

1-1 By: Lucio S.B. No. 2195
1-2 (In the Senate - Filed March 8, 2019; March 21, 2019, read
1-3 first time and referred to Committee on Business & Commerce;
1-4 April 16, 2019, reported adversely, with favorable Committee
1-5 Substitute by the following vote: Yeas 9, Nays 0; April 16, 2019,
1-6 sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	X			
1-10	X			
1-11	X			
1-12	X			
1-13	X			
1-14	X			
1-15	X			
1-16	X			
1-17	X			

1-18 COMMITTEE SUBSTITUTE FOR S.B. No. 2195 By: Creighton

1-19 A BILL TO BE ENTITLED
1-20 AN ACT

1-21 relating to metering and billing requirements for certain apartment
1-22 houses, manufactured homes, and recreational vehicles.

1-23 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-24 SECTION 1. Section 39.554(e), Utilities Code, is amended to
1-25 read as follows:

1-26 (e) An electric utility that approves an application of a
1-27 distributed renewable generation owner under Subsection (b) shall
1-28 provide to the owner the metering options described by Section
1-29 39.916(f) and an option to interconnect with the utility through a
1-30 single meter that runs forward and backward if:

1-31 (1) the owner:

1-32 (A) intends to interconnect the distributed
1-33 renewable generation at an apartment house, as defined by Section
1-34 184.001 [~~184.011~~], occupied by low-income elderly tenants that
1-35 qualifies for master metering under Section 184.012(b) and the
1-36 distributed renewable generation is reasonably expected to
1-37 generate not less than 50 percent of the apartment house's annual
1-38 electricity use; or

1-39 (B) has a qualifying facility with a design
1-40 capacity of not more than 50 kilowatts; and

1-41 (2) the distributed renewable generation or
1-42 qualifying facility that is the subject of the application is rated
1-43 to produce an amount of electricity that is less than or equal to:

1-44 (A) the owner's estimated annual kilowatt hour
1-45 consumption for a new apartment house or qualifying facility; or

1-46 (B) the amount of electricity the owner consumed
1-47 in the year before installation of the distributed renewable
1-48 generation or qualifying facility.

1-49 SECTION 2. Section 184.001, Utilities Code, is amended to
1-50 read as follows:

1-51 Sec. 184.001. DEFINITIONS [~~DEFINITION~~]. In this chapter:

1-52 (1) "Apartment house" means one or more buildings
1-53 containing more than five dwelling units each of which is rented
1-54 primarily for nontransient use with rent paid at intervals of one
1-55 week or longer. The term includes a rented or owner-occupied
1-56 residential condominium.

1-57 (2) "Apartment house owner" means:

1-58 (A) the legal titleholder of an apartment house;

1-59 or

1-60 (B) an individual, firm, or corporation that

2-1 purports to be the landlord of a tenant of an apartment house.
2-2 (3) "Commission" [~~,"commission"~~] means the Public
2-3 Utility Commission of Texas.

2-4 (4) "Dwelling unit" means one or more rooms that are
2-5 suitable for occupancy as a residence and that contain kitchen and
2-6 bathroom facilities. The term includes a manufactured home. The
2-7 term does not include a recreational vehicle.

2-8 (5) "Electricity supplier" means an electric utility,
2-9 a retail electric provider, a municipally owned utility, as defined
2-10 by Section 11.003, or an electric cooperative, as defined by
2-11 Section 11.003, from which an apartment owner, manufactured
2-12 community owner, or recreational vehicle park owner purchases
2-13 electric energy.

2-14 (6) "Electric utility" has the meaning assigned by
2-15 Section 31.002.

2-16 (7) "Manufactured home" or "manufactured housing" has
2-17 the meaning assigned in Section 1201.003, Occupations Code.

2-18 (8) "Manufactured housing community" has the meaning
2-19 assigned to "manufactured home community" by Section 94.001,
2-20 Property Code.

2-21 (9) "Recreational vehicle" has the meaning assigned by
2-22 Section 522.004, Transportation Code.

2-23 (10) "Recreational vehicle park" has the meaning
2-24 assigned by Section 13.087, Water Code.

2-25 (11) "Retail electric provider" has the meaning
2-26 assigned by Section 31.002.

2-27 (12) "Separately metered" has the meaning assigned by
2-28 Section 31.002.

2-29 (13) "Utility company" means an electric utility or a
2-30 transmission and distribution utility, as defined by Section
2-31 31.002.

2-32 SECTION 3. Subchapter A, Chapter 184, Utilities Code, is
2-33 amended by adding Section 184.002 to read as follows:

2-34 Sec. 184.002. ELECTRICITY SUPPLIER; APPLICABILITY OF TITLE
2-35 2. Notwithstanding Title 2, a person that is not regulated by the
2-36 commission under that title as an electric utility or a retail
2-37 electric provider for another activity may not be considered to be
2-38 an electric utility or a retail electric provider solely because
2-39 the person provides electric service in accordance with this
2-40 chapter and commission rules adopted under this chapter.

