

By: Rodriguez of Travis

H.B. No. 3073

A BILL TO BE ENTITLED

AN ACT

relating to financing programs for low-income electric customers and certain other electric customers; imposing a fee.

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

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

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

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

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

SECTION 3. Subchapter Z, Chapter 39, Utilities Code, is amended by adding Section 39.9035 to read as follows:

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

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

5 (b) The commission shall adopt and enforce rules requiring  
6 transmission and distribution utilities to establish a low-income  
7 electric customers program fund under commission oversight. The  
8 rules must provide for:

9 (1) the fund to be established as a trust fund outside  
10 of the state treasury;

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

14 (3) any interest earned on money in the fund to be  
15 credited to the fund.

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

1 fund conducted by the commission or its agents.

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

6 (e) The commission shall provide for a nonbypassable fee in  
7 the same amount as the fee imposed under Subsection (d) to be  
8 imposed on the retail electric customers of a municipally owned  
9 utility or electric cooperative beginning on the first day of the  
10 sixth month preceding the date on which the utility or cooperative  
11 implements customer choice.

12 (f) Commission rules adopted under this section must  
13 provide that the low-income electric customers program fund fees  
14 collected for the programs described by this section are collected  
15 through the rates of the transmission and distribution service  
16 providers and deposited into the low-income electric customers  
17 program fund.

18 (g) Money in the low-income electric customers program fund  
19 may be spent only for the following regulatory purposes and must be  
20 allocated as follows:

21 (1) not more than 85 percent of the money available in  
22 the fund must be used to provide a 15 percent reduced rate for  
23 low-income households for each billing period;

24 (2) not more than 4 percent of the money available in  
25 the fund must be used for bill payment assistance for critical care  
26 residential customers with total household income not to exceed 400  
27 percent of the federal poverty guidelines; and

1           (3) not less than 11 percent of the money available in  
2 the fund must be used to finance low-income electric customer  
3 weatherization programs to be operated by a statewide network of  
4 federal weatherization program providers under federal  
5 weatherization program guidelines.

6           (h) Until customer choice is introduced in a power region,  
7 an electric utility may not reduce, in any manner, programs already  
8 offered to assist low-income electric customers.

9           (i) The commission shall adopt rules for a retail electric  
10 provider to determine a reduced rate for eligible customers to be  
11 discounted off the standard retail service package as approved by  
12 the commission under Section 39.106 and shall require a retail  
13 electric provider to apply the same reduction to any rate plan under  
14 which an eligible low-income electric customer is receiving  
15 service. Municipally owned utilities and electric cooperatives  
16 shall establish a reduced rate for eligible customers to be  
17 discounted off the standard retail service package established  
18 under Section 40.053 or 41.053, as appropriate. The reduced rate  
19 for a retail electric provider shall result in a total charge for  
20 each billing period that is at least 15 percent lower than the  
21 amount the customer would otherwise be charged for each billing  
22 period. To the extent the low-income electric customers program  
23 fund is insufficient to pay for the 15 percent rate reduction, the  
24 commission may increase the fee to an amount of not more than 50  
25 cents per megawatt hour, as provided by Subsection (d). If the fee  
26 is set at 50 cents per megawatt hour or if the commission determines  
27 that revenues anticipated to be due for deposit to the fund are

1 insufficient to pay for the 15 percent rate reduction, the  
2 commission shall reduce the rate of the reduction to less than 15  
3 percent. For a municipally owned utility or electric cooperative,  
4 the reduced rate shall be equal to an amount that can be fully  
5 funded by that portion of the nonbypassable fee proceeds paid by the  
6 municipally owned utility or electric cooperative that is allocated  
7 to the utility or cooperative by the commission under Subsection  
8 (g) for programs for low-income customers of the utility or  
9 cooperative. The reduced rate for municipally owned utilities and  
10 electric cooperatives under this section is in addition to any rate  
11 reduction that may result from local programs for low-income  
12 customers of the municipally owned utilities or electric  
13 cooperatives.

14 (j) A retail electric provider, municipally owned utility,  
15 or electric cooperative seeking reimbursement from the low-income  
16 electric customers program fund may not charge an eligible  
17 low-income customer a rate higher than the appropriate rate  
18 determined under Subsection (i). Commission rules must provide for  
19 a municipally owned utility or electric cooperative subject to the  
20 nonbypassable fee under Subsection (e) to be reimbursed from the  
21 fund for the difference between the reduced rate and the rate  
22 established under Section 40.053 or 41.053, as appropriate. A  
23 retail electric provider shall be reimbursed from the fund for the  
24 difference between the reduced rate and the rate plan under which  
25 the customer is receiving service. The commission shall adopt  
26 rules providing for the reimbursement.

27 (k) The eligibility rules must provide that an electric

1 customer is eligible for the reduced rates determined under  
2 Subsection (i) if:

3 (1) the customer's household income is not more than  
4 125 percent of the federal poverty guidelines;

5 (2) the customer receives benefits under the  
6 supplemental nutrition assistance program established under  
7 Chapter 33, Human Resources Code; or

8 (3) the customer receives medical assistance under the  
9 medical assistance program established under Chapter 32, Human  
10 Resources Code.

11 (1) The eligibility rules must provide that:

12 (1) an electric customer eligible for the reduced  
13 rates determined under Subsection (i) is also eligible for reduced  
14 rates for telecommunications services offered for low-income  
15 customers; and

16 (2) a customer eligible for reduced rates for  
17 telecommunications services offered for low-income customers is  
18 also eligible for the reduced rates determined under Subsection  
19 (i).

