

BILL ANALYSIS

Senate Research Center
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S.B. 1212
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Distributed energy resources (DERs) are starting to gain popularity throughout Texas. Since distributed energy resources include a wide range of technologies, it is important that regulators and legislators come to an agreement concerning the definition of DERs, the services they provide, the appropriate cost allocation for their interconnection, and their operation in the competitive electric market.

S.B. 1212 provides a clear definition of DERs and the services they provide. S.B. 1212 defines DERs as a source of not more than 10 MW of electricity connected at a voltage at less than 60 kV. This definition provides additional clarity about which facilities must register as a power generation company or a retail electric provider. This determination would be based on the service they provide to the grid and to consumers. Additionally, the bill requires the PUC to develop rules related to the cost of integrating and interconnecting DERs. S.B. 1212 prevents unclear and contrasting definitions of distributed energy resources that would disrupt a smooth incorporation of these technologies. The framework created by S.B. 1212 serves a consumer protection purpose by preventing fraudulent or deceptive practices. This bill preserves utilities' statutory authority to maintain grid reliability, while reliably serving customers.

S.B. 1212 comprehensively deals with the integration of DERs into our energy grid to reap the benefits of these new technologies without sacrificing grid stability or consumer safety. This bill will allow for DER owners to benefit themselves and the state without navigating difficult regulatory barriers, while providing consistency for grid regulators seeking to evaluate and track this growing repository of energy in the state.

Key Provisions:

- Adds the definition of aggregated distributed energy resource, distributed energy resource, and power generation company to Section 31.002, Utilities Code.
- Adds requirements to be considered a distributed energy resource to Section 39.3515, Utilities Code.
- Adds the requirements for a distributed energy resource interconnected to a transmission and distributed utility's distribution system in the ERCOT power region to Section 39.701, Utilities Code.
- Section 39.702, Utilities Code, lays out integration and cost recovery for the ERCOT power region.

As proposed, S.B. 1212 amends current law relating to the interconnection and integration of distributed energy resources.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Public Utility Commission of Texas in SECTIONS 2 (Section 39.3515, Utilities Code) and 3 (Section 39.702, Utilities Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 31.002, Utilities Code, by adding Subdivisions (2-a) and (4-c) and amending Subdivision (10), to define "aggregated distributed energy resource" and "distributed energy resource" and to redefine "power generation company."

SECTION 2. Amends Subchapter H, Chapter 39, Utilities Code, by adding Section 39.3515, as follows:

Sec. 39.3515. REGISTRATION OF DISTRIBUTED ENERGY RESOURCES. (a) Authorizes an owner or operator of a distributed energy resource to provide energy or ancillary services in the wholesale market in the Electric Reliability Council of Texas (ERCOT) power region through generating electricity and providing that electricity onto a distribution system only if:

(1) the owner or operator is registered with the Public Utility Commission of Texas (PUC) as a power generation company under Section 39.351 (Registration of Power Generation Companies) and authorized by the independent organization certified under Section 39.151 (Essential Organizations) for the ERCOT power region; or

(2) the distributed energy resource is part of an aggregated distributed energy resource and the aggregated distributed energy resource is registered in its own corporate capacity as a power generation company with the PUC under Section 39.351, the independent organization certified under Section 39.151 for the ERCOT power region, and the interconnecting transmission and distribution utility; or the owner is not registered separately as a power generation company, but the distributed energy resource is operated by, and included in the registration of, a power generation company that is registered with the PUC under Section 39.351, the independent organization certified under Section 39.151 for the ERCOT power region, and the interconnecting transmission and distribution utility.

(b) Authorizes a retail customer to participate as part of an aggregated distributed energy resource that is registered with the independent organization certified under Section 39.151 for the ERCOT power region and the interconnecting transmission and distribution utility without being individually registered with the PUC as a power generation company under Section 39.351.

(c) Authorizes the PUC to establish simplified filing requirements for load-serving entities to facilitate the registration of aggregated distributed energy resources. Requires that the filing requirements require the registrant to disclose the name of the power generation company that operates the aggregated distributed energy resource.

(d) Provides that a facility described by Section 39.914 (Credit for Surplus Solar Generation by Public Schools) or 39.916 (Interconnection of Distributed Renewable Generation) is not considered to be a distributed energy resource unless electricity from the facility provides energy or ancillary services in the wholesale market in the ERCOT power region in a manner described by this section, or if at the time the facility is installed, the estimated annual amount of electricity to be produced by the facility is more than the retail electric customer's estimated annual electricity consumption.

(e) Requires the PUC by rule to authorize the registrations described by Subsection (a) and adopt procedures for the creation of aggregated distributed energy resources.

