

By: Schwertner

S.B. No. 182

A BILL TO BE ENTITLED

AN ACT

relating to customer choice for certain municipally owned utilities.

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

SECTION 1. Section 40.051(a), Utilities Code, is amended to read as follows:

(a) Except as provided by Subchapter D, the [The] municipal governing body or a body vested with the power to manage and operate a municipally owned utility has the discretion to decide when or if the municipally owned utility will provide customer choice.

SECTION 2. Chapter 40, Utilities Code, is amended by adding Subchapter D to read as follows:

SUBCHAPTER D. REQUIRED TRANSITION TO CUSTOMER CHOICE

Sec. 40.151. DEFINITION. In this subchapter, "governing body" means the body vested with the power to manage and operate a municipally owned utility.

Sec. 40.152. ELECTRIC RATE COMPARISON. (a) Except as provided by Subsection (d), not later than September 1 of each year, the commission shall make an electric rate comparison of approximately one-fifth of municipally owned utilities located in the ERCOT power region and not open to customer choice by comparing the average electric rate paid in the previous five years by:

(1) customers of the municipally owned utility; and

(2) customers who are located in a region that is open

1 to customer choice and similarly situated to the region served by  
2 the utility, as determined by the commission.

3 (b) If the commission determines under Subsection (a) that  
4 the five-year average electric rate paid by customers of a  
5 municipally owned utility is 10 percent greater than the five-year  
6 average electric rate paid by customers in a similarly situated  
7 region open to customer choice, the commission shall notify the  
8 governing body of the municipally owned utility that the utility is  
9 required to transition to customer choice.

10 (c) The commission may not make an electric rate comparison  
11 of a municipally owned utility if the utility was the subject of a  
12 rate comparison under Subsection (a) in the previous four years.

13 (d) The commission is not required to make a rate comparison  
14 under Subsection (a) if each municipally owned utility to which  
15 Subsection (a) applies has been the subject of a rate comparison in  
16 the previous four years.

17 Sec. 40.153. REQUIREMENT TO INITIATE CUSTOMER CHOICE. Not  
18 later than one year after the date a governing body receives notice  
19 under Section 40.152(b), the utility shall:

20 (1) initiate customer choice; and

21 (2) except as otherwise provided by this subchapter,  
22 be considered to be a municipally owned utility that chooses to  
23 participate in customer choice under Section 40.051(b) for purposes  
24 of this subtitle.

25 Sec. 40.154. ENFORCEMENT OF CUSTOMER CHOICE. (a) As soon  
26 as practicable, but not earlier than 90 days after the date that a  
27 municipally owned utility is required to initiate customer choice

1 under Section 40.153, the commission may determine that the utility  
2 is not adequately offering customer choice.

3 (b) If the commission makes a determination under  
4 Subsection (a), the commission assumes oversight authority over the  
5 municipally owned utility beginning on the date of the  
6 determination for matters relating to the implementation of  
7 customer choice. Notwithstanding any other provision of this  
8 chapter, the commission's authority under this subsection  
9 encompasses any portion of the authority vested with the governing  
10 body of the utility under Subchapter B that the commission  
11 determines is necessary.

12 (c) The governing body shall work cooperatively with the  
13 commission in offering customer choice.

14 (d) The commission's oversight authority under this section  
15 continues until the date the commission determines that the  
16 municipally owned utility:

17 (1) has completed the transition to customer choice;  
18 and

19 (2) is prepared to continue to provide customer choice  
20 in a manner consistent with the competitive market.

21 (e) On the date the commission makes an affirmative  
22 determination under Subsection (d), the management and operation of  
23 the municipally owned utility returns to the control of the  
24 utility's governing body.

25 Sec. 40.155. RULES. The commission may adopt rules as  
26 necessary to implement this subchapter, including rules requiring  
27 reporting of electric rates by a retail electric provider or

1 municipally owned utility.

2           SECTION 3. The Public Utility Commission of Texas shall  
3 make the initial electric rate comparison under Section 40.152,  
4 Utilities Code, as added by this Act, not earlier than January 1,  
5 2026. The commission shall designate approximately one-fifth of  
6 municipally owned utilities to which that section applies as  
7 subject to the initial electric rate comparison and one-fifth as  
8 subject to the second, third, fourth, and fifth rate comparisons,  
9 respectively.

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