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S.B. No. 1212

A BILL TO BE ENTITLED

AN ACT

relating to the interconnection and integration of distributed energy resources.

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

SECTION 1. Section 31.002, Utilities Code, is amended by adding Subdivisions (2-a) and (4-c) and amending Subdivision (10) to read as follows:

(2-a) "Aggregated distributed energy resource" means a group of distributed energy resources joined together to be operated as a single distributed energy resource, where each individual resource in the aggregation produces not more than 1.5 megawatts of electricity, subject to an increase or decrease by commission rule if the commission determines that a different capacity size limit is appropriate and does not adversely affect the ERCOT power region or distribution system reliability.

(4-c) "Distributed energy resource" means a source of electricity connected at a voltage less than 60 kilovolts, including electric energy storage, distributed generation, distributed natural gas generation, or electric vehicles that provide electricity onto the distribution system. The term does not include a facility that provides temporary emergency electric energy under Section 39.918.

(10) "Power generation company" means a person ~~including a person who owns or operates a distributed natural gas~~

1 ~~generation facility,~~] that:

2 (A) generates electricity that is intended to be  
3 sold at wholesale, including the owner or operator of electric  
4 energy storage equipment or facilities to which Subchapter E,  
5 Chapter 35, applies;

6 (B) does not own a transmission or distribution  
7 facility in this state other than an essential interconnecting  
8 facility, a facility not dedicated to public use, or a facility  
9 otherwise excluded from the definition of "electric utility" under  
10 this section; and

11 (C) does not have a certificated service area,  
12 although its affiliated electric utility or transmission and  
13 distribution utility may have a certificated service area.

14 SECTION 2. Subchapter H, Chapter 39, Utilities Code, is  
15 amended by adding Section 39.3515 to read as follows:

16 Sec. 39.3515. REGISTRATION OF DISTRIBUTED ENERGY  
17 RESOURCES. (a) An owner or operator of a distributed energy  
18 resource may provide energy or ancillary services in the wholesale  
19 market in the ERCOT power region through generating electricity and  
20 providing that electricity onto a distribution system only if:

21 (1) the owner or operator is registered with the  
22 commission as a power generation company under Section 39.351 and  
23 authorized by the independent organization certified under Section  
24 39.151 for the ERCOT power region; or

25 (2) the distributed energy resource:

26 (A) is part of an aggregated distributed energy  
27 resource that is included in the registration of a power generation

1 company under Section 39.351 and the independent organization  
2 certified under Section 39.151 for the ERCOT power region; and

3 (B) has complied with the interconnection  
4 requirements of the interconnecting transmission and distribution  
5 utility.

6 (b) The commission may establish simplified filing  
7 requirements to facilitate the registration of aggregated  
8 distributed energy resources. The filing requirements must require  
9 the registrant to disclose the name of the power generation company  
10 that operates the aggregated distributed energy resource.

11 (c) Notwithstanding any other provision of this chapter, a  
12 facility described by Section 39.914 or 39.916 may not be  
13 aggregated unless the facility is interconnected and operated in  
14 parallel with the distribution system, and:

15 (1) electricity from the facility provides energy or  
16 ancillary services in the wholesale market in the ERCOT power  
17 region in a manner described by this section; or

18 (2) the estimated annual amount of electricity to be  
19 produced by the facility is more than the retail electric  
20 customer's estimated annual electricity consumption at the time of  
21 the facility's installation or the actual amount of electricity  
22 produced by the facility was more than the retail electric  
23 customer's actual electricity consumption in the year prior to the  
24 facility's installation.

25 (d) The commission by rule shall:

26 (1) authorize the registrations described by  
27 Subsection (a); and

1           (2) adopt procedures for the creation of aggregated  
2 distributed energy resources.

3           SECTION 3. Chapter 39, Utilities Code, is amended by adding  
4 Subchapter O to read as follows:

5           SUBCHAPTER O. INTERCONNECTION OF DISTRIBUTED ENERGY RESOURCES

6           Sec. 39.701. METERING EQUIPMENT AND INFORMATION. An  
7 interconnecting transmission and distribution utility is not  
8 required to provide an owner or operator of a distributed energy  
9 resource access to the utility's meter equipment if essential  
10 metering information is made available by the utility or  
11 cooperative.

