

By: Rodriguez

S.B. No. 1239

A BILL TO BE ENTITLED

AN ACT

relating to compensation for excess electricity generated by a retail electric customer's on-site generation.

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

SECTION 1. Section 31.002(6), Utilities Code, is amended to read as follows:

(6) "Electric utility" means a person or river authority that owns or operates for compensation in this state equipment or facilities to produce, generate, transmit, distribute, sell, or furnish electricity in this state. The term includes a lessee, trustee, or receiver of an electric utility and a recreational vehicle park owner who does not comply with Subchapter C, Chapter 184, with regard to the metered sale of electricity at the recreational vehicle park. The term does not include:

(A) a municipal corporation;

(B) a qualifying facility;

(C) a power generation company;

(D) an exempt wholesale generator;

(E) a power marketer;

(F) a corporation described by Section 32.053 to the extent the corporation sells electricity exclusively at wholesale and not to the ultimate consumer;

(G) an electric cooperative;

(H) a retail electric provider;

1 (I) this state or an agency of this state; ~~[or]~~

2 (J) a person not otherwise an electric utility
3 who:

4 (i) furnishes an electric service or
5 commodity only to itself, its employees, or its tenants as an
6 incident of employment or tenancy, if that service or commodity is
7 not resold to or used by others;

8 (ii) owns or operates in this state
9 equipment or facilities to produce, generate, transmit,
10 distribute, sell, or furnish electric energy to an electric
11 utility, if the equipment or facilities are used primarily to
12 produce and generate electric energy for consumption by that
13 person; or

14 (iii) owns or operates in this state a
15 recreational vehicle park that provides metered electric service in
16 accordance with Subchapter C, Chapter 184; or

17 (K) a distributed renewable generation owner, as
18 defined by Section 39.916.

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

21 Sec. 39.002. APPLICABILITY. Except as provided by this
22 section, this ~~[This]~~ chapter, other than Sections 39.155,
23 39.157(e), 39.203, 39.903, 39.904, 39.9051, 39.9052, and
24 39.914(e), does not apply to a municipally owned utility or to an
25 electric cooperative. Sections 39.157(e), 39.203, and 39.904[~~7~~
26 ~~however,~~] apply only to a municipally owned utility or an electric
27 cooperative that is offering customer choice. Section 39.916

1 applies to an electric cooperative. Section 39.9161 applies to a
2 municipally owned utility. If there is a conflict between the
3 specific provisions of this chapter and any other provisions of
4 this title, except for Chapters 40 and 41, the provisions of this
5 chapter control.

6 SECTION 3. The heading to Section 39.916, Utilities Code,
7 is amended to read as follows:

8 Sec. 39.916. [~~INTERCONNECTION OF~~] DISTRIBUTED RENEWABLE
9 GENERATION.

10 SECTION 4. Section 39.916(a), Utilities Code, is amended by
11 adding Subdivision (4) to read as follows:

12 (4) "Surplus electricity" means electricity generated
13 by distributed renewable generation that is not consumed at the
14 place the distributed renewable generation is installed and that
15 flows onto the electric distribution system.

16 SECTION 5. Section 39.916, Utilities Code, is amended by
17 amending Subsections (b), (c), (e), (f), and (j) and adding
18 Subsections (d-1), (l), (m), (n), (o), and (p) to read as follows:

19 (b) A transmission and distribution utility, electric
20 cooperative, or electric utility shall allow interconnection if:

21 (1) the distributed renewable generation to be
22 interconnected has a five-year warranty against breakdown or undue
23 degradation; and

24 (2) the rated capacity of the distributed renewable
25 generation does not exceed the transmission and distribution
26 utility, electric cooperative, or electric utility service
27 capacity.

1 (c) A customer may request interconnection by filing an
2 application for interconnection with the transmission and
3 distribution utility, electric cooperative, or electric
4 utility. Procedures of a transmission and distribution utility,
5 electric cooperative, or electric utility for the submission and
6 processing of a customer's application for interconnection shall be
7 consistent with rules adopted by the commission regarding
8 interconnection.

9 (d-1) The sale, rental, lease, or maintenance of
10 distributed renewable generation equipment, or the sale of electric
11 energy produced by distributed renewable generation to the customer
12 on whose side of the meter the distributed renewable generation is
13 installed, does not constitute provision of retail electric
14 service.

15 (e) A transmission and distribution utility, electric
16 cooperative, electric utility, or retail electric provider may not
17 require a distributed renewable generation owner whose distributed
18 renewable generation meets the standards established by rule under
19 Subsection (d) to purchase an amount, type, or classification of
20 liability insurance the distributed renewable generation owner
21 would not have in the absence of the distributed renewable
22 generation.

