

By: Hancock

S.B. No. 853

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 provides service in the Capitol complex, as defined by Section 443.0071, Government Code.

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 of the state that have access to customer choice. If the commission

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

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

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

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

27 Sec. 40.004. JURISDICTION OF COMMISSION. Except as

1 specifically otherwise provided in this chapter, the commission has
2 jurisdiction over municipally owned utilities only for the
3 following purposes:

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

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

9 (3) to regulate rates:

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

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

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

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

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

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

26 (A) enable the commission to determine the
27 aggregate load and energy requirements of the state and the

1 resources available to serve that load; or

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

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

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

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

13 SECTION 4. This Act takes affect September 1, 2023.