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By:  Craddick H.B. No. 1572

A BILL TO BE ENTITLED

AN ACT

Relating to electric service equipment

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

SECTION 1.  Section 17.002, Utilities Code, is amended to read as follows:

Sec. 17.002.  DEFINITIONS. In this chapter:

(1)  "Billing agent" means any entity that submits charges to the billing utility on behalf of itself or any provider of a product or service.

(2)  "Billing utility" means any telecommunications provider, as defined by Section 51.002, retail electric provider, or electric utility that issues a bill directly to a customer for any telecommunications or electric product or service.

(3)  "Certificated telecommunications utility" means a telecommunications utility that has been granted either a certificate of convenience and necessity, a certificate of operating authority, or a service provider certificate of operating authority.

(4)  "Customer" means any person in whose name telephone or retail electric service is billed, including individuals, governmental units at all levels of government, corporate entities, and any other entity with legal capacity to be billed for telephone or retail electric service.

(5)  "Electric utility" has the meaning assigned by Section 31.002.

(6)  "Retail electric provider" means a person that sells electric energy to retail customers in this state after the legislature authorizes a customer to receive retail electric service from a person other than a certificated retail electric utility. A person engaged in a business whereby under contract it either (a) rents electric service equipment to a third-party or (b) operates its own electric service equipment on behalf of a third-party, in either instance for a fixed fee or based on use or consumption, if the energy produced by that electric service equipment is entirely consumed by the third-party under contract and not resold is not a retail electric provider.

SECTION 2.  Section 31.002, Utilities Code, is amended as follows:

Sec. 31.002.  DEFINITIONS. In this subtitle:

(1)  "Affiliated power generation company" means a power generation company that is affiliated with or the successor in interest of an electric utility certificated to serve an area.

(2)  "Affiliated retail electric provider" means a retail electric provider that is affiliated with or the successor in interest of an electric utility certificated to serve an area.

(3)  "Aggregation" includes the following:

(A)  the purchase of electricity from a retail electric provider, a municipally owned utility, or an electric cooperative by an electricity customer for its own use in multiple locations, provided that an electricity customer may not avoid any nonbypassable charges or fees as a result of aggregating its load; or

(B)  the purchase of electricity by an electricity customer as part of a voluntary association of electricity customers, provided that an electricity customer may not avoid any nonbypassable charges or fees as a result of aggregating its load.

(4)  "Customer choice" means the freedom of a retail customer to purchase electric services, either individually or through voluntary aggregation with other retail customers, from the provider or providers of the customer's choice and to choose among various fuel types, energy efficiency programs, and renewable power suppliers.

(4-a)  "Distributed natural gas generation facility" means a facility installed on the customer's side of the meter that uses natural gas to generate not more than 2,000 kilowatts of electricity.

(5)  "Electric Reliability Council of Texas" or "ERCOT" means the area in Texas served by electric utilities, municipally owned utilities, and electric cooperatives that is not synchronously interconnected with electric utilities outside the state.

(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;

(I)  this state or an agency of this state; or

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

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

(ii)  owns or operates in this state equipment or facilities to produce, generate, transmit, distribute, sell, or furnish electric energy to an electric utility, if the equipment or facilities are used primarily to produce and generate electric energy for consumption by that person; [~~or~~]

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

(iv)  is engaged in a business whereby under contract it either (a) rents electric service equipment to a third-party or (b) operates its own electric service equipment on behalf of a third-party, in either instance for a fixed fee or based on use or consumption, if the energy produced by that electric service equipment is entirely consumed by the third-party under contract and not resold. An entity that meets these requirements shall not be classified as a retail electric provider solely for providing said service or because of how fees or payments are calculated and billed.

(7)  "Exempt wholesale generator" means a person who is engaged directly or indirectly through one or more affiliates exclusively in the business of owning or operating all or part of a facility for generating electric energy and selling electric energy at wholesale and who:

(A)  does not own a facility for the transmission of electricity, other than an essential interconnecting transmission facility necessary to effect a sale of electric energy at wholesale; and

(B)  has:

(i)  applied to the Federal Energy Regulatory Commission for a determination under 15 U.S.C. Section 79z-5a; or

(ii)  registered as an exempt wholesale generator as required by Section 35.032.