23 (f) A transmission and distribution utility, electric
24 cooperative, or electric utility shall make available to a
25 distributed renewable generation owner for purposes of this section
26 metering required for services provided under this section,
27 including separate meters that measure the load and generator

1 output or a single meter capable of measuring in-flow and out-flow
2 at the point of common coupling meter point. The distributed
3 renewable generation owner must pay the differential cost of the
4 metering unless the meters are provided at no additional cost.
5 Except as provided by this section, Section 39.107 applies to
6 metering under this section.

7 (j) A [For] distributed renewable generation owner who
8 chooses to sell the owner's surplus electricity in an area [owners
9 in areas] in which customer choice has been introduced~~[, the~~
10 ~~distributed renewable generation owner]~~ must sell the owner's
11 surplus electricity produced to the retail electric provider that
12 serves the ~~[distributed renewable generation]~~ owner's load. A
13 distributed renewable generation owner who chooses to sell the
14 owner's surplus electricity in an area in which customer choice has
15 not been introduced must sell the owner's surplus electricity to
16 the electric utility or electric cooperative that serves the
17 owner's load [at a value agreed to between the distributed
18 ~~renewable generation owner and the provider that serves the owner's~~
19 ~~load which may include, but is not limited to, an agreed value based~~
20 ~~on the clearing price of energy at the time of day that the~~
21 ~~electricity is made available to the grid or it may be a credit~~
22 ~~applied to an account during a billing period that may be carried~~
23 ~~over to subsequent billing periods until the credit has been~~
24 ~~redeemed].~~ The independent organization identified in Section
25 39.151 shall develop procedures so that the amount of electricity
26 purchased from a distributed renewable generation owner under this
27 section is accounted for in settling the total load served by the

1 provider that serves that owner's load [~~by January 1, 2009~~]. A
2 distributed renewable generation owner requesting [~~net~~] metering
3 services for purposes of this section must have metering devices
4 capable of providing measurements consistent with the independent
5 organization's settlement requirements.

6 (1) In areas in which customer choice has been introduced, a
7 retail electric provider shall purchase surplus electricity at a
8 fair market value determined using a price that provides a periodic
9 proxy, using a period of a month or longer, for the load zone
10 real-time market clearing price, unless the provider chooses to use
11 a fair market value by an alternative method authorized by this
12 subsection. A retail electric provider may choose to determine the
13 fair market value for purchasing surplus electricity by the load
14 zone real-time market clearing price at the time of day the surplus
15 electricity is made available to the grid or by the simple average,
16 during the period for which the surplus electricity being purchased
17 was generated, of the load zone real-time market clearing price for
18 energy at the time of day specified in the ERCOT protocols for the
19 applicable type of distributed renewable generation for load
20 reduction at locations without interval data meters. A retail
21 electric provider must use the same method of determining fair
22 market value for all distributed renewable generation owners
23 eligible to be compensated for purchased surplus electricity. A
24 retail electric provider that chooses to determine the fair market
25 value by an alternative method at any time may not after that date
26 use the periodic proxy method described by this subsection. A
27 distributed renewable generation owner may file a written complaint

1 with the commission for a violation of this subsection or
2 Subsection (m).

3 (m) A retail electric provider that purchases surplus
4 electricity from a distributed renewable generation owner under
5 Subsection (l) must compensate the distributed renewable
6 generation owner by making a payment not less frequently than once
7 each quarter or by applying a credit to an account the credit
8 balance of which may be carried forward until the credit has been
9 redeemed. The retail electric provider shall inform the
10 distributed renewable generation owner of the amount of surplus
11 electricity purchased, measured in kilowatt hours, and the price
12 paid for the surplus electricity purchased.

13 (n) In areas in which customer choice has not been
14 introduced, an electric utility or electric cooperative shall
15 purchase surplus electricity at a value that is at least equal to
16 the avoided cost of the electric utility or electric cooperative,
17 as applicable. A distributed renewable generation owner may file a
18 written complaint with the commission for a violation of this
19 subsection or Subsection (o).

20 (o) An electric utility or electric cooperative that
21 purchases surplus electricity from a distributed renewable
22 generation owner under Subsection (n) must compensate the
23 distributed renewable generation owner by making a payment made not
24 less frequently than once each quarter or by applying a credit to an
25 account the credit balance of which may be carried forward until the
26 credit has been redeemed. The electric utility or electric
27 cooperative shall inform the distributed renewable generation

1 owner of the amount of surplus electricity purchased, measured in
2 kilowatt hours, and the price paid for the surplus electricity
3 purchased.