SECTION 3. Amends Chapter 39, Utilities Code, by adding Subchapter O, as follows:

SUBCHAPTER O. INTERCONNECTION OF DISTRIBUTED ENERGY RESOURCES

Sec. 39.701. INTERCONNECTION. (a) Provides that the requirements of this section, except as otherwise provided by Title 2 (Public Utility Regulatory Act), apply to a distributed energy resource interconnected to a transmission and distribution utility's distribution system in the ERCOT power region.

(b) Authorizes a transmission and distribution utility to allow interconnection only if the distributed energy resource meets applicable safety, technical, and operational performance and cybersecurity standards, and if the owner or operator of the distributed energy resource meets any applicable qualifications and testing requirements of the independent organization certified under Section 39.151 for the ERCOT power region.

(c) Provides that an interconnecting transmission and distribution utility is not required to provide an owner or operator of a distributed energy resource access to the utility's meter equipment.

Sec. 39.702. INTEGRATION AND COST RECOVERY. (a) Requires the PUC by rule to establish for the ERCOT power region:

(1) requirements for the dispatchability, reliability, and other characteristics of each type or classification of distributed energy resource;

(2) appropriate disclosure requirements and other customer protections for customers who purchase or lease distributed energy resources or purchase electric energy or ancillary services from distributed energy resources;

(3) information an owner or operator of a distributed energy resource is required to provide to the interconnecting transmission and distribution utility to ensure the resource will not adversely affect the transmission or distribution system;

(4) interconnection guidelines that address the determination of whether a given interconnection or combination of interconnections would exceed a transmission and distribution utility's system capacity in a particular location, considerations for feeder locations related to distributed energy resources, considerations of the size or capacity of a distributed energy resource, the assessment of potential adverse impacts to other customers in the area of the distributed energy resource, means of recognizing and accounting for the fact that a distributed energy resource may be unavailable during a firm load shedding event or a power outage of the distribution system, and other operating parameters necessary for the transmission and distribution utility's reliable operation of its transmission and distribution system;

(5) a methodology for the appropriate allocation and recovery of the transmission and distribution utility's costs to interconnect a distributed energy resource; and

(6) requirements for the independent organization certified under Section 39.151 for the ERCOT power region to report to the PUC periodically the categories and generation levels of distributed energy resources allowed to participate in the ERCOT wholesale market, the categories and megawatt levels of aggregated distributed energy resources allowed to participate in the ERCOT wholesale market, accreditation of distributed energy resources allowed to participate in the ERCOT wholesale market, performance metrics for distributed energy resources allowed to

participate in the ERCOT wholesale market, and other information the PUC may require.

(b) Requires the PUC to authorize a transmission and distribution utility to defer for recovery in a later ratemaking proceeding the incremental operations and maintenance expenses, or other expenses, and the return, not otherwise recovered in a rate proceeding, associated with the installation, modification, upgrade, or maintenance of its transmission or distribution facilities required by an interconnection under Sections 39.701(b) and (c); and request recovery of the costs associated with an interconnection under Sections 39.701(b) and (c), including any deferred expenses, through a proceeding under Section 35.004 (Provision of Transmission Service) or 36.210 (Periodic Rate Adjustments) or in another ratemaking proceeding regardless of whether the utility first requested recovery in a base-rate proceeding.

(c) Provides that facilities required by an interconnection under Sections 39.701(b) and (c) are considered used and useful in providing service to the public and are prudent and includable in the rate base, regardless of the extent of the actual use of the facilities.

(d) Provides that this subchapter does not require or authorize a distribution utility to procure distributed energy resource services to enable the operation of the distribution utility system; require a distribution utility to disclose to any third party the utility's system planning information, studies, models, critical infrastructure information, or other confidential information; or diminish a distribution utility's rights or obligations to own or operate its distribution system and provide electric delivery service to retail customers in the utility's certificated service area.

Sec. 39.703. **LIABILITY.** Provides that an interconnecting transmission and distribution utility or retail electric provider providing service to a distributed energy resource to which this subchapter applies is not liable for a violation of reliability or service metrics caused by distributed energy resource operations; damage, injury, or loss caused by distributed energy resource operations; or a distributed energy resource's inability or failure to provide services or a penalty for such inability or failure.

SECTION 4. (a) Provides that this section takes effect only if the Act of the 88th Legislature, Regular Session, 2023, relating to nonsubstantive additions to and corrections in enacted codes becomes law.