(8)  "Freeze period" means the period beginning on January 1, 1999, and ending on December 31, 2001.

(9)  "Independent system operator" means an entity supervising the collective transmission facilities of a power region that is charged with nondiscriminatory coordination of market transactions, systemwide transmission planning, and network reliability.

(10)  "Power generation company" means a person, including a person who owns or operates a distributed natural gas generation facility, that:

(A)  generates electricity that is intended to be sold at wholesale, including the owner or operator of electric energy storage equipment or facilities to which Subchapter E, Chapter 35, applies;

(B)  does not own a transmission or distribution facility in this state other than an essential interconnecting facility, a facility not dedicated to public use, or a facility otherwise excluded from the definition of "electric utility" under this section; and

(C)  does not have a certificated service area, although its affiliated electric utility or transmission and distribution utility may have a certificated service area.

(11)  "Power marketer" means a person who:

(A)  becomes an owner of electric energy in this state for the purpose of selling the electric energy at wholesale;

(B)  does not own generation, transmission, or distribution facilities in this state;

(C)  does not have a certificated service area; and

(D)  has:

(i)  been granted authority by the Federal Energy Regulatory Commission to sell electric energy at market-based rates; or

(ii)  registered as a power marketer under Section 35.032.

(12)  "Power region" means a contiguous geographical area which is a distinct region of the North American Electric Reliability Council.

(13)  "Qualifying cogenerator" and "qualifying small power producer" have the meanings assigned those terms by 16 U.S.C. Sections 796(18)(C) and 796(17)(D). A qualifying cogenerator that provides electricity to a purchaser of the cogenerator's thermal output is not for that reason considered to be a retail electric provider or a power generation company.

(14)  "Qualifying facility" means a qualifying cogenerator or qualifying small power producer.

(15)  "Rate" includes a compensation, tariff, charge, fare, toll, rental, or classification that is directly or indirectly demanded, observed, charged, or collected by an electric utility for a service, product, or commodity described in the definition of electric utility in this section and a rule, practice, or contract affecting the compensation, tariff, charge, fare, toll, rental, or classification that must be approved by a regulatory authority.

(16)  "Retail customer" means the separately metered end-use customer who purchases and ultimately consumes electricity.

(17)  "Retail electric provider" means a person that sells electric energy to retail customers in this state. A retail electric provider may not own or operate generation assets. A person engaged in a business whereby under contract it either (a) rents electric service equipment to a third-party or (b) operates its own electric service equipment on behalf of a third-party, in either instance for a fixed fee or based on use or consumption, if the energy produced by that electric service equipment is entirely consumed by the third-party under contract and not resold is not a retail electric provider.

(18)  "Separately metered" means metered by an individual meter that is used to measure electric energy consumption by a retail customer and for which the customer is directly billed by a utility, retail electric provider, electric cooperative, or municipally owned utility.

(19)  "Transmission and distribution utility" means a person or river authority that owns or operates for compensation in this state equipment or facilities to transmit or distribute electricity, except for facilities necessary to interconnect a generation facility with the transmission or distribution network, a facility not dedicated to public use, or a facility otherwise excluded from the definition of "electric utility" under this section, in a qualifying power region certified under Section 39.152, but does not include a municipally owned utility or an electric cooperative.

(20)  "Transmission service" includes construction or enlargement of facilities, transmission over distribution facilities, control area services, scheduling resources, regulation services, reactive power support, voltage control, provision of operating reserves, and any other associated electrical service the commission determines appropriate, except that, on and after the implementation of customer choice, control area services, scheduling resources, regulation services, provision of operating reserves, and reactive power support, voltage control, and other services provided by generation resources are not "transmission service."

SECTION 3.  This Act takes effect September 1, 2021.