87R12015 BRG-D

By:  J. Johnson of Harris H.B. No. 3076

A BILL TO BE ENTITLED

AN ACT

relating to establishing the system benefit account and programs for providing assistance to certain low-income, ill, and disabled electric customers.

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

SECTION 1.  Section 403.0956, Government Code, is amended to read as follows:

Sec. 403.0956.  REALLOCATION OF INTEREST ACCRUED ON CERTAIN DEDICATED REVENUE.  Notwithstanding any other law, all interest or other earnings that accrue on all revenue held in an account in the general revenue fund any part of which Section 403.095 makes available for certification under Section 403.121 are available for any general governmental purpose, and the comptroller shall deposit the interest and earnings to the credit of the general revenue fund.  This section does not apply to:

(1)  interest or earnings on revenue deposited in accordance with Section 51.008, Education Code;

(2)  an account that accrues interest or other earnings on deposits of state or federal money the diversion of which is specifically excluded by federal law;

(3)  the lifetime license endowment account;

(4)  the game, fish, and water safety account;

(5)  the coastal protection account;

(6)  the Alamo complex account; [~~or~~]

(7)  the artificial reef account; or

(8)  the system benefit account.

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

Sec. 39.002.  APPLICABILITY. This chapter, other than Sections 39.1516, 39.155, 39.157(e), 39.203, 39.903, 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.  Section 39.352(g), Utilities Code, is amended to read as follows:

(g)  If a retail electric provider serves an aggregate load in excess of 300 megawatts within this state, not less than five percent of the load in megawatt hours must consist of residential customers. This requirement applies to an affiliated retail electric provider only with respect to load served outside of the electric utility's service area, and, in relation to that load, the affiliated retail electric provider shall meet the requirements of this subsection by serving residential customers outside of the electric utility's service area. For the purpose of this subsection, the load served by retail electric providers that are under common ownership shall be combined. A retail electric provider may meet the requirements of this subsection by demonstrating on an annual basis that it serves residential load amounting to five percent of its total load, [~~or~~] by demonstrating that another retail electric provider serves sufficient qualifying residential load on its behalf, or by paying an amount into the system benefit account equal to $1 multiplied by a number equal to the difference between the number of megawatt hours it sold to residential customers and the number of megawatt hours it was required to sell to such customers, or in the case of an affiliated retail electric provider, $1 multiplied by a number equal to the difference between the number of megawatt hours sold to residential customers outside of the electric utility's service area and the number of megawatt hours it was required to sell to such customers outside of the electric utility's service area. Qualifying residential load may not include customers served by an affiliated retail electric provider in its own service area. Each retail electric provider shall file reports with the commission that are necessary to implement this subsection. This subsection applies for 36 months after retail competition begins. The commission shall adopt rules to implement this subsection.

SECTION 4.  Subchapter Z, Chapter 39, Utilities Code, is amended by adding Section 39.903 to read as follows:

Sec. 39.903.  SYSTEM BENEFIT ACCOUNT. (a) The system benefit account is an account in the general revenue fund. Money in the account may be appropriated only for the purposes provided by this section. Interest earned on the system benefit account shall be credited to the account. Section 404.071, Government Code, does not apply to the account.

(b)  The system benefit account is financed by a nonbypassable fee set by the commission in an amount not to exceed 65 cents per megawatt hour. The fee is allocated to customers based on the amount of kilowatt hours used.

(c)  The nonbypassable fee may not be imposed on the retail electric customers of a municipally owned utility or electric cooperative before the sixth month preceding the date on which the utility or cooperative implements customer choice. Money distributed from the system benefit account to a municipally owned utility or an electric cooperative shall be proportional to the nonbypassable fee paid by the municipally owned utility or the electric cooperative, subject to the reimbursement provided by Subsection (i). On request by a municipally owned utility or electric cooperative, the commission shall reduce the nonbypassable fee imposed on retail electric customers served by the municipally owned utility or electric cooperative by an amount equal to the amount provided by the municipally owned utility or electric cooperative or its ratepayers for local low-income programs and local programs that educate customers about the retail electric market in a neutral and nonpromotional manner.