2-41 SECTION 4. The heading to Subchapter B, Chapter 184,
2-42 Utilities Code, is amended to read as follows:

2-43 SUBCHAPTER B. METERING IN APARTMENTS, CONDOMINIUMS, AND
2-44 MANUFACTURED HOUSING COMMUNITIES [~~MOBILE HOME PARKS~~]

2-45 SECTION 5. Section 184.012(a), Utilities Code, is amended
2-46 to read as follows:

2-47 (a) A political subdivision may not authorize the
2-48 construction or occupancy of a new apartment house, including the
2-49 conversion of property to a condominium, unless the construction
2-50 plan provides for the measurement of the quantity of electricity
2-51 consumed by the occupants of each dwelling unit of the apartment
2-52 house, either by separate [~~individual~~] metering by the utility
2-53 company or by submetering by the owner.

2-54 SECTION 6. Sections 184.013(a) and (c), Utilities Code, are
2-55 amended to read as follows:

2-56 (a) The owner of an apartment house or manufactured housing
2-57 community [~~mobile home park~~] may submeter each dwelling unit in the
2-58 apartment house or manufactured housing community that is not
2-59 separately metered [~~mobile home park~~] to measure the quantity of
2-60 electricity consumed by the occupants of the dwelling unit.

2-61 (c) If, not more than 90 days before the date an owner,
2-62 operator, or manager of an apartment house or manufactured housing
2-63 community installs individual meters or submeters in the apartment
2-64 house or manufactured housing community, the owner, operator, or
2-65 manager increases rental rates and the increase in rental rates is
2-66 attributable to the increased cost of utilities, the owner,
2-67 operator, or manager, on installation of the meters or submeters,
2-68 shall:

2-69 (1) immediately reduce the rental rate by the amount

3-1 of the increase attributable to the increased cost of utilities;
3-2 and

3-3 (2) refund the amount of the increased rent:

3-4 (A) collected in the 90-day period preceding the
3-5 installation of the meters or submeters; and

3-6 (B) attributable to the cost of increased
3-7 utilities.

3-8 SECTION 7. Sections 184.014(a) and (b), Utilities Code, are
3-9 amended to read as follows:

3-10 (a) The commission shall adopt rules under which an owner,
3-11 operator, or manager of an apartment house or manufactured housing
3-12 community [~~mobile home park~~] for which electricity is not
3-13 separately [~~individually~~] metered may install submetering
3-14 equipment to allocate fairly the cost of the electrical consumption
3-15 of each dwelling unit in the apartment house or manufactured
3-16 housing community [~~mobile home park~~].

3-17 (b) In addition to other appropriate safeguards for a tenant
3-18 of an apartment house or manufactured housing community [~~mobile~~
3-19 ~~home park~~], a rule adopted under Subsection (a) must provide that:

3-20 (1) the apartment house owner or a manufactured
3-21 housing community [~~mobile home park~~] owner may not charge a tenant
3-22 more than the cost per kilowatt hour charged by the utility to the
3-23 owner; and

3-24 (2) the apartment house owner shall maintain adequate
3-25 records relating to submetering and make those records available
3-26 for inspection by the tenant during reasonable business hours.

3-27 SECTION 8. Sections 184.033, 184.034, 184.035, and 184.036,
3-28 Utilities Code, are amended to read as follows:

3-29 Sec. 184.033. METERED SALE UNDER THIS CHAPTER.
3-30 Notwithstanding any provision of Title 2, the metered sale of
3-31 electricity by a recreational vehicle park owner does not
3-32 constitute the provision of electric service for compensation if:

3-33 (1) the electricity is consumed in a recreational
3-34 vehicle that is located in a recreational vehicle park;

3-35 (2) the owner can show that the owner does not annually
3-36 recover from recreational vehicle occupants through metered
3-37 charges more than the electricity supplier [~~supplying utility~~]
3-38 charges the owner for electricity that is submetered, taking into
3-39 account fuel refunds;

3-40 (3) the owner establishes a fiscal year for the
3-41 purposes of this subchapter and maintains for at least three years
3-42 records of:

3-43 (A) bills received from the electricity supplier
3-44 [~~supplying utility~~];

3-45 (B) charges made to recreational vehicle
3-46 occupants; and

3-47 (C) consumption records for each fiscal year;

3-48 (4) the owner charges for electricity using a fixed
3-49 rate per kilowatt hour for each fiscal year computed at the
3-50 beginning of the fiscal year in the manner provided by Section
3-51 184.034; and

3-52 (5) the owner complies with the refund requirements of
3-53 Section 184.035.

3-54 Sec. 184.034. COMPUTATION OF CHARGES. (a) For the
3-55 purposes of computing the charge for electricity under Section
3-56 184.033(4), the recreational vehicle park owner shall divide the
3-57 amount charged the owner by the electricity supplier [~~supplying~~
3-58 ~~utility~~] for the preceding fiscal year by the total number of
3-59 kilowatt hours consumed by occupants visiting the park in the
3-60 preceding fiscal year and round the quotient to the nearest cent.

