

Amend CSSB 3 (house committee printing) by adding the following SECTIONS to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. It is the intent of the legislature in enacting Section 35.037, Utilities Code, to allow grocers the ability to deploy back-up generation in the ERCOT power region in areas that have not implemented retail customer choice.

SECTION _____. Subchapter B, Chapter 35, Utilities Code, is amended by adding Section 35.037 to read as follows:

Sec. 35.037. INTERCONNECTION AND OPERATION OF CERTAIN DISTRIBUTED GENERATION FACILITIES FOR FOOD SUPPLY CHAIN. (a) In this section:

(1) "Customer" means a retail electric customer:

(A) with a distributed generation facility installed on the retail electric customer's side of the meter; and

(B) that has a primary purpose of or derives a material source of revenue from:

(i) retail grocery sales; or

(ii) food manufacturing or distribution for retail grocery sales.

(2) "Distributed generation facility" means a facility installed on the customer's side of the meter but separately metered from the customer:

(A) with a nameplate capacity of at least 250 kilowatts and not more than 10 megawatts;

(B) that is capable of generating and providing backup or supplementary power to the customer's premises; and

(C) that is owned or operated by a person registered as a power generation company in accordance with Section 39.351.

(b) This section only applies in the ERCOT power region in areas where retail customer choice has not been implemented.

(c) A person who owns or operates a distributed generation facility served by a municipally owned utility or electric cooperative in the ERCOT power region may sell electric power generated by the distributed generation facility at wholesale, including the provision of ancillary services, subject to the

limitations of this section.

(d) A person who owns or operates a distributed generation facility may sell electric power generated by the distributed generation facility at wholesale to a municipally owned utility or electric cooperative certificated for retail service to the area where the distributed generation facility is located or to a related generation and transmission electric cooperative. The municipally owned utility or electric cooperative shall purchase at wholesale the quantity of electric power generated by the distributed generation facility needed to satisfy the full electric requirements of the customer on whose side of the meter the distributed generation facility is installed and operated at a wholesale price agreed to by the customer and shall resell that quantity of power at retail to the customer at the rate applicable to the customer for retail service, which must at minimum include all amounts paid for the wholesale electric power, during:

(1) an emergency declared by the independent organization certified under Section 39.151 for the ERCOT power region that creates the potential for interruption of service to the customer;

(2) any service interruption at the customer's premises;

(3) construction on the customer's premises that creates the potential for interruption of service to the customer;

(4) maintenance and testing of the distributed generation facility; and

(5) additional times mutually agreed on by the owner or operator of the distributed generation facility and the municipally owned utility or electric cooperative.

(e) The customer shall provide written notice as soon as reasonably practicable to the municipally owned utility or electric cooperative of a circumstance described by Subsection (d)(3) or (4).

(f) In addition to a sale authorized under Subsection (d), on request by an owner or operator of a distributed generation facility, the municipally owned utility or electric cooperative shall provide wholesale transmission service to the distributed

generation facility owner in the same manner as to other power generation companies for the sale of power from the distributed generation facility at wholesale, including for the provision of ancillary services, in the ERCOT market. The distributed generation facility owner shall comply with all applicable commission rules and protocols and with governing documents of the independent organization certified under Section 39.151 for the ERCOT power region. This section does not require a municipally owned utility or electric cooperative to transmit electricity to a retail point of delivery in the certificated service area of the municipally owned utility or electric cooperative.

(g) In addition to a sale authorized under Subsection (d) or (f), a municipally owned utility or electric cooperative or related generation and transmission electric cooperative may purchase electric power provided by the owner or operator of the distributed generation facility at wholesale at a mutually agreed on price. The price may be based wholly or partly on the ERCOT market clearing price of energy at the time of day and at the location at which the electric power is made available.