4 (p) The commission by rule may establish standards
5 distributed renewable generation must meet to be eligible for
6 compensation under this section, including interconnection
7 standards and standards for the generating equipment. The
8 standards must be designed so that small-scale distributed
9 renewable generation at residential addresses is eligible for
10 compensation. A distributed renewable generation owner is
11 qualified to be compensated for surplus electricity purchased under
12 this section only if:

13 (1) the distributed renewable generation is:

14 (A) rated to produce an amount of electricity
15 that is less than or equal to the amount of electricity the retail
16 electric customer for whom the distributed renewable generation is
17 installed is reasonably expected to consume; and

18 (B) installed on the customer's side of the meter
19 for a residential retail electric customer or a retail electric
20 customer that is a public school or a facility owned by a religious
21 organization and used primarily as a place of religious worship,
22 such as a church, synagogue, or mosque; and

23 (2) the generating capacity of the distributed
24 renewable generation does not exceed:

25 (A) 10 kilowatts for a residential retail
26 electric customer;

27 (B) 150 kilowatts for a retail electric customer

1 at a facility owned by a religious organization and used primarily
2 as a place of religious worship, such as a church, synagogue, or
3 mosque; or

4 (C) 250 kilowatts for a retail electric customer
5 that is a public school.

6 SECTION 6. Subchapter Z, Chapter 39, Utilities Code, is
7 amended by adding Section 39.9161 to read as follows:

8 Sec. 39.9161. DISTRIBUTED RENEWABLE GENERATION WITH
9 MUNICIPALLY OWNED UTILITIES. (a) In this section, "distributed
10 renewable generation," "distributed renewable generation owner,"
11 and "interconnection" have the meanings assigned by Section 39.916.

12 (b) A municipally owned utility shall:

13 (1) allow interconnection and metering to account for
14 electricity produced by distributed renewable generation owners;
15 and

16 (2) provide the utility's customers access to
17 interconnection and metering of distributed renewable generation.

18 (c) The governing body of a municipally owned utility shall
19 provide oversight and adopt rates, rules, and procedures to allow
20 interconnection and provide metering consistent with the goals
21 established by Section 39.916. This subsection does not prevent the
22 governing body of a municipally owned utility from adopting rates,
23 rules, and procedures for interconnection and metering that are
24 more favorable to a distributed renewable generation owner than
25 those established by any other law or rule of the commission.

26 (d) If a municipally owned utility implements customer
27 choice under Chapter 40, the commission:

1 (1) has jurisdiction over the municipally owned
2 utility's distributed renewable generation interconnection and
3 metering; and

4 (2) by rule shall establish minimum standards and
5 procedures for interconnection and metering by the municipally
6 owned utility.

7 (e) A municipally owned utility that had retail sales of
8 500,000 megawatt hours or more in 2012 shall file the utility's
9 interconnection and metering rates, rules, and procedures with the
10 State Energy Conservation Office not later than January 1, 2014.
11 The municipally owned utility shall make timely updates to the
12 utility's filed rates, rules, and procedures.

13 (f) A municipally owned utility that has adopted rules and
14 procedures related to interconnection and metering shall make
15 available, on a publicly accessible Internet website or at the
16 customary location for publicly posted notices:

17 (1) information on the purchase price offered per
18 kilowatt hour for surplus electricity produced by distributed
19 renewable generation; and

20 (2) information instructing customers with
21 distributed renewable generation how to request and obtain the
22 purchase rates offered.

23 (g) The governing body of a municipally owned utility that
24 had retail sales of less than 500,000 megawatt hours in 2012 shall
25 provide oversight and adopt rules and procedures related to
26 interconnection and metering of distributed renewable generation
27 systems with a generating capacity considered appropriate by the

1 municipally owned utility on or before the 120th day after the date
2 the governing body receives a bona fide request for
3 interconnection.

4 SECTION 7. Subchapter Z, Chapter 39, Utilities Code, is
5 amended by adding Section 39.926 to read as follows:

6 Sec. 39.926. INFORMATION ON INTERNET REGARDING PURCHASE OF
7 SURPLUS ELECTRICITY PRODUCED BY DISTRIBUTED RENEWABLE GENERATION.

8 On the Internet website found at <http://www.powertochoose.org>, the
9 commission shall provide for access to easily comparable
10 information regarding retail electric providers' offers to
11 residential distributed renewable generation owners for their
12 surplus electricity, including information regarding their
13 contract terms, for each retail electric provider using that
14 website.

15 SECTION 8. Section 39.916(h), Utilities Code, is repealed.

16 SECTION 9. This Act takes effect January 1, 2014.