

1-1 By: Hancock S.B. No. 1202  
 1-2 (In the Senate - Filed March 9, 2021; March 18, 2021, read  
 1-3 first time and referred to Committee on Business & Commerce;  
 1-4 March 31, 2021, reported favorably by the following vote: Yeas 9,  
 1-5 Nays 0; March 31, 2021, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7 Hancock	X			
1-8 Nichols	X			
1-9 Campbell	X			
1-10 Creighton	X			
1-11 Johnson	X			
1-12 Menéndez	X			
1-13 Paxton	X			
1-14 Schwertner	X			
1-15 Whitmire	X			

1-17 A BILL TO BE ENTITLED  
 1-18 AN ACT

1-19 relating to the applicability of certain utility provisions to a  
 1-20 vehicle charging service.

1-21 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-22 SECTION 1. Sections 31.002(6) and (17), Utilities Code, are  
 1-23 amended to read as follows:

1-24 (6) "Electric utility" means a person or river  
 1-25 authority that owns or operates for compensation in this state  
 1-26 equipment or facilities to produce, generate, transmit,  
 1-27 distribute, sell, or furnish electricity in this state. The term  
 1-28 includes a lessee, trustee, or receiver of an electric utility and a  
 1-29 recreational vehicle park owner who does not comply with Subchapter  
 1-30 C, Chapter 184, with regard to the metered sale of electricity at  
 1-31 the recreational vehicle park. The term does not include:

- 1-32 (A) a municipal corporation;
- 1-33 (B) a qualifying facility;
- 1-34 (C) a power generation company;
- 1-35 (D) an exempt wholesale generator;
- 1-36 (E) a power marketer;
- 1-37 (F) a corporation described by Section 32.053 to  
 1-38 the extent the corporation sells electricity exclusively at  
 1-39 wholesale and not to the ultimate consumer;
- 1-40 (G) an electric cooperative;
- 1-41 (H) a retail electric provider;
- 1-42 (I) this state or an agency of this state; or
- 1-43 (J) a person not otherwise an electric utility

1-44 who:

1-45 (i) furnishes an electric service or  
 1-46 commodity only to itself, its employees, or its tenants as an  
 1-47 incident of employment or tenancy, if that service or commodity is  
 1-48 not resold to or used by others;

1-49 (ii) owns or operates in this state  
 1-50 equipment or facilities to produce, generate, transmit,  
 1-51 distribute, sell, or furnish electric energy to an electric  
 1-52 utility, if the equipment or facilities are used primarily to  
 1-53 produce and generate electric energy for consumption by that  
 1-54 person; ~~or~~

1-55 (iii) owns or operates in this state a  
 1-56 recreational vehicle park that provides metered electric service in  
 1-57 accordance with Subchapter C, Chapter 184; or

1-58 (iv) owns or operates equipment used solely  
 1-59 to provide electricity charging service for consumption by an  
 1-60 alternatively fueled vehicle, as defined by Section 502.004,  
 1-61 Transportation Code.

2-1 (17) "Retail electric provider" means a person that  
2-2 sells electric energy to retail customers in this state. A retail  
2-3 electric provider may not own or operate generation assets. The  
2-4 term does not include a person not otherwise a retail electric  
2-5 provider who owns or operates equipment used solely to provide  
2-6 electricity charging service for consumption by an alternatively  
2-7 fueled vehicle, as defined by Section 502.004, Transportation Code.

2-8 SECTION 2. Subchapter A, Chapter 31, Utilities Code, is  
2-9 amended by adding Section 31.0021 to read as follows:

2-10 Sec. 31.0021. CHARGING SERVICE. The commission by rule may  
2-11 exempt from the definition of "electric utility" or "retail  
2-12 electric provider" under Section 31.002 a provider who owns or  
2-13 operates equipment used solely to provide electricity charging  
2-14 service for a mode of transportation.

2-15 SECTION 3. Section 37.001(3), Utilities Code, is amended to  
2-16 read as follows:

2-17 (3) "Retail electric utility" means a person,  
2-18 political subdivision, electric cooperative, or agency that  
2-19 operates, maintains, or controls in this state a facility to  
2-20 provide retail electric utility service. The term does not include  
2-21 a corporation described by Section 32.053 to the extent that the  
2-22 corporation sells electricity exclusively at wholesale and not to  
2-23 the ultimate consumer. A qualifying cogenerator that sells  
2-24 electric energy at retail to the sole purchaser of the  
2-25 cogenerator's thermal output under Sections 35.061 and 36.007 is  
2-26 not for that reason considered to be a retail electric utility. The  
2-27 owner or operator of a qualifying cogeneration facility who was  
2-28 issued the necessary environmental permits from the Texas Natural  
2-29 Resource Conservation Commission after January 1, 1998, and who  
2-30 commenced construction of such qualifying facility before July 1,  
2-31 1998, may provide electricity to the purchasers of the thermal  
2-32 output of that qualifying facility and shall not for that reason be  
2-33 considered an electric utility or a retail electric utility,  
2-34 provided that the purchasers of the thermal output are owners of  
2-35 manufacturing or process operation facilities that are located on a  
2-36 site entirely owned before September, 1987, by one owner who  
2-37 retained ownership after September, 1987, of some portion of the  
2-38 facilities and that those facilities now share some integrated  
2-39 operations, such as the provision of services and raw materials. A  
2-40 person who owns or operates equipment used solely to provide  
2-41 electricity charging service for consumption by an alternatively  
2-42 fueled vehicle, as defined by Section 502.004, Transportation Code,  
2-43 is not for that reason considered to be a retail electric utility.

2-44 SECTION 4. Subchapter A, Chapter 37, Utilities Code, is  
2-45 amended by adding Section 37.002 to read as follows:

2-46 Sec. 37.002. CHARGING SERVICE. The commission may by rule  
2-47 exempt from the definition of "retail electric utility" under  
2-48 Section 37.001 a provider who owns or operates equipment used  
2-49 solely to provide electricity charging service for a mode of  
2-50 transportation.

2-51 SECTION 5. This Act takes effect September 1, 2021.

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