12           Sec. 39.702. INTEGRATION AND COST RECOVERY. (a) The  
13 commission by rule shall establish for the ERCOT power region:

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

17           (2) appropriate disclosure requirements and other  
18 customer protections for residential and small commercial  
19 customers of providers of aggregated distributed energy services;

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

24           (4) interconnection guidelines that address:

25           (A) the determination of whether a given  
26 interconnection or combination of interconnections would exceed a  
27 transmission and distribution utility's system capacity in a

1 particular location;  
2 (B) considerations for feeder locations related  
3 to distributed energy resources;  
4 (C) considerations of the size or capacity of a  
5 distributed energy resource;  
6 (D) the assessment by the interconnecting  
7 transmission and distribution utility of potential impacts to other  
8 customers in the area of the distributed energy resource; and  
9 (E) other operating parameters necessary for the  
10 transmission and distribution utility's reliable operation of its  
11 transmission and distribution system;  
12 (5) a methodology for the appropriate allocation and  
13 recovery of the transmission and distribution utility's costs to  
14 interconnect a distributed energy resource; and  
15 (6) requirements for the independent organization  
16 certified under Section [39.151](#) for the ERCOT power region to report  
17 to the commission periodically:  
18 (A) the categories and generation levels of  
19 distributed energy resources allowed to participate in the ERCOT  
20 wholesale market;  
21 (B) the categories and megawatt levels of  
22 aggregated distributed energy resources allowed to participate in  
23 the ERCOT wholesale market;  
24 (C) performance metrics for distributed energy  
25 resources allowed to participate in the ERCOT wholesale market; and  
26 (D) other information the commission may  
27 require.

1       (b) The commission shall authorize a transmission and  
2 distribution utility to:

3           (1) defer for recovery in a later ratemaking  
4 proceeding the incremental operations and maintenance expenses, or  
5 other expenses, and the return, not otherwise recovered in a rate  
6 proceeding, associated with the installation, modification,  
7 upgrade, or maintenance of its transmission or distribution  
8 facilities required by an interconnection with a distributed energy  
9 resource; and

10          (2) request recovery of the costs associated with an  
11 interconnection with a distributed energy resource, including any  
12 deferred expenses, through a proceeding under Section 35.004 or  
13 36.210 or in another ratemaking proceeding regardless of whether  
14 the utility or cooperative first requested recovery in a base-rate  
15 proceeding.

16       (c) Facilities required by an interconnection with a  
17 distributed energy resource are considered used and useful in  
18 providing service to the public and are prudent and includable in  
19 the rate base, regardless of the extent of the actual use of the  
20 facilities.

21       (d) This subchapter does not:

22           (1) require or authorize a distribution service  
23 provider to procure distributed energy resource services to enable  
24 the operation of the distribution system;

25           (2) require a distribution service provider to  
26 disclose to any third party, except as required by the independent  
27 system operator, the provider's system planning information,

1 studies, models, critical infrastructure information, or other  
2 confidential information;

3 (3) diminish a distribution service provider's rights  
4 or obligations to own or operate its distribution system and  
5 provide electric delivery service to retail customers in the  
6 provider's certificated service area;

7 (4) obligate a distribution service provider to  
8 interconnect a distributed energy resource with a capacity equal to  
9 or greater than 10 megawatts; or

10 (5) prohibit an interconnecting distribution service  
11 provider from shedding a distributed energy resource, or otherwise  
12 obligate an interconnecting distribution service provider to  
13 provide preferential treatment to feeders with distributed energy  
14 resources or prevent a transmission and distribution utility from  
15 fulfilling its load shedding obligations during an involuntary load  
16 shedding event initiated by the independent system operator or a  
17 planned or unplanned outage of the distribution system.

18 Sec. 39.703. LIABILITY. An interconnecting transmission  
19 and distribution utility or retail electric provider providing  
20 service to a distributed energy resource to which this subchapter  
21 applies is not liable for:

22 (1) a violation of reliability or service metrics  
23 caused by distributed energy resource operations that violate its  
24 interconnection agreement; or

25 (2) a distributed energy resource's inability or  
26 failure to provide services that violate its interconnection  
27 agreement or a penalty for such inability or failure.

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

5 (b) Subchapter 2, Chapter 39, Utilities Code, is amended by  
6 adding Section 39.9166 to read as follows:

7 Sec. 39.9166. DISTRIBUTED ENERGY RESOURCES. (a) A  
8 customer who purchases or leases a distributed energy resource or  
9 enters into a power purchase agreement for a distributed energy  
10 resource in the ERCOT power region is entitled to the information  
11 and disclosures required under Chapter 115, Business & Commerce  
12 Code, and is entitled to protection from fraudulent, unfair,  
13 misleading, or deceptive practices.

14 (b) An owner or operator of a distributed energy resource  
15 may provide energy or ancillary services in the wholesale market in  
16 the ERCOT power region.

17 (c) A person who owns or operates a distributed energy  
18 resource in an area in which customer choice has been introduced and  
19 is part of an aggregated distributed energy resource, or has not  
20 individually registered with the commission as its own power  
21 generation company, must sell the surplus electricity that is  
22 produced by the distributed energy resource and not consumed by the  
23 owner's premise to the retail electric provider that serves the  
24 premise's load at a value agreed to between the distributed energy  
25 resource owner and the retail electric provider that serves the  
26 premise's load. The value may be an agreed value based on the  
27 clearing price of energy or ancillary service at the time of day



1 that the electricity is made available to the grid.