(h) A municipally owned utility or electric cooperative shall make available a standard interconnection application and agreement for distributed generation facilities that is substantially similar to the commission's interconnection agreement form and consistent with this section to facilitate the connection of distributed generation facilities. A municipally owned utility or electric cooperative shall allow interconnection of a distributed generation facility and provide to a distributed generation facility on a nondiscriminatory basis wholesale transmission service, including at distribution voltage, in the same manner as for other power generation companies to transmit to the ERCOT power grid the electric power generated by the distributed generation facility. A municipally owned utility or electric cooperative may recover from the owner or operator of the distributed generation facility all reasonable costs necessary for and directly attributable to the interconnection of the facility, including the reasonable costs of necessary system upgrades and improvements directly attributable to the distributed generation

facility.

(i) Not later than the 30th day after the date a complete application for interconnection of a distributed generation facility is received, the municipally owned utility or electric cooperative shall provide the applicant with a written good faith cost estimate for interconnection-related costs. The municipally owned utility or electric cooperative may not incur any interconnection-related costs without entering into a written agreement for the payment of those costs by the applicant.

(j) The process to interconnect a distributed generation facility must be completed not later than the 240th day after the date the municipally owned utility or electric cooperative receives payment of all estimated costs to complete the interconnection, except that:

(1) the period may be extended by written agreement between the parties; or

(2) the period may be extended after a good faith showing by the municipally owned utility or electric cooperative that the interconnection requires improvements, upgrades, or construction of new facilities that cannot reasonably be completed within that period, in which case the period may be extended for a time not to exceed the time necessary for the improvements, upgrades, or construction of new facilities to be completed.

(k) A municipally owned utility or electric cooperative shall charge the owner or operator of a distributed generation facility rates on a reasonable and nondiscriminatory basis for providing wholesale transmission service to the distributed generation facility owner in the same manner as for other power generation companies to transmit to the ERCOT power grid the electric power generated by the distributed generation facility in accordance with a tariff filed by the municipally owned utility or electric cooperative with the commission.

(l) The owner or operator of the distributed generation facility shall contract with the municipally owned utility or electric cooperative or the municipally owned utility's or electric cooperative's designee for any scheduling, settlement, communication, telemetry, or other services required to

participate in the ERCOT wholesale market, but only to the extent that the utility, cooperative, or designee offers the services on a nondiscriminatory basis and at a commercially reasonable cost. If the municipally owned utility or electric cooperative or the municipally owned utility's or electric cooperative's designee does not offer or declines to offer the services, or fails to do so on a nondiscriminatory basis and at a commercially reasonable cost as determined by quotes from at least three third parties providing the same services, the owner or operator of the distributed generation facility may contract with a third party provider to obtain the services.

(m) A distributed generation facility must comply with emissions limitations established by the Texas Commission on Environmental Quality for a standard emissions permit for an electric generation facility unit installed after January 1, 1995.

(n) A municipally owned utility or electric cooperative is not required to interconnect a distributed generation facility under this section if, on the date the utility or cooperative receives an application for interconnection of the facility, the municipally owned utility or electric cooperative has interconnected distributed generation facilities with an aggregate capacity that equals the lesser amount of:

(1) 5 percent of the municipally owned utility's or electric cooperative's average of the 15-minute summer peak load coincident with the independent system operator's 15-minute summer peak load in each of the months of June, July, August, and September; or

(2) 300 megawatts, adjusted annually by the percentage of total system load growth in the ERCOT power region beginning in 2022.

(o) A municipally owned utility or electric cooperative that, on the date the utility or cooperative receives an application for interconnection of a distributed generation facility, has interconnected distributed generation facilities with an aggregate capacity less than the threshold described by Subsection (n) is required to increase that capacity only up to that threshold.

(p) This section is not intended to change registration standards or other qualifications required by the independent organization certified under Section 39.151 for the ERCOT power region related to the participation of distributed generation facilities in the wholesale market. This section is not intended to allow distributed generation facilities to participate in a manner that is not technically feasible or that is otherwise in conflict with wholesale rules and requirements adopted by the independent organization certified under Section 39.151 for the ERCOT power region.