~~provided by Subsection (i)~~]. On request by a municipally owned
22 utility or electric cooperative, the commission shall reduce the
23 nonbypassable fee imposed on retail electric customers served by
24 the municipally owned utility or electric cooperative by an amount
25 equal to the amount provided by the municipally owned utility or
26 electric cooperative or its ratepayers for [~~local low-income~~
27 ~~programs and~~] local programs that educate customers about the

1 retail electric market in a neutral and nonpromotional manner. The
2 commission shall adopt rules providing for reimbursements from
3 appropriated system benefit fund money for activities authorized
4 for funding under this section.

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

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

14 (1) [~~programs to:~~
15 [~~(A) assist low-income electric customers by~~
16 ~~providing the 10 percent reduced rate prescribed by Subsection (h);~~
17 ~~and~~

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

22 [~~2~~] customer education programs;

23 (2) [~~7~~] administrative expenses incurred by the
24 commission in implementing and administering this chapter;

25 (3) [~~7 and~~] expenses incurred by the office under this
26 chapter;

27 (4) [~~3~~] programs to assist low-income electric

1 customers by providing weatherization or other [~~the targeted~~
2 energy efficiency programs [~~described by Subsection (f)(2),~~
3 [~~(4) programs to assist low-income electric customers~~
4 ~~by providing the 20 percent reduced rate prescribed by Subsection~~
5 ~~(h)~~]; and

6 (5) reimbursement to the commission and the Health and
7 Human Services Commission for expenses incurred in the
8 implementation and administration of an integrated eligibility
9 process created under Section 17.007 for customer service discounts
10 relating to retail electric service, including outreach expenses
11 the commission determines are reasonable and necessary.

12 (f) The legislature may appropriate from the system benefit
13 fund not more than \$50 million each state fiscal biennium for the
14 purposes of Subsection (e)(4). Money appropriated from the system
15 benefit fund for the purposes of Subsection (e)(4) must be
16 transferred to the low-income electric customers program fund for
17 disbursement under Section 39.9035.

18 Sec. 39.9035. LOW-INCOME ELECTRIC CUSTOMERS PROGRAM FUND.

19 (a) In this section, "critical care residential customer" means a
20 residential customer who has a person permanently residing in the
21 customer's home who is diagnosed by a physician as being dependent
22 on an electric-powered medical device to sustain life.

23 (b) The commission shall adopt and enforce rules requiring
24 transmission and distribution utilities to establish a low-income
25 electric customers program fund under commission oversight. The
26 rules must provide for:

27 (1) the fund to be established as a trust fund outside

1 of the state treasury;

2 (2) the fund to be held by an administrator selected by
3 the transmission and distribution utilities in accordance with
4 standards adopted by the commission; and

5 (3) any interest earned on money in the fund to be
6 credited to the fund.

7 (c) The administrator serves as trustee of the fund for the
8 benefit of low-income electric customer programs described by this
9 section, and in accordance with commission rules, the administrator
10 may make any payments or reimbursements from the fund to further the
11 programs. Commission rules must prescribe the maximum percentage
12 of money available in the fund that may be used for the expenses of
13 administering the fund and for annual independent auditing of the
14 fund and expenditures and other transactions related to the fund.
15 The commission or its agents may at any time examine any records
16 related to the fund or investigate any fund-related expenditures or
17 expenses. The administrator and each transmission and distribution
18 utility shall fully cooperate with any investigation regarding the
19 fund conducted by the commission or its agents.

20 (d) The commission by rule shall impose a nonbypassable
21 low-income electric customers program fund fee to be set by the
22 commission in an amount not to exceed 50 cents per megawatt hour,
23 allocated to customers based on the amount of kilowatt hours used.

24 (e) The commission shall provide for a nonbypassable fee in
25 the same amount as the fee imposed under Subsection (d) to be
26 imposed on the retail electric customers of a municipally owned
27 utility or electric cooperative beginning on the first day of the

1 sixth month preceding the date on which the utility or cooperative
2 implements customer choice.

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

9 (g) Except as provided by Subsection (h), money in the
10 low-income electric customers program fund may be spent only for
11 the following regulatory purposes and must be allocated as follows:

12 (1) not more than 96 percent of the money available in
13 the fund must be used to provide a 15 percent reduced rate for
14 low-income households for each billing period; and

15 (2) not more than 4 percent of the money available in
16 the fund must be used for bill payment assistance for critical care
17 residential customers with total household incomes not to exceed
18 400 percent of the federal poverty guidelines.