2 (d) A person who operates an aggregated distributed energy  
3 resource in an area in which customer choice has been introduced is  
4 subject to customer protection rules established by the commission  
5 under Chapter 17 and this chapter.

6 (e) The independent organization certified under Section  
7 39.151 for the ERCOT power region shall adopt procedures to ensure  
8 that the amount of electricity purchased from a distributed energy  
9 resource owner under this section is accounted for when settling  
10 the total load served by the retail electric provider that serves  
11 that premise owner's load.

12 (f) A distributed energy resource owner that requests net  
13 metering services for purposes of this section must have metering  
14 devices capable of providing measurements consistent with the  
15 independent organization's settlement requirements.

16 (g) A transmission and distribution utility may provide to  
17 customers educational information regarding the technical  
18 requirements for the interconnection of distributed energy  
19 resources to the distribution system. The provision of information  
20 under this subsection is not considered a competitive energy  
21 service.

22 (h) This section does not apply to a purchase or agreement  
23 entered into under Section 39.914 or 39.916.

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

1 (b) Subchapter 2, Chapter 39, Utilities Code, is amended by  
2 adding Section 39.9166 to read as follows:

3 Sec. 39.9166. DISTRIBUTED ENERGY RESOURCES. (a) A  
4 customer who purchases or leases a distributed energy resource or  
5 enters into a power purchase agreement for a distributed energy  
6 resource in the ERCOT power region is entitled to the information  
7 and disclosures required under Chapter 113, Business & Commerce  
8 Code, as added by Chapter 561 (S.B. 398), Acts of the 87th  
9 Legislature, Regular Session, 2021, and is entitled to protection  
10 from fraudulent, unfair, misleading, or deceptive practices.

11 (b) An owner or operator of a distributed energy resource  
12 may provide energy or ancillary services in the wholesale market in  
13 the ERCOT power region.

14 (c) A person who owns or operates a distributed energy  
15 resource in an area in which customer choice has been introduced and  
16 is part of an aggregated distributed energy resource, or has not  
17 individually registered with the commission as its own power  
18 generation company, must sell the surplus electricity that is  
19 produced by the distributed energy resource and not consumed by the  
20 owner's premise to the retail electric provider that serves the  
21 premise's load at a value agreed to between the distributed energy  
22 resource owner and the retail electric provider that serves the  
23 premise's load. The value may be an agreed value based on the  
24 clearing price of energy or ancillary service at the time of day  
25 that the electricity is made available to the grid.

26 (d) A person who operates an aggregated distributed energy  
27 resource in an area in which customer choice has been introduced is

1 subject to customer protection rules established by the commission  
2 under Chapter 17 and this chapter.

3 (e) The independent organization certified under Section  
4 39.151 for the ERCOT power region shall adopt procedures to ensure  
5 that the amount of electricity purchased from a distributed energy  
6 resource owner under this section is accounted for when settling  
7 the total load served by the retail electric provider that serves  
8 that premise owner's load.

9 (f) A distributed energy resource owner that requests net  
10 metering services for purposes of this section must have metering  
11 devices capable of providing measurements consistent with the  
12 independent organization's settlement requirements.

13 (g) A transmission and distribution utility may provide to  
14 customers educational information regarding the technical  
15 requirements for the interconnection of distributed energy  
16 resources to the distribution system. The provision of information  
17 under this subsection is not considered a competitive energy  
18 service.

19 (h) This section does not apply to a purchase or agreement  
20 entered into under Section 39.914 or 39.916.

21 SECTION 6. For the purposes of Section 39.3515(c)(2),  
22 Utilities Code, as added by this Act, a facility described by  
23 Section 39.914 or 39.916, Utilities Code, may be registered as an  
24 aggregated distributed energy resource with the Public Utility  
25 Commission of Texas if:

26 (1) the estimated annual amount of electricity to be  
27 produced by the facility was more than the retail electric

1 customer's estimated annual electricity consumption at the time of  
2 installation, if the facility was installed not more than a year  
3 before the effective date of this Act; or

4           (2) the actual amount of electricity produced by the  
5 facility was more than the retail electric customer's actual  
6 electricity consumption in the year prior to the facility's  
7 installation, if the facility was installed more than a year before  
8 the effective date of this Act.

9           SECTION 7. As soon as practicable after the effective date  
10 of this Act, the Public Utility Commission of Texas shall adopt  
11 rules necessary to implement the changes in law made by this Act.

12           SECTION 8. This Act takes effect immediately if it receives  
13 a vote of two-thirds of all the members elected to each house, as  
14 provided by Section 39, Article III, Texas Constitution. If this  
15 Act does not receive the vote necessary for immediate effect, this  
16 Act takes effect September 1, 2023.