

## **BILL ANALYSIS**

Senate Research Center

S.B. 1699  
By: Johnson  
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Enrolled

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Distributed energy resources (DERs) are starting to gain popularity throughout Texas. Since DERs include a wide range of technologies, it is important that details regarding their inclusion in the ERCOT market be decided and implemented carefully and without destabilizing the current energy system.

In 2022, the PUC and ERCOT approved a pilot project which enables the aggregation of DERs for participation in ancillary services and wholesale energy markets for the ERCOT region. Per phase 1 of the pilot project, load serving entities (municipalities, electric cooperative, and retail electric providers (REPs)) can aggregate their retail customers' DERs that are <1MW. This means that an aggregate distributed energy resource (ADER) can combine multiple homes and business solar system, batteries, generators, HVACs, and other devices and respond to ERCOT dispatch instructions.

S.B. 1699 provides that the Public Utility Commission, the entity that regulates the state's electric utilities, should establish rules and registration requirements for the aggregation of distributed energy resources. This allows for retail electric providers to aggregate distributed energy resources and establishes that they should ensure compliance for any entities they pay for distributed energy resources. Under S.B. 1699, anyone who is part of a DER aggregation will not need to register as a power generation company.

S.B. 1699 will allow for DER owners and aggregators to become part of the grid system while providing consistency for grid regulators seeking to evaluate and track this growing repository of energy in the state.

#### Key Provisions:

- Modifies Section 31.002 of the Utilities Code to allow retail electric providers to aggregate distributed energy resources.
- Modifies Section 39.351 to include the carve-out that a person may generate electricity if they are aggregating distributed energy resources.
- Adds Section 39.3515 to require that aggregators of distributed energy resources must comply with PUC rules, guidelines, and registration requirements and Chapter 17 customer protection statutes that apply to distributed energy resources.
- Under Section 39.3515, aggregators must ensure compliance of subcontractors, agents, or other entities they compensate for distributed energy resource activities on their behalf.
- Section 39.3515 also establishes that the PUC will establish rules and registration requirements for the aggregation of distributed energy resources.

#### Committee Substitute:

- Clarifies existing language by ensuring the exemption from power generation company registration applies to both DER aggregators and owners.
- PUC's existing consumer protections would also apply to DER customers, subcontractors, and agents.

S.B. 1699 amends current law relating to electricity service in the ERCOT power region, including the participation of aggregated distributed energy resources in the ERCOT market.

## **RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to the Public Utility Commission of Texas in SECTION 5 (Section 39.919, Utilities Code) of this bill.

## **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 31.002(17), Utilities Code, to redefine "retail electric provider."

SECTION 2. Amends Section 39.101(b), Utilities Code, as follows:

(b) Provides that a customer is entitled to certain rights, including being entitled to participation in demand response programs through retail electric providers that offer demand response programs and to receive notice from the retail electric provider that serves the customer when the independent organization certified under Section 39.151 (Essential Organizations) for the ERCOT power region issues an emergency energy alert.

SECTION 3. Amends Section 39.351, Utilities Code, by amending Subsection (a) and adding Subsection (a-1), as follows:

(a) Prohibits a person from generating electricity unless certain requirements are met, including unless the electricity is generated as part of a registered aggregate distributed energy resource under Section 39.3515. Makes nonsubstantive changes.

(a-1) Creates this subsection from existing text.

SECTION 4. Amends Subchapter H, Chapter 39, Utilities Code, by adding Section 39.3515, as follows:

Sec. 39.3515. AGGREGATE DISTRIBUTED ENERGY RESOURCES. (a) Provides that a person who aggregates distributed energy resources:

(1) is not required to register as a power generation company to aggregate the resources;

(2) is required to comply with rules, guidelines, and registration requirements established by the Public Utility Commission of Texas (PUC) and by Chapter 17 (Customer Protection) and Chapter 39 (Restructuring of Electric Utility Industry); and

(3) remains accountable for compliance with the applicable statutes and rules by a subcontractor, an agent, or any other entity compensated by the person for activities conducted on the person's behalf.

(b) Authorizes the PUC to establish rules and registration requirements for the aggregation of distributed energy resources.

SECTION 5. Amends Subchapter Z, Chapter 39, Utilities Code, by adding Section 39.919, as follows:

Sec. 39.919. AVERAGE TOTAL RESIDENTIAL LOAD REDUCTION GOALS. (a) Requires the PUC by rule to establish goals in the ERCOT power region to reduce the average total residential load.

(b) Requires that the rules adopted under Subsection (a) provide for the adoption of a program that:

(1) provides demand response participation to residential customers where reasonably available;

(2) promotes the use of smart metering technology;

(3) is capable of responding to an emergency energy alert about low operating reserves issued by the independent organization certified under Section 39.151 for the ERCOT power region;

(4) provides opportunities for demand response providers to contract with retail electric providers to provide demand response services;

(5) ensures the program does not impact the critical needs of vulnerable populations;

(6) facilitates the widespread deployment of smart responsive appliances and devices in a manner that enables the customer's appliance or device to be enrolled as part of a demand response product or plan offered by a retail electric provider;

(7) establishes the method by which the components of the ratio described by Subsection (c) are calculated for purposes of determining whether the goals described by Subsection (a) have been achieved;

(8) provides for achievement of demand reductions within both summer and winter seasons; and

(9) allows a retail electric provider that offers a demand response program under this section to obtain funding for the demand response program through an energy efficiency incentive program established under Section 39.905 (Goal for Energy Efficiency) if the program complies with PUC requirements related to the evaluation, measurement, and verification of demand response programs adopted under Section 39.905.

(c) Requires that the goals described by Subsection (a) be calculated as a ratio by dividing the amount of load reduced at peak demand by the total amount of demand, at the same time, of all residential customers who have responsive appliances or devices at their premises that reduce the electric consumption of the customers.

(d) Authorizes a transmission and distribution utility required to provide an energy efficiency incentive program under Section 39.905 to use up to 10 percent of the budgeted spending for demand response programs on the programs described by Subsection (b)(9).

SECTION 6. Requires the PUC to adopt rules as necessary for the adoption of a program to begin facilitating the widespread deployment of appliances and devices capable of being part of a demand response product or plan offered by a retail electric provider, as provided by Section 39.919(b)(6), Utilities Code, as added by this Act, before December 31, 2024.

SECTION 7. Effective date: September 1, 2023.