(b) Amends Subchapter Z, Chapter 39, Utilities Code, by adding Section 39.9166, as follows:

Sec. 39.9166. **DISTRIBUTED ENERGY RESOURCES.** (a) Entitles a customer who purchases or leases a distributed energy resource or enters into a power purchase agreement for a distributed energy resource in the ERCOT power region to the information and disclosures required under Chapter 115, Business and Commerce Code, and to protection from fraudulent, unfair, misleading, or deceptive practices.

(b) Authorizes an owner or operator of a distributed energy resource to provide energy or ancillary services in the wholesale market in the ERCOT power region through generating electricity and providing that electricity onto a distribution system in an area in which customer choice has been introduced in the manner provided by this section.

(c) Requires a person who owns or operates a distributed energy resource in an area in which customer choice has been introduced and is part of an aggregated distributed energy resource, or has not individually registered with the PUC as its own power generation company, to sell the surplus

electricity or ancillary services that are produced by the distributed energy resource and that are not consumed by the owner's premise to the retail electric provider that serves the premise's load at a value agreed to between the distributed energy resource owner and the retail electric provider that serves the premise's load. Authorizes the value to be an agreed value based on the clearing price of energy or ancillary service at the time of day that the electricity is made available to the grid.

(d) Authorizes a retail electric provider to direct the offering or dispatch of aggregated distributed energy resources for which the retail electric provider facilitated aggregation.

(e) Requires the independent organization certified under Section 39.151 for the ERCOT power region to adopt procedures to ensure that the amount of electricity purchased from a distributed energy resource owner under this section is accounted for when settling the total load served by the retail electric provider that serves that premise owner's load.

(f) Requires a distributed energy resource owner that requests net metering services for purposes of this section to have metering devices capable of providing measurements consistent with the independent organization's settlement requirements.

(g) Authorizes a transmission and distribution utility to provide to customers educational information regarding the technical requirements for the interconnection of distributed energy resources to the distribution system. Provides that the provision of information under this subsection is not considered a competitive energy service.

(h) Provides that this section does not apply to a purchase or agreement entered into under Section 39.914 or 39.916.

SECTION 5. (a) Provides that this section takes effect only if the Act of the 88th Legislature, Regular Session, 2023, relating to nonsubstantive additions to and corrections in enacted codes does not become law.

(b) Amends Subchapter Z, Chapter 39, Utilities Code, by adding Section 39.9166, as follows:

Sec. 39.9166. DISTRIBUTED ENERGY RESOURCES. (a) Entitles a customer who purchases or leases a distributed energy resource or enters into a power purchase agreement for a distributed energy resource in the ERCOT power region to the information and disclosures required under Chapter 113 (Prohibition on Agreements with Certain Foreign-Owned Companies in Connection with Critical Infrastructure), Business and Commerce Code, as added by Chapter 561 (S.B. 398), Acts of the 87th Legislature, Regular Session, 2021, and to protection from fraudulent, unfair, misleading, or deceptive practices.

(b) Authorizes an owner or operator of a distributed energy resource to provide energy or ancillary services in the wholesale market in the ERCOT power region through generating electricity and providing that electricity onto a distribution system in an area in which customer choice has been introduced in the manner provided by this section.

(c) Requires a person who owns or operates a distributed energy resource in an area in which customer choice has been introduced and is part of an aggregated distributed energy resource, or has not individually registered with the PUC as its own power generation company, to sell the surplus electricity or ancillary services that are produced by the distributed energy resource and that are not consumed by the owner's premise to the retail

electric provider that serves the premise's load at a value agreed to between the distributed energy resource owner and the retail electric provider that serves the premise's load. Authorizes the value to be an agreed value based on the clearing price of energy or ancillary service at the time of day that the electricity is made available to the grid.

(d) Authorizes a retail electric provider to direct the offering or dispatch of aggregated distributed energy resources for which the retail electric provider facilitated aggregation.

(e) Requires the independent organization certified under Section 39.151 for the ERCOT power region to adopt procedures to ensure that the amount of electricity purchased from a distributed energy resource owner under this section is accounted for when settling the total load served by the retail electric provider that serves that premise owner's load.

(f) Requires a distributed energy resource owner that requests net metering services for purposes of this section to have metering devices capable of providing measurements consistent with the independent organization's settlement requirements.

(g) Authorizes the transmission and distribution utility to provide to customers educational information regarding the technical requirements for the interconnection of distributed energy resources to the distribution system. Provides that the provision of information under this subsection is not considered a competitive energy service.

(h) Provides that this section does not apply to a purchase or agreement entered into under Section 39.914 or 39.916.

SECTION 6. Requires the PUC, as soon as practicable after the effective date of this Act, to adopt rules necessary to implement the changes in law made by this Act.

SECTION 7. Effective date: upon passage or September 1, 2023.