

AN ACT

relating to the applicability of certain utility provisions to a vehicle charging service.

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

SECTION 1. Sections 31.002(6) and (17), Utilities Code, are amended to read as follows:

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

(A) a municipal corporation;

(B) a qualifying facility;

(C) a power generation company;

(D) an exempt wholesale generator;

(E) a power marketer;

(F) a corporation described by Section 32.053 to the extent the corporation sells electricity exclusively at wholesale and not to the ultimate consumer;

(G) an electric cooperative;

(H) a retail electric provider;

- 1 (I) this state or an agency of this state; or
- 2 (J) a person not otherwise an electric utility

3 who:

4 (i) furnishes an electric service or
5 commodity only to itself, its employees, or its tenants as an
6 incident of employment or tenancy, if that service or commodity is
7 not resold to or used by others;

8 (ii) owns or operates in this state
9 equipment or facilities to produce, generate, transmit,
10 distribute, sell, or furnish electric energy to an electric
11 utility, if the equipment or facilities are used primarily to
12 produce and generate electric energy for consumption by that
13 person; ~~or~~

14 (iii) owns or operates in this state a
15 recreational vehicle park that provides metered electric service in
16 accordance with Subchapter C, Chapter 184; or

17 (iv) owns or operates equipment used solely
18 to provide electricity charging service for consumption by an
19 alternatively fueled vehicle, as defined by Section 502.004,
20 Transportation Code.

21 (17) "Retail electric provider" means a person that
22 sells electric energy to retail customers in this state. A retail
23 electric provider may not own or operate generation assets. The
24 term does not include a person not otherwise a retail electric
25 provider who owns or operates equipment used solely to provide
26 electricity charging service for consumption by an alternatively
27 fueled vehicle, as defined by Section 502.004, Transportation Code.

1 SECTION 2. Subchapter A, Chapter 31, Utilities Code, is
2 amended by adding Section 31.0021 to read as follows:

3 Sec. 31.0021. CHARGING SERVICE. The commission by rule may
4 exempt from the definition of "electric utility" or "retail
5 electric provider" under Section 31.002 a provider who owns or
6 operates equipment used solely to provide electricity charging
7 service for a mode of transportation.

8 SECTION 3. Section 37.001(3), Utilities Code, is amended to
9 read as follows:

10 (3) "Retail electric utility" means a person,
11 political subdivision, electric cooperative, or agency that
12 operates, maintains, or controls in this state a facility to
13 provide retail electric utility service. The term does not include
14 a corporation described by Section 32.053 to the extent that the
15 corporation sells electricity exclusively at wholesale and not to
16 the ultimate consumer. A qualifying cogenerator that sells
17 electric energy at retail to the sole purchaser of the
18 cogenerator's thermal output under Sections 35.061 and 36.007 is
19 not for that reason considered to be a retail electric utility. The
20 owner or operator of a qualifying cogeneration facility who was
21 issued the necessary environmental permits from the Texas Natural
22 Resource Conservation Commission after January 1, 1998, and who
23 commenced construction of such qualifying facility before July 1,
24 1998, may provide electricity to the purchasers of the thermal
25 output of that qualifying facility and shall not for that reason be
26 considered an electric utility or a retail electric utility,
27 provided that the purchasers of the thermal output are owners of

1 manufacturing or process operation facilities that are located on a
2 site entirely owned before September, 1987, by one owner who
3 retained ownership after September, 1987, of some portion of the
4 facilities and that those facilities now share some integrated
5 operations, such as the provision of services and raw materials. A
6 person who owns or operates equipment used solely to provide
7 electricity charging service for consumption by an alternatively
8 fueled vehicle, as defined by Section 502.004, Transportation Code,
9 is not for that reason considered to be a retail electric utility.

10 SECTION 4. Subchapter A, Chapter 37, Utilities Code, is
11 amended by adding Section 37.002 to read as follows:

12 Sec. 37.002. CHARGING SERVICE. The commission may by rule
13 exempt from the definition of "retail electric utility" under
14 Section 37.001 a provider who owns or operates equipment used
15 solely to provide electricity charging service for a mode of
16 transportation.

17 SECTION 5. This Act takes effect September 1, 2021.

S.B. No. 1202

President of the Senate

Speaker of the House

I hereby certify that S.B. No. 1202 passed the Senate on April 9, 2021, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

I hereby certify that S.B. No. 1202 passed the House on May 20, 2021, by the following vote: Yeas 143, Nays 1, one present not voting.

Chief Clerk of the House

Approved:

Date

Governor