19 (h) Only money appropriated for the purposes of Section
20 39.903(e)(4) and transferred to the fund may be used to finance
21 low-income electric customer weatherization programs under this
22 section. The programs must be operated by a statewide network of
23 federal weatherization program providers under federal
24 weatherization program guidelines and may include related
25 low-income energy efficiency programs.

26 (i) [~~(f)~~ Notwithstanding Section 39.106(b), the commission
27 shall adopt rules regarding programs to assist low-income electric

1 ~~customers on the introduction of customer choice. The programs may~~
2 ~~not be targeted to areas served by municipally owned utilities or~~
3 ~~electric cooperatives that have not adopted customer choice. The~~
4 ~~programs shall include:~~

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

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

10 ~~[(g)]~~ Until customer choice is introduced in a power region,
11 an electric utility may not reduce, in any manner, programs already
12 offered to assist low-income electric customers.

13 (j) ~~[(h)]~~ The commission shall adopt rules for a retail
14 electric provider to determine a reduced rate for eligible
15 customers to be discounted off the standard retail service package
16 as approved by the commission under Section 39.106 and shall
17 require a retail electric provider to apply the same reduction to
18 any rate plan under which an eligible low-income electric customer
19 is receiving service ~~[, or the price to beat established by Section~~
20 ~~39.202, whichever is lower]~~. Municipally owned utilities and
21 electric cooperatives shall establish a reduced rate for eligible
22 customers to be discounted off the standard retail service package
23 established under Section 40.053 or 41.053, as appropriate. The
24 reduced rate for a retail electric provider shall result in a total
25 charge for each billing period that is at least 15 ~~[10]~~ percent
26 ~~[and, if sufficient money in the system benefit fund is available,~~
27 ~~up to 20 percent,]~~ lower than the amount the customer would

1 otherwise be charged for each billing period. To the extent the
2 low-income electric customers program [~~system benefit~~] fund is
3 insufficient to pay for [~~fund~~] the 15 [~~initial 10~~] percent rate
4 reduction, the commission may increase the fee to an amount of not
5 more than 50 [~~65~~] cents per megawatt hour, as provided by Subsection
6 (d) [~~(b)~~]. If the fee is set at 50 [~~65~~] cents per megawatt hour or
7 if the commission determines that revenues anticipated to be due
8 for deposit to the fund are [~~appropriations are~~] insufficient to
9 pay for [~~fund~~] the 15 [~~10~~] percent rate reduction, the commission
10 shall [~~may~~] reduce the rate of the reduction to less than 15 [~~10~~]
11 percent. For a municipally owned utility or electric cooperative,
12 the reduced rate shall be equal to an amount that can be fully
13 funded by that portion of the nonbypassable fee proceeds paid by the
14 municipally owned utility or electric cooperative that is allocated
15 to the utility or cooperative by the commission under Subsection
16 (g) [~~(e)~~] for programs for low-income customers of the utility or
17 cooperative. The reduced rate for municipally owned utilities and
18 electric cooperatives under this section is in addition to any rate
19 reduction that may result from local programs for low-income
20 customers of the municipally owned utilities or electric
21 cooperatives.

22 (k) [~~(i)~~] A retail electric provider, municipally owned
23 utility, or electric cooperative seeking reimbursement from the
24 low-income electric customers program [~~system benefit~~] fund may not
25 charge an eligible low-income customer a rate higher than the
26 appropriate rate determined under Subsection (j) [~~(h)~~].
27 Commission rules must provide for [~~A retail electric provider not~~

1 ~~subject to the price to beat, or~~ a municipally owned utility or
 2 electric cooperative subject to the nonbypassable fee under
 3 Subsection (e) to ~~[(c), shall]~~ be reimbursed from the ~~[system~~
 4 ~~benefit]~~ fund for the difference between the reduced rate and the
 5 rate established under ~~[Section 39.106 or, as appropriate, the rate~~
 6 ~~established under]~~ Section 40.053 or 41.053, as appropriate. A
 7 retail electric provider ~~[who is subject to the price to beat]~~ shall
 8 be reimbursed from the ~~[system benefit]~~ fund for the difference
 9 between the reduced rate and the rate plan under which the customer
 10 is receiving service ~~[the price to beat]~~. The commission shall
 11 adopt rules providing for the reimbursement.