(d)  The commission annually shall review and approve the system benefit account, projected revenue requirements, and proposed nonbypassable fees.

(e)  Money in the system benefit account may be appropriated to provide funding only for the following regulatory purposes, in the following order of priority:

(1)  programs to:

(A)  assist low-income electric customers by providing the 10 percent reduced rate prescribed by Subsection (h); and

(B)  provide one-time bill payment assistance to electric customers who are or who have in their households one or more seriously ill or disabled low-income persons and who have been threatened with disconnection for nonpayment;

(2)  customer education programs, administrative expenses incurred by the commission in implementing and administering this chapter, and expenses incurred by the office under this chapter;

(3)  programs to assist low-income electric customers by providing the targeted energy efficiency programs described by Subsection (f)(2);

(4)  programs to assist low-income electric customers by providing the 20 percent reduced rate prescribed by Subsection (h); and

(5)  reimbursement to the commission and the Health and Human Services Commission for expenses incurred in the implementation and administration of an automatic process for identifying low-income customers to retail electric providers created under Section 17.007 for customer service discounts relating to retail electric service, including outreach expenses the commission determines are reasonable and necessary.

(f)  Notwithstanding Section 39.106(b), the commission shall adopt rules regarding programs to assist low-income electric customers on the introduction of customer choice. The programs may not be targeted to areas served by municipally owned utilities or electric cooperatives that have not adopted customer choice. The programs shall include:

(1)  reduced electric rates as provided by Subsections (h)-(l); and

(2)  targeted energy efficiency programs to be administered by the Texas Department of Housing and Community Affairs in coordination with existing weatherization programs.

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

(h)  The commission shall adopt rules for a retail electric provider to determine a reduced rate for eligible customers to be discounted off the standard retail service package as approved by the commission under Section 39.106, or the price to beat established by Section 39.202, whichever is lower. Municipally owned utilities and electric cooperatives shall establish a reduced rate for eligible customers to be discounted off the standard retail service package established under Section 40.053 or 41.053, as appropriate. The reduced rate for a retail electric provider shall result in a total charge that is at least 10 percent lower than the amount the customer would otherwise be charged and, if sufficient money in the system benefit account is available, up to 20 percent lower than that amount. To the extent the system benefit account is insufficient to provide for the initial 10 percent rate reduction, the commission may increase the fee to an amount not more than 65 cents per megawatt hour, as provided by Subsection (b). If the fee is set at 65 cents per megawatt hour or if the commission determines that appropriations are insufficient to provide for the 10 percent rate reduction, the commission may reduce the rate reduction to less than 10 percent. For a municipally owned utility or electric cooperative, the reduced rate must be equal to an amount that can be fully funded by that portion of the nonbypassable fee proceeds paid by the municipally owned utility or electric cooperative that is allocated to the utility or cooperative by the commission under Subsection (e) for programs for low-income customers of the utility or cooperative. The reduced rate for municipally owned utilities and electric cooperatives under this section is in addition to any rate reduction that may result from local programs for low-income customers of the municipally owned utilities or electric cooperatives.

(i)  A retail electric provider, municipally owned utility, or electric cooperative seeking reimbursement from the system benefit account may not charge an eligible low-income customer a rate higher than the appropriate rate determined under Subsection (h). A retail electric provider not subject to the price to beat, or a municipally owned utility or electric cooperative subject to the nonbypassable fee under Subsection (c), shall be reimbursed from the account for the difference between the reduced rate and the rate established under Section 39.106 or, as appropriate, the rate established under Section 40.053 or 41.053. A retail electric provider who is subject to the price to beat shall be reimbursed from the account for the difference between the reduced rate and the price to beat. The commission shall adopt rules providing for the reimbursement.