20 (m) The commission shall adopt rules providing for methods  
21 of enrolling customers eligible to receive the reduced rates  
22 determined under Subsection (i). The rules must provide for  
23 automatic enrollment as one enrollment option. The Health and  
24 Human Services Commission, on request of the commission, shall  
25 assist in the adoption and implementation of these rules. The  
26 commission and the Health and Human Services Commission shall enter  
27 into a memorandum of understanding establishing the respective

1 duties of the agencies in relation to the automatic enrollment.

2 (n) The commission shall adopt rules governing the bill  
3 payment assistance program provided under Subsection (g)(2). The  
4 commission may prescribe the documentation necessary to  
5 demonstrate eligibility for the assistance and may establish  
6 additional eligibility criteria. The Health and Human Services  
7 Commission, on request of the commission, shall assist in the  
8 adoption and implementation of these rules.

9 (o) A retail electric provider is prohibited from charging  
10 the customer a fee for participation in the reduced rate program.

11 (p) Notwithstanding Subsections (d), (e), (f), and (i), the  
12 low-income electric customers program fund fee may not be imposed  
13 after August 31, 2027. After that date, the commission and the  
14 administrator shall undertake to continue the low-income electric  
15 customers programs described by this section until the balance of  
16 the fund is exhausted.

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

19 (f) Each [~~Unless funding is provided under Section 39.903,~~  
20 ~~each~~] unbundled transmission and distribution utility shall  
21 include in its energy efficiency plan a [~~targeted~~] low-income  
22 energy efficiency program and a weatherization program as described  
23 by Section 39.9035(g) [~~39.903(f)(2)~~], and the savings achieved by  
24 the program shall count toward the transmission and distribution  
25 utility's energy efficiency goal. The commission shall determine  
26 the appropriate level of funding to be allocated to both the  
27 required weatherization programs [~~targeted~~] and standard offer

1 low-income energy efficiency programs in each unbundled  
2 transmission and distribution utility service area. The level of  
3 funding for the required weatherization programs and low-income  
4 energy efficiency programs shall be provided from money approved by  
5 the commission for the transmission and distribution utility's  
6 energy efficiency programs. The commission shall ensure that  
7 annual expenditures for the required weatherization programs and  
8 ~~[targeted]~~ low-income energy efficiency programs of each unbundled  
9 transmission and distribution utility are not less than 10 percent  
10 of the transmission and distribution utility's energy efficiency  
11 budget for the year. A required weatherization program or a  
12 ~~[targeted]~~ low-income energy efficiency program must comply with  
13 the same audit requirements that apply to federal weatherization  
14 subrecipients. In an energy efficiency cost recovery factor  
15 proceeding related to expenditures under this subsection, the  
16 commission shall make findings of fact regarding whether the  
17 utility meets requirements imposed under this subsection. The  
18 state agency that administers the federal weatherization  
19 assistance program shall participate in energy efficiency cost  
20 recovery factor proceedings related to expenditures under this  
21 subsection to ensure that the required weatherization programs and  
22 ~~[targeted]~~ low-income weatherization programs are consistent with  
23 federal weatherization programs and adequately funded.

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

26 (a) Notwithstanding any other provision of law, except  
27 Sections 39.155, 39.157(e), 39.203, 39.903, 39.9035, and 39.904,



1 this chapter governs the transition to and the establishment of a  
2 fully competitive electric power industry for municipally owned  
3 utilities. With respect to the regulation of municipally owned  
4 utilities, this chapter controls over any other provision of this  
5 title, except for sections in which the term "municipally owned  
6 utility" is specifically used.

7 SECTION 6. Section 40.004, Utilities Code, is amended to  
8 read as follows:

9 Sec. 40.004. JURISDICTION OF COMMISSION. Except as  
10 specifically otherwise provided in this chapter, the commission has  
11 jurisdiction over municipally owned utilities only for the  
12 following purposes:

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

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

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

20 (4) to establish a code of conduct as provided by  
21 Section 39.157(e) applicable to anticompetitive activities and to  
22 affiliate activities limited to structurally unbundled affiliates  
23 of municipally owned utilities, subject to Section 40.054;

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

27 (6) to require collection of the nonbypassable fees

1 [~~fee~~] established under Section 39.903(b) and Section 39.9035(e);

2 (7) [~~and~~] to administer the renewable energy credits  
3 program under Section 39.904(b) and the natural gas energy credits  
4 program under Section 39.9044(b); and

5 (8) [~~(7)~~] to require reports of municipally owned  
6 utility operations only to the extent necessary to:

7 (A) enable the commission to determine the  
8 aggregate load and energy requirements of the state and the  
9 resources available to serve that load; or

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

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

14 Sec. 41.001. APPLICABLE LAW. Notwithstanding any other  
15 provision of law, except Sections 39.155, 39.157(e), 39.203,  
16 39.903, 39.9035, and 39.904, this chapter governs the transition to  
17 and the establishment of a fully competitive electric power  
18 industry for electric cooperatives. Regarding the regulation of  
19 electric cooperatives, this chapter shall control over any other  
20 provision of this title, except for sections in which the term  
21 "electric cooperative" is specifically used.

22 SECTION 8. The Public Utility Commission of Texas shall  
23 adopt or revise, as necessary to implement this Act, rules  
24 governing the low-income electric customers program fund under  
25 Section 39.9035, Utilities Code, as added by this Act, not later  
26 than January 1, 2018.

27 SECTION 9. This Act takes effect September 1, 2017.