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

24 (1) an electric customer eligible for the reduced
 25 rates determined under Subsection (j) is also eligible for reduced
 26 rates for telecommunications services offered for low-income
 27 customers; and

1 (2) a customer eligible for reduced rates for
2 telecommunications services offered for low-income customers is
3 also eligible for the reduced rates established under Subsection
4 (j).

5 (m) [~~(j-1)~~] The commission shall adopt rules governing the
6 bill payment assistance program provided under Subsection (g)(2)
7 [~~(e)(1)(B)~~]. The rules must provide that a customer is eligible to
8 receive the assistance only if the assistance is necessary to
9 prevent the disconnection of service for nonpayment of bills for a
10 critical care residential customer [~~and the electric customer is or~~
11 ~~has in the customer's household one or more seriously ill or~~
12 ~~disabled low-income persons whose health or safety may be injured~~
13 ~~by the disconnection]~~. The commission may prescribe the
14 documentation necessary to demonstrate eligibility for the
15 assistance and may establish additional eligibility criteria. The
16 Health and Human Services Commission, on request of the commission,
17 shall assist in the adoption and implementation of these rules.

18 (n) [~~(k)~~] A retail electric provider is prohibited from
19 charging the customer a fee for participation in the reduced rate
20 program.

21 (o) Notwithstanding Subsections (d), (e), (f), and (j), the
22 low-income electric customers program fund fee may not be imposed
23 after August 31, 2023. After that date, the commission and the
24 administrator shall undertake to continue the low-income electric
25 customers programs described by this section until the balance of
26 the fund is exhausted.

27 ~~[(1) For the purposes of this section, a "low-income~~

1 ~~electric customer" is an electric customer:~~

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

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

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

9 (f) Unless funding is provided under Section 39.9035
10 ~~[39.903]~~, each unbundled transmission and distribution utility
11 shall include in its energy efficiency plan a weatherization and
12 ~~[targeted]~~ low-income energy efficiency program as described by
13 Section 39.9035(h) ~~[39.903(f)(2)]~~, and the savings achieved by the
14 program shall count toward the transmission and distribution
15 utility's energy efficiency goal. The commission shall determine
16 the appropriate level of funding to be allocated to both the
17 required weatherization programs ~~[targeted]~~ and standard offer
18 low-income energy efficiency programs in each unbundled
19 transmission and distribution utility service area. The level of
20 funding for the required weatherization programs and low-income
21 energy efficiency programs shall be provided from money approved by
22 the commission for the transmission and distribution utility's
23 energy efficiency programs. The commission shall ensure that
24 annual expenditures for the required weatherization programs and
25 ~~[targeted]~~ low-income energy efficiency programs of each unbundled
26 transmission and distribution utility are not less than 10 percent
27 of the transmission and distribution utility's energy efficiency

1 budget for the year. A required weatherization program or a
2 ~~[targeted]~~ low-income energy efficiency program must comply with
3 the same audit requirements that apply to federal weatherization
4 subrecipients. In an energy efficiency cost recovery factor
5 proceeding related to expenditures under this subsection, the
6 commission shall make findings of fact regarding whether the
7 utility meets requirements imposed under this subsection. The
8 state agency that administers the federal weatherization
9 assistance program shall provide reports as required by the
10 commission to provide the most current information available on
11 energy and peak demand savings achieved in each transmission and
12 distribution utility service area. The agency shall participate in
13 energy efficiency cost recovery factor proceedings related to
14 expenditures under this subsection to ensure that the required
15 weatherization programs and ~~[targeted]~~ low-income weatherization
16 programs are consistent with federal weatherization programs and
17 adequately funded.

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

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

1 SECTION 6. Section 40.004, Utilities Code, is amended to
2 read as follows:

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

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

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

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

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

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

21 (6) to require collection of the nonbypassable fees
22 [~~fee~~] established under Section 39.903(b) and Section 39.9035(e);

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

26 (8) [~~(7)~~] to require reports of municipally owned
27 utility operations only to the extent necessary to:

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

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

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

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

16 SECTION 8. The Public Utility Commission of Texas shall
17 adopt or revise, as necessary to implement this Act, rules
18 governing the system benefit fund and the low-income electric
19 customers program fund under Section 39.903, Utilities Code, as
20 amended by this Act, and Section 39.9035, Utilities Code, as added
21 by this Act, not later than January 1, 2014.

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