

By: Springer

S.B. No. 648

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

1 Section 31.002.

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

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

15 Sec. 31.002. DEFINITIONS. In this subtitle:

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

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

22 (3) "Aggregation" includes the following:

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

1 or

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

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

12 (4-a) "Distributed natural gas generation facility"
13 means a facility installed on the customer's side of the meter that
14 uses natural gas to generate not more than 2,000 kilowatts of
15 electricity.

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

21 (6) "Electric utility" means a person or river
22 authority that owns or operates for compensation in this state
23 equipment or facilities to produce, generate, transmit,
24 distribute, sell, or furnish electricity in this state. The term
25 includes a lessee, trustee, or receiver of an electric utility and a
26 recreational vehicle park owner who does not comply with Subchapter
27 C, Chapter 184, with regard to the metered sale of electricity at

1 the recreational vehicle park. The term does not include:

2 (A) a municipal corporation;

3 (B) a qualifying facility;

4 (C) a power generation company;

5 (D) an exempt wholesale generator;

6 (E) a power marketer;

7 (F) a corporation described by Section [32.053](#) to

8 the extent the corporation sells electricity exclusively at

9 wholesale and not to the ultimate consumer;

10 (G) an electric cooperative;

11 (H) a retail electric provider;

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

13 (J) a person not otherwise an electric utility

14 who:

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

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

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

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

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

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

20 (B) has:

21 (i) applied to the Federal Energy
22 Regulatory Commission for a determination under 15 U.S.C. Section
23 79z-5a; or

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

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

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

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

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

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

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

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

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

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

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

1 (D) has:

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

5 (ii) registered as a power marketer under
6 Section [35.032](#).

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

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

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

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

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

1 electricity.

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

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

17 (19) "Transmission and distribution utility" means a
18 person or river authority that owns or operates for compensation in
19 this state equipment or facilities to transmit or distribute
20 electricity, except for facilities necessary to interconnect a
21 generation facility with the transmission or distribution network,
22 a facility not dedicated to public use, or a facility otherwise
23 excluded from the definition of "electric utility" under this
24 section, in a qualifying power region certified under Section
25 [39.152](#), but does not include a municipally owned utility or an
26 electric cooperative.

27 (20) "Transmission service" includes construction or

1 enlargement of facilities, transmission over distribution
2 facilities, control area services, scheduling resources,
3 regulation services, reactive power support, voltage control,
4 provision of operating reserves, and any other associated
5 electrical service the commission determines appropriate, except
6 that, on and after the implementation of customer choice, control
7 area services, scheduling resources, regulation services,
8 provision of operating reserves, and reactive power support,
9 voltage control, and other services provided by generation
10 resources are not "transmission service."

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