

By: Buckingham

S.B. No. 1098

A BILL TO BE ENTITLED

AN ACT

relating to rates for electricity charged by certain municipally owned utilities and to the use of revenue from the rates.

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

SECTION 1. Subchapter B, Chapter 40, Utilities Code, is amended by adding Section 40.0521 to read as follows:

Sec. 40.0521. RATES OF AND USE OF REVENUE BY CERTAIN UTILITIES NOT OFFERING CUSTOMER CHOICE. (a) This section applies only to a municipally owned utility that provides service in the Capitol complex, as defined by Section 443.0071, Government Code.

(b) This section does not require a municipally owned utility to implement or opt for customer choice.

(c) In the case of a conflict between this section and another provision of law, this section prevails.

(d) A municipally owned utility may not directly or indirectly subsidize wholesale competitive activities through rates charged for the provision of retail electric service that include fixed or variable costs reasonably attributable to the operation and maintenance of municipally owned utility assets that generate energy for sale at wholesale.

(e) The commission by rule shall require a municipally owned utility to submit to the commission information to allow the commission to determine whether the municipally owned utility is complying with the requirements of Subsection (d). The commission

1 shall notify the municipal governing body or body vested with the
2 power to manage and operate a municipally owned utility if the
3 commission determines that the municipally owned utility is not
4 complying with the requirements of Subsection (d).

5 (f) A municipal governing body or a body vested with the
6 power to manage and operate a municipally owned utility that
7 receives notice from the commission under Subsection (e):

8 (1) shall require the municipally owned utility to
9 comply with Subsection (d); and

10 (2) may, in a manner consistent with Section
11 40.055(a)(4), reasonably determine the amount of the municipally
12 owned utility's stranded investment and calculate and establish for
13 the municipally owned utility a non-bypassable charge reflecting
14 stranded costs properly attributable to the municipally owned
15 utility's retail electric service customers.

16 (g) The relevant date for identifying stranded investment
17 under Subsection (f) is November 30, 2010, instead of the date
18 specified in Section 40.055(a)(4). The amount and duration of the
19 charge under Subsection (f) must:

20 (1) be calculated in a similar manner to that
21 prescribed by Subchapter F, Chapter 39;

22 (2) include the calculation of nuclear
23 decommissioning costs as allowed by Sections 39.205 and 39.206; and

24 (3) consider the municipally owned utility's capital
25 and debt structure.

26 (h) A person affected by a determination made under this
27 section by a municipal governing body or a body vested with the

1 power to manage and operate a municipally owned utility may appeal
2 the determination to the commission by filing with the commission a
3 petition for review not later than the 30th day after the date of
4 the determination. An appeal under this section is de novo. The
5 commission shall enter a final order:

6 (1) approving the determination of the municipal
7 governing body or the body vested with the power to manage and
8 operate the municipally owned utility; or

9 (2) substituting the commission's own determination.

10 (i) A municipally owned utility may use the net proceeds of
11 its wholesale competitive activities for any purpose deemed
12 appropriate by the municipal governing body or a body vested with
13 the power to manage and operate the municipally owned utility.
14 Those purposes may include utility debt repayment, reduction of
15 purchased power costs, or transfers to the general fund. The
16 municipally owned utility shall:

17 (1) document and book the underlying transactions in
18 auditable form; and

19 (2) on at least an annual basis as part of the
20 budgeting process, disclose to the public the net amount of the
21 proceeds and the intended uses of the proceeds.

22 SECTION 2. A municipally owned utility described by Section
23 40.0521, Utilities Code, as added by this Act, that directly or
24 indirectly subsidizes competitive activities through rates charged
25 for the provision of retail electric service on the effective date
26 of this Act shall comply with Section 40.0521, Utilities Code, as
27 added by this Act, not later than March 1, 2020.

1 SECTION 3. This Act takes effect September 1, 2019.