

By: J. Johnson of Harris

H.B. No. 3076

A BILL TO BE ENTITLED

1 AN ACT
2 relating to establishing the system benefit account and programs
3 for providing assistance to certain low-income, ill, and disabled
4 electric customers.

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

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

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

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

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

21 (3) the lifetime license endowment account;

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

23 (5) the coastal protection account;

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

- 1 (7) the artificial reef account; or
- 2 (8) the system benefit account.

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

5 Sec. 39.002. APPLICABILITY. This chapter, other than
6 Sections 39.1516, 39.155, 39.157(e), 39.203, 39.903, 39.904,
7 39.9051, 39.9052, and 39.914(e), does not apply to a municipally
8 owned utility or an electric cooperative. Sections 39.157(e),
9 39.203, and 39.904, however, apply only to a municipally owned
10 utility or an electric cooperative that is offering customer
11 choice. If there is a conflict between the specific provisions of
12 this chapter and any other provisions of this title, except for
13 Chapters 40 and 41, the provisions of this chapter control.

14 SECTION 3. Section 39.352(g), Utilities Code, is amended to
15 read as follows:

16 (g) If a retail electric provider serves an aggregate load
17 in excess of 300 megawatts within this state, not less than five
18 percent of the load in megawatt hours must consist of residential
19 customers. This requirement applies to an affiliated retail
20 electric provider only with respect to load served outside of the
21 electric utility's service area, and, in relation to that load, the
22 affiliated retail electric provider shall meet the requirements of
23 this subsection by serving residential customers outside of the
24 electric utility's service area. For the purpose of this
25 subsection, the load served by retail electric providers that are
26 under common ownership shall be combined. A retail electric
27 provider may meet the requirements of this subsection by

1 demonstrating on an annual basis that it serves residential load
2 amounting to five percent of its total load, ~~or~~ by demonstrating
3 that another retail electric provider serves sufficient qualifying
4 residential load on its behalf, or by paying an amount into the
5 system benefit account equal to \$1 multiplied by a number equal to
6 the difference between the number of megawatt hours it sold to
7 residential customers and the number of megawatt hours it was
8 required to sell to such customers, or in the case of an affiliated
9 retail electric provider, \$1 multiplied by a number equal to the
10 difference between the number of megawatt hours sold to residential
11 customers outside of the electric utility's service area and the
12 number of megawatt hours it was required to sell to such customers
13 outside of the electric utility's service area. Qualifying
14 residential load may not include customers served by an affiliated
15 retail electric provider in its own service area. Each retail
16 electric provider shall file reports with the commission that are
17 necessary to implement this subsection. This subsection applies for
18 36 months after retail competition begins. The commission shall
19 adopt rules to implement this subsection.

20 SECTION 4. Subchapter 2, Chapter 39, Utilities Code, is
21 amended by adding Section 39.903 to read as follows:

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

1 (b) The system benefit account is financed by a
2 nonbypassable fee set by the commission in an amount not to exceed
3 65 cents per megawatt hour. The fee is allocated to customers based
4 on the amount of kilowatt hours used.

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

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

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

27 (1) programs to:

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

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

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

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

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

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

25 (f) Notwithstanding Section 39.106(b), the commission shall
26 adopt rules regarding programs to assist low-income electric
27 customers on the introduction of customer choice. The programs may

1 not be targeted to areas served by municipally owned utilities or
2 electric cooperatives that have not adopted customer choice. The
3 programs shall include:

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

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

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

12 (h) The commission shall adopt rules for a retail electric
13 provider to determine a reduced rate for eligible customers to be
14 discounted off the standard retail service package as approved by
15 the commission under Section 39.106, or the price to beat
16 established by Section 39.202, whichever is lower. Municipally
17 owned utilities and electric cooperatives shall establish a reduced
18 rate for eligible customers to be discounted off the standard
19 retail service package established under Section 40.053 or 41.053,
20 as appropriate. The reduced rate for a retail electric provider
21 shall result in a total charge that is at least 10 percent lower
22 than the amount the customer would otherwise be charged and, if
23 sufficient money in the system benefit account is available, up to
24 20 percent lower than that amount. To the extent the system benefit
25 account is insufficient to provide for the initial 10 percent rate
26 reduction, the commission may increase the fee to an amount not more
27 than 65 cents per megawatt hour, as provided by Subsection (b). If

1 the fee is set at 65 cents per megawatt hour or if the commission
2 determines that appropriations are insufficient to provide for the
3 10 percent rate reduction, the commission may reduce the rate
4 reduction to less than 10 percent. For a municipally owned utility
5 or electric cooperative, the reduced rate must be equal to an amount
6 that can be fully funded by that portion of the nonbypassable fee
7 proceeds paid by the municipally owned utility or electric
8 cooperative that is allocated to the utility or cooperative by the
9 commission under Subsection (e) for programs for low-income
10 customers of the utility or cooperative. The reduced rate for
11 municipally owned utilities and electric cooperatives under this
12 section is in addition to any rate reduction that may result from
13 local programs for low-income customers of the municipally owned
14 utilities or electric cooperatives.

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

1 reimbursement.

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

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

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

27 (l) For the purposes of this section, a "low-income electric

1 customer" is an electric customer:

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

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

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

9 (f) Unless funding is provided under Section 39.903, each
10 ~~Each~~ unbundled transmission and distribution utility shall
11 include in its energy efficiency plan a targeted low-income energy
12 efficiency program as described by Section 39.903(f)(2), and the
13 savings achieved by the program shall count toward the transmission
14 and distribution utility's energy efficiency goal. The commission
15 shall determine the appropriate level of funding to be allocated to
16 both targeted and standard offer low-income energy efficiency
17 programs in each unbundled transmission and distribution utility
18 service area. The level of funding for low-income energy efficiency
19 programs shall be provided from money approved by the commission
20 for the transmission and distribution utility's energy efficiency
21 programs. The commission shall ensure that annual expenditures for
22 the targeted low-income energy efficiency programs of each
23 unbundled transmission and distribution utility are not less than
24 10 percent of the transmission and distribution utility's energy
25 efficiency budget for the year. A targeted low-income energy
26 efficiency program must comply with the same audit requirements
27 that apply to federal weatherization subrecipients. In an energy

1 efficiency cost recovery factor proceeding related to expenditures
2 under this subsection, the commission shall make findings of fact
3 regarding whether the utility meets requirements imposed under this
4 subsection. The state agency that administers the federal
5 weatherization assistance program shall participate in energy
6 efficiency cost recovery factor proceedings related to
7 expenditures under this subsection to ensure that targeted
8 low-income weatherization programs are consistent with federal
9 weatherization programs and adequately funded.

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

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

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

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

26 (1) to regulate wholesale transmission rates and
27 service, including terms of access, to the extent provided by

1 Subchapter A, Chapter 35;

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

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

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

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

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

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

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

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

25 (8) to evaluate and monitor the cybersecurity
26 preparedness of a municipally owned utility described by Section
27 39.1516(a)(3) or (4).

1 SECTION 8. Section [41.001](#), Utilities Code, is amended to
2 read as follows:

3 Sec. 41.001. APPLICABLE LAW. Notwithstanding any other
4 provision of law, except Sections [39.155](#), [39.157\(e\)](#), [39.203](#),
5 [39.903](#), and [39.904](#), this chapter governs the transition to and the
6 establishment of a fully competitive electric power industry for
7 electric cooperatives. Regarding the regulation of electric
8 cooperatives, this chapter shall control over any other provision
9 of this title, except for sections in which the term "electric
10 cooperative" is specifically used.

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