

## **BILL ANALYSIS**

C.S.H.B. 3390  
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State Affairs  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

While ERCOT has insight into resources and loads connected at the transmission level, it does not have the same visibility into distribution systems. ERCOT has raised concerns about this lack of available information and the limitations it creates on ERCOT's ability to properly forecast demand and plan for future needs. In its staff report to the 88th Texas Legislature evaluating ERCOT, the Sunset Advisory Commission stated that: "Since ERCOT lacks visibility into distribution systems, it cannot provide [the Public Utility Commission of Texas] with information about the problems those systems face or recommendations to address those problems, such as the technical problems of connecting a growing number of battery storage and solar facilities to distribution systems." In short, ERCOT needs better information about the various devices connected to the distribution system to ensure it can continue to manage the grid reliably. C.S.H.B. 3390 seeks to address this problem by creating a mechanism for ERCOT to obtain the relevant information it needs on the distribution-level system.

### **CRIMINAL JUSTICE IMPACT**

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

C.S.H.B. 3390 amends the Utilities Code to remove provisions requiring an owner or operator of distributed generation to register with ERCOT and interconnecting transmission and distribution utility (TDU) information necessary for the interconnection of the distributed generator.

C.S.H.B. 3390 authorizes ERCOT instead, at its own discretion, to establish protocols to require a person who owns or operates a distributed generation facility interconnected to a utility system operating in the ERCOT power region, or who seeks to interconnect such a facility, to provide to the interconnecting electric cooperative, municipally owned utility, or TDU information about the distributed generation facility that ERCOT determines is necessary for maintaining system reliability. The bill authorizes the protocols to require that the information be provided as a condition to interconnection for any facility that is interconnected on or after September 1, 2023. These provisions are applicable to an electrical generating facility, including an energy storage facility, that is connected at a voltage less than 60 kilovolts and is capable of being connected in parallel operation to the utility system and they replace the provision in current law defining "distributed generation" as a facility that may be located at a customer's point of

delivery, is connected at a voltage less than 60 kilovolts, and may be connected in parallel operation to the utility system.

C.S.H.B. 3390 authorizes ERCOT to establish protocols to require a transmission service provider operating in the ERCOT power region to report to ERCOT, in aggregate by delivery port, information ERCOT determines is necessary for maintaining system reliability regarding distributed generation facilities and distribution-connected loads that are not registered with ERCOT and are connected to the utility systems served by the provider. The bill authorizes ERCOT to establish protocols to require a municipally owned utility, electric cooperative, or TDU that is not required to report load information directly to ERCOT regarding the delivery points interconnected with its facilities to provide information to the utility's or cooperative's transmission service provider for purposes of that report. The bill defines "transmission service provider" as a municipally owned utility, electric cooperative, or TDU that owns or operates facilities used for the transmission of electricity.

C.S.H.B. 3390 establishes that, with respect to a distributed generation facility interconnected before September 1, 2023, any protocols ERCOT establishes under the bill applicable to a municipally owned utility, electric cooperative, or TDU may require a municipally owned utility, electric cooperative, or TDU to do the following:

- request information about the distributed generation facility from the owner or operator of the facility; and
- in the absence of any timely response to the request for information, or if the information reasonably appears to be incorrect, provide to its transmission service provider a good-faith estimate of the information based on field observation or other data using reasonable engineering judgment.

C.S.H.B. 3390 authorizes a municipally owned utility, electric cooperative, or TDU, in fulfilling any reporting obligation, to rely on any existing record regarding the information required for a distributed generation facility, if the municipally owned utility, electric cooperative, or TDU reasonably believes the information is accurate.

### **EFFECTIVE DATE**

On passage, or, if the bill does not receive the necessary vote, September 1, 2023.

### **COMPARISON OF INTRODUCED AND SUBSTITUTE**

While C.S.H.B. 3390 may differ from the introduced in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

The substitute revises the provision it shares with the introduced authorizing ERCOT to require an owner or operator of an applicable distributed generation facility operating in the ERCOT power region to provide information about the distribution generation facility to the interconnecting electric cooperative, municipally owned utility, or TDU as follows:

- includes a specification absent from the introduced that the manner in which ERCOT may implement such a requirement is through the establishment of protocols;
- expands the scope of the provisions to allow ERCOT also to subject any owner or operator of a distributed generation facility seeking to interconnect the facility to provide information; and
- replaces the specification in the introduced that the information to be submitted is that which is specified by ERCOT with a specification that the information to be submitted is that which ERCOT determines is necessary for maintaining system reliability.

The substitute includes provisions not in the introduced that authorize those established protocols to require the information to be provided as a condition of interconnection for any facility interconnected on or after September 1, 2023, and does not include the provision from

the introduced that authorized ERCOT to require information be provided on either an individual basis or on an aggregated basis. The substitute does not include the provision present in the introduced that also authorized the Public Utility Commission of Texas (PUC) to require an owner or operator or an electric cooperative, municipally owned utility, or TDU to provide such information.

The introduced authorized ERCOT to require each electric cooperative, municipally owned utility, and TDU operating in the ERCOT power region to provide to ERCOT any information about distributed generation facilities and distribution-connected loads in the entity's service territory that ERCOT identifies as necessary for maintaining system reliability. The substitute includes but revises that provision to, as follows:

- include a specification absent from the introduced that the manner in which ERCOT may implement such a requirement is through the establishment of protocols;
- replace the reference to electric cooperative, municipally owned utility, and TDU with a reference to "transmission service provider," which the substitute defines as an electric cooperative, municipally owned utility, or TDU that owns or operates facilities used for the transmission of electricity; and
- narrow the information that may be required to only that which ERCOT determines is necessary for maintaining system reliability maintenance regarding facilities and distribution-connected loads that are not registered with ERCOT and that are connected to the utility systems served by the transmission service provider.

The substitute does not include the provision from the introduced that authorized ERCOT to require information to be provided either on an individual basis or on an aggregated basis but the substitute instead includes a provision requiring the information provided to be in the aggregate by delivery point. The substitute does not include the provision present in the introduced that also authorized the PUC to require an owner or operator of a distributed generation facility or an electric cooperative, municipally owned utility, or TDU to provide such information.

The substitute includes a provision not in the introduced authorizing ERCOT to establish protocols to require a municipally owned utility, electric cooperative, or TDU that is not required to report load information directly to ERCOT regarding the delivery points interconnected with its facilities to provide information to the utility's or cooperative's transmission service provider for purposes of the report provided for under the bill.

The substitute includes a provision not in the introduced establishing that, with respect to a distributed generation facility that is interconnected before September 1, 2023, any protocols ERCOT establishes under the bill applicable to a municipally owned utility, electric cooperative, or TDU may require a municipally owned utility, electric cooperative, or TDU to request information about the facility from the owner or operator and, in the absence of any timely response, or if the information reasonably appears to be incorrect, to provide to its transmission service provider a good-faith estimate of the information based on field observation or other data using reasonable engineering judgment.

The substitute includes a provision not in the introduced authorizing a municipally owned utility, electric cooperative, or TDU, in fulfilling any reporting obligation, to rely on any existing record regarding the required information if the entity reasonably believes the information is accurate.