By:  King of Parker, Hernandez H.B. No. 3615

(Senate Sponsor - Buckingham)

(In the Senate - Received from the House May 10, 2021; May 10, 2021, read first time and referred to Committee on Business & Commerce; May 13, 2021, reported favorably by the following vote: Yeas 8, Nays 0; May 13, 2021, sent to printer.)

COMMITTEE VOTE

                    Yea Nay Absent  PNV

Hancock              X

Nichols              X

Campbell             X

Creighton                      X

Johnson              X

Menéndez             X

Paxton               X

Schwertner           X

Whitmire             X

A BILL TO BE ENTITLED

AN ACT

relating to certain rates charged by and programs offered by municipally owned utilities.

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

SECTION 1.  Section 552.133, Government Code, is amended by amending Subsection (a-1) and adding Subsection (b-1) to read as follows:

(a-1)  For purposes of this section, "competitive matter" means a utility-related matter that is related to the public power utility's competitive activity, including commercial information, and would, if disclosed, give advantage to competitors or prospective competitors. The term:

(1)  means a matter that is reasonably related to the following categories of information:

(A)  generation unit specific and portfolio fixed and variable costs, including forecasts of those costs, capital improvement plans for generation units, and generation unit operating characteristics and outage scheduling;

(B)  bidding and pricing information for purchased power, generation and fuel, and Electric Reliability Council of Texas bids, prices, offers, and related services and strategies;

(C)  effective fuel and purchased power agreements and fuel transportation arrangements and contracts;

(D)  risk management information, contracts, and strategies, including fuel hedging and storage;

(E)  plans, studies, proposals, and analyses for system improvements, additions, or sales, other than transmission and distribution system improvements inside the service area for which the public power utility is the sole certificated retail provider; and

(F)  customer billing, contract, and usage information, electric power pricing information, system load characteristics, and electric power marketing analyses and strategies; and

(2)  does not include the following categories of information:

(A)  information relating to the provision of distribution access service, including the terms and conditions of the service and the rates charged for the service but not including information concerning utility-related services or products that are competitive;

(B)  information relating to the provision of transmission service that is required to be filed with the Public Utility Commission of Texas, subject to any confidentiality provided for under the rules of the commission;

(C)  information for the distribution system pertaining to reliability and continuity of service, to the extent not security-sensitive, that relates to emergency management, identification of critical loads such as hospitals and police, records of interruption, and distribution feeder standards;

(D)  any substantive rule or tariff of general applicability regarding rates, service offerings, service regulation, customer protections, or customer service adopted by the public power utility as authorized by law;

(E)  aggregate information reflecting receipts or expenditures of funds of the public power utility, of the type that would be included in audited financial statements;

(F)  information relating to equal employment opportunities for minority groups, as filed with local, state, or federal agencies;

(G)  information relating to the public power utility's performance in contracting with minority business entities;

(H)  information relating to nuclear decommissioning trust agreements, of the type required to be included in audited financial statements;

(I)  information relating to the amount and timing of any transfer to an owning city's general fund;

(J)  information relating to environmental compliance as required to be filed with any local, state, or national environmental authority, subject to any confidentiality provided under the rules of those authorities;

(K)  names of public officers of the public power utility and the voting records of those officers for all matters other than those within the scope of a competitive resolution provided for by this section;

(L)  a description of the public power utility's central and field organization, including the established places at which the public may obtain information, submit information and requests, or obtain decisions and the identification of employees from whom the public may obtain information, submit information or requests, or obtain decisions;

(M)  information identifying the general course and method by which the public power utility's functions are channeled and determined, including the nature and requirements of all formal and informal policies and procedures;

(N)  salaries and total compensation of all employees of a public power utility; [~~or~~]

(O)  information publicly released by the Electric Reliability Council of Texas in accordance with a law, rule, or protocol generally applicable to similarly situated market participants; or

(P)  information related to a chilled water program, as defined by Section 11.003, Utilities Code.

(b-1)  Notwithstanding any contrary provision of Subsection (b), information or records of a municipally owned utility or municipality that operates a chilled water program are subject to disclosure under this chapter if the information or records are reasonably related to:

(1)  a municipally owned utility's rate review process;

(2)  the method a municipality or municipally owned utility uses to set rates for retail electric service; or

(3)  the method a municipality or municipally owned utility uses to set rates for a chilled water program described by Subsection (a-1)(2)(P).

SECTION 2.  Section 11.003, Utilities Code, is amended by adding Subdivision (3-a) and amending Subdivision (11) to read as follows:

(3-a)  "Chilled water program" means:

(A)  a program to produce chilled water at a central plant and pipe that water to buildings for air conditioning, including a district cooling system or chilled water service; or

(B)  any other program designed to used chilled water to provide air conditioning, reduce peak electric demand, or shift electric load.

(11)  "Municipally owned utility" means a utility owned, operated, and controlled by a municipality or by a nonprofit corporation the directors of which are appointed by one or more municipalities and includes any chilled water program operated by the utility.

SECTION 3.  Section 552.133, Government Code, as amended by this Act, applies only to a request for public information made on or after the effective date of this Act. A request for public information made before the effective date of this Act is governed by the law in effect on the date of the request, and the former law is continued in effect for that purpose.

SECTION 4.  This Act takes effect September 1, 2021.

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