

By: Troxclair

H.B. No. 4209

A BILL TO BE ENTITLED

AN ACT

relating to electricity service provided by certain municipally owned utilities.

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

SECTION 1. Chapter 32, Utilities Code, is amended by adding Subchapter D to read as follows:

SUBCHAPTER D. REVIEW OF RATES OF CERTAIN MUNICIPAL UTILITIES

Sec. 32.151. APPLICABILITY. This subchapter applies only to a municipally owned utility that is governed directly by the governing body of the municipality and is owned by a municipality with a population of more than 750,000.

Sec. 32.152. REVIEW OF RATES; CUSTOMER CHOICE. (a) Notwithstanding any other law, a retail customer or group of customers may file a petition for commission review of current or proposed rates of a municipally owned utility that apply to the petitioning customer or group if the customer or group:

(1) has a non-demand metered total usage of more than 100,000 kilowatt hours per year; or

(2) is served through a demand meter at secondary or primary voltage.

(b) The commission shall initiate a proceeding not later than the 90th day after the petition is submitted to determine whether the rates of the municipally owned utility are consistent with the rates available to similarly situated customers in areas

1 of the state that have access to customer choice. If the commission
2 determines that the rates of the municipally owned utility are
3 consistent with the rates available to similarly situated customers
4 in areas of the state that have access to customer choice, the
5 commission shall deny the petition.

6 (c) If the commission does not deny the petition under
7 Subsection (b), not later than the 90th day after the date of the
8 determination described by Subsection (b), the municipally owned
9 utility shall file a rate application with the commission that
10 complies in all material respects with the rules and forms
11 prescribed by the commission. The commission for good cause may
12 extend the deadline for filing the rate application.

13 (d) The commission shall conduct a full review of the rates
14 applicable to the petitioning customer or group to determine
15 whether those rates are just and reasonable using the standards
16 prescribed by Chapter 36, notwithstanding the lack of consistency
17 between those rates and rates available to similarly situated
18 customers in areas of the state that have access to customer choice.
19 If the commission determines that the rates are just and
20 reasonable, the commission shall deny the petition. If the
21 commission determines that the rates are not just and reasonable,
22 the commission shall set rates for the petitioning customer or
23 group that are just, reasonable, and consistent with the rates
24 available to similarly situated customers in areas of the state
25 that have access to customer choice.

26 SECTION 2. Section 40.004, Utilities Code, is amended to
27 read as follows:

1 Sec. 40.004. JURISDICTION OF COMMISSION. Except as
2 specifically otherwise provided in this chapter, the commission has
3 jurisdiction over municipally owned utilities only for the
4 following purposes:

5 (1) to regulate wholesale transmission rates and
6 service, including terms of access, to the extent provided by
7 Subchapter A, Chapter 35;

8 (2) to regulate certification of retail service areas
9 to the extent provided by Chapter 37;

10 (3) to regulate rates:

11 (A) under Subchapter D, Chapter 32, subject to
12 Section 40.051(c); and

13 (B) on appeal under Subchapters D and E, Chapter
14 33, subject to Section 40.051(c);

15 (4) to establish a code of conduct as provided by
16 Section 39.157(e) applicable to anticompetitive activities and to
17 affiliate activities limited to structurally unbundled affiliates
18 of municipally owned utilities, subject to Section 40.054;

19 (5) to establish terms and conditions for open access
20 to transmission and distribution facilities for municipally owned
21 utilities providing customer choice, as provided by Section 39.203;

22 (6) to administer the renewable energy credits program
23 under Section 39.904(b) and the natural gas energy credits program
24 under Section 39.9044(b);

25 (7) to require reports of municipally owned utility
26 operations only to the extent necessary to:

27 (A) enable the commission to determine the

1 aggregate load and energy requirements of the state and the
2 resources available to serve that load; or

3 (B) enable the commission to determine
4 information relating to market power as provided by Section 39.155;
5 and

6 (8) to evaluate and monitor the cybersecurity
7 preparedness of a municipally owned utility described by Section
8 39.1516(a)(3) or (4).

9 SECTION 3. Section 40.051(c), Utilities Code, is amended to
10 read as follows:

11 (c) After a decision to offer customer choice has been made,
12 Subchapter D, Chapter 32, and Subchapters D and E, Chapter 33, do
13 not apply to any action taken under this chapter.

14 SECTION 4. Subchapter Z, Chapter 552, Local Government
15 Code, is amended by adding Section 552.915 to read as follows:

16 Sec. 552.915. PROHIBITION ON TRANSFER OF REVENUE.
17 Notwithstanding any other law, a municipality may not transfer to
18 the general fund of the municipality revenue from a municipally
19 owned utility that is subject to an order issued by the Public
20 Utility Commission of Texas under Section 32.152(d), Utilities
21 Code, that sets the utility's rates.

22 SECTION 5. This Act takes effect September 1, 2023.