3-61 (b) If since or during the preceding fiscal year the rates
3-62 the owner pays its electricity supplier have increased [~~supplying~~
3-63 ~~utility increases its rates~~], the owner may recompute the preceding
3-64 fiscal year's charges [~~by the utility~~] using the current rates
3-65 [~~charged by the utility~~].

3-66 (c) If since or during the preceding fiscal year the rates
3-67 the owner pays its electricity supplier have decreased [~~supplying~~
3-68 ~~utility decreases its rates~~], the owner shall recompute the
3-69 preceding fiscal year's charges [~~by the utility~~] using the current

4-1 rates [~~charged by the utility~~].

4-2 (d) An owner may not:

4-3 (1) include a charge by the electricity supplier
 4-4 [~~supplying utility~~] for electricity used in a common area or office
 4-5 of the recreational vehicle park in computing the amounts under
 4-6 Subsection (b) or (c); or

4-7 (2) recover that charge through a metered charge to a
 4-8 recreational vehicle occupant.

4-9 Sec. 184.035. REFUND OF SURCHARGES. A recreational vehicle
 4-10 park owner who determines at the end of a fiscal year that the owner
 4-11 has collected more than the amount charged by the electricity
 4-12 supplier [~~supplying utility~~] shall refund the excess amount to
 4-13 occupants visiting the park in the succeeding fiscal year.

4-14 Sec. 184.036. UTILITY CUTOFF AT RECREATIONAL VEHICLE PARK.
 4-15 Notwithstanding any other law, a person who operates a recreational
 4-16 vehicle park[, ~~as defined by Section 13.087, Water Code,~~] may
 4-17 withhold electric, water, or wastewater utility services from a
 4-18 person occupying a recreational vehicle at the park if the occupant
 4-19 is delinquent in paying for utility services provided by the
 4-20 operator until the occupant pays the delinquent amount.

4-21 SECTION 9. Chapter 184, Utilities Code, is amended by
 4-22 adding Subchapter C-1 to read as follows:

4-23 SUBCHAPTER C-1. MIXED USE FACILITIES

4-24 Sec. 184.0401. APPLICABILITY. This subchapter applies to
 4-25 dwelling units and recreational vehicles that:

- 4-26 (1) are not separately metered; and
- 4-27 (2) are located on a property that includes at least
 4-28 two of the following types of housing:

- 4-29 (A) apartment houses;
- 4-30 (B) manufactured homes; and
- 4-31 (C) recreational vehicles.

4-32 Sec. 184.0402. METERING AND BILLING REQUIREMENTS. (a) A
 4-33 submetered dwelling unit is subject to the metering and billing
 4-34 requirements applicable to a dwelling unit under Subchapter B.

4-35 (b) Except as provided by Subsection (c), a submetered
 4-36 recreational vehicle is subject to the metering and billing
 4-37 requirements applicable to a recreational vehicle under Subchapter
 4-38 C.

4-39 (c) The owner of a property that includes at least one
 4-40 submetered recreational vehicle and at least one submetered
 4-41 manufactured home may choose to apply the metering and billing
 4-42 requirements applicable to a dwelling unit under Subchapter B to
 4-43 manufactured homes and recreational vehicles on the property.

4-44 (d) A dwelling unit or recreational vehicle that is not
 4-45 submetered is subject to the billing requirements of Subchapter D.

4-46 Sec. 184.0403. RULES. The commission shall adopt rules
 4-47 under which an owner of a property described by Section 184.0401(2)
 4-48 may install submetering equipment to fairly allocate the cost of
 4-49 electric energy consumption of each dwelling unit or recreational
 4-50 vehicle.

4-51 SECTION 10. Section 184.051(8), Utilities Code, is amended
 4-52 to read as follows:

4-53 (8) "Utility" means an electric [~~a public, private, or~~
 4-54 ~~member-owned~~] utility, a retail electric provider, an electric
 4-55 cooperative, or a municipally owned utility that provides
 4-56 electricity, water, or wastewater service to an apartment house
 4-57 served by a master meter.

4-58 SECTION 11. Section 184.071(a), Utilities Code, is amended
 4-59 to read as follows:

4-60 (a) A landlord who violates a commission rule relating to
 4-61 submetering of electric utilities consumed exclusively in a
 4-62 tenant's dwelling unit or a rule relating to the allocation of
 4-63 central system utility costs or nonsubmetered master metered
 4-64 electricity [~~electric utility~~] costs is liable to the tenant for:

- 4-65 (1) three times the amount of any overcharge;
- 4-66 (2) a civil penalty equal to one month's rent;
- 4-67 (3) reasonable attorney's fees; and
- 4-68 (4) court costs.

4-69 SECTION 12. The following provisions of the Utilities Code

5-1 are repealed:

5-2 (1) Section [184.011](#);

5-3 (2) Section [184.031](#); and

5-4 (3) Sections [184.051](#)(1), (2), and (5).

5-5 SECTION 13. This Act takes effect September 1, 2019.

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