(j)  The commission shall adopt rules providing for methods of enrolling customers eligible to receive reduced rates under Subsection (h). The rules must provide for automatic enrollment as one enrollment option. The Health and Human Services Commission, on request of the Public Utility Commission of Texas, shall assist in the adoption and implementation of these rules. The Public Utility Commission of Texas and the Health and Human Services Commission shall enter into a memorandum of understanding establishing the respective duties of the Public Utility Commission of Texas and the Health and Human Services Commission in relation to the automatic enrollment.

(j-1)  The commission shall adopt rules governing the bill payment assistance program provided under Subsection (e)(1)(B). The rules must provide that a customer is eligible to receive the assistance only if the assistance is necessary to prevent the disconnection of service for nonpayment of bills and the electric customer is or has in the customer's household one or more seriously ill or disabled low-income persons whose health or safety may be injured by the disconnection. The commission may prescribe the documentation necessary to demonstrate eligibility for the assistance and may establish additional eligibility criteria. The Health and Human Services Commission, on request of the commission, shall assist in the adoption and implementation of these rules.

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

(l)  For the purposes of this section, a "low-income electric customer" is an electric customer:

(1)  whose household income is not more than 125 percent of the federal poverty guidelines; or

(2)  who receives food stamps from the Health and Human Services Commission or medical assistance from a state agency administering a part of the medical assistance program.

SECTION 5.  Section 39.905(f), Utilities Code, is amended to read as follows:

(f)  Unless funding is provided under Section 39.903, each [~~Each~~] unbundled transmission and distribution utility shall include in its energy efficiency plan a targeted low-income energy efficiency program as described by Section 39.903(f)(2), and the savings achieved by the program shall count toward the transmission and distribution utility's energy efficiency goal. The commission shall determine the appropriate level of funding to be allocated to both targeted and standard offer low-income energy efficiency programs in each unbundled transmission and distribution utility service area. The level of funding for low-income energy efficiency programs shall be provided from money approved by the commission for the transmission and distribution utility's energy efficiency programs. The commission shall ensure that annual expenditures for the targeted low-income energy efficiency programs of each unbundled transmission and distribution utility are not less than 10 percent of the transmission and distribution utility's energy efficiency budget for the year. A targeted low-income energy efficiency program must comply with the same audit requirements that apply to federal weatherization subrecipients. In an energy efficiency cost recovery factor proceeding related to expenditures under this subsection, the commission shall make findings of fact regarding whether the utility meets requirements imposed under this subsection. The state agency that administers the federal weatherization assistance program shall participate in energy efficiency cost recovery factor proceedings related to expenditures under this subsection to ensure that targeted low-income weatherization programs are consistent with federal weatherization programs and adequately funded.

SECTION 6.  Section 40.001(a), Utilities Code, is amended to read as follows:

(a)  Notwithstanding any other provision of law, except Sections 39.155, 39.157(e), 39.203, 39.903, and 39.904, this chapter governs the transition to and the establishment of a fully competitive electric power industry for municipally owned utilities. With respect to the regulation of municipally owned utilities, this chapter controls over any other provision of this title, except for sections in which the term "municipally owned utility" is specifically used.

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

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

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

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

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

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

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

(6)  to require collection of the nonbypassable fee established under Section 39.903(b) and to administer the renewable energy credits program under Section 39.904(b) and the natural gas energy credits program under Section 39.9044(b);

(7)  to require reports of municipally owned utility operations only to the extent necessary to:

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

(B)  enable the commission to determine information relating to market power as provided by Section 39.155; and

(8)  to evaluate and monitor the cybersecurity preparedness of a municipally owned utility described by Section 39.1516(a)(3) or (4).

SECTION 8.  Section 41.001, Utilities Code, is amended to read as follows:

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

SECTION 9.  This Act takes effect September 1, 2021.