

AN ACT

relating to electricity service in the ERCOT power region,
including the participation of aggregated distributed energy
resources in the ERCOT market.

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

SECTION 1. Section 31.002(17), Utilities Code, is amended
to read as follows:

(17) "Retail electric provider" means a person that
sells electric energy to retail customers in this state. A retail
electric provider may not own or operate generation assets but may
aggregate distributed energy resources under Section 39.3515. The
term does not include a person not otherwise a retail electric
provider who owns or operates equipment used solely to provide
electricity charging service for consumption by an alternatively
fueled vehicle, as defined by Section 502.004, Transportation Code.

SECTION 2. Section 39.101(b), Utilities Code, is amended to
read as follows:

(b) A customer is entitled:

(1) to be informed about rights and opportunities in
the transition to a competitive electric industry;

(2) to choose the customer's retail electric provider
consistent with this chapter, to have that choice honored, and to
assume that the customer's chosen provider will not be changed
without the customer's informed consent;

1 (3) to have access to providers of energy efficiency
2 services, to on-site distributed generation, and to providers of
3 energy generated by renewable energy resources;

4 (4) to be served by a provider of last resort that
5 offers a commission-approved standard service package;

6 (5) to receive sufficient information to make an
7 informed choice of service provider;

8 (6) to be protected from unfair, misleading, or
9 deceptive practices, including protection from being billed for
10 services that were not authorized or provided; ~~and~~

11 (7) to have an impartial and prompt resolution of
12 disputes with its chosen retail electric provider and transmission
13 and distribution utility;

14 (8) to participation in demand response programs
15 through retail electric providers that offer demand response
16 programs; and

17 (9) to receive notice from the retail electric
18 provider that serves the customer when the independent organization
19 certified under Section 39.151 for the ERCOT power region issues an
20 emergency energy alert.

21 SECTION 3. Section 39.351, Utilities Code, is amended by
22 amending Subsection (a) and adding Subsection (a-1) to read as
23 follows:

24 (a) A person may not generate electricity unless:

25 (1) the person is registered with the commission as a
26 power generation company in accordance with this section; or

27 (2) the electricity is generated as part of a

1 registered aggregate distributed energy resource under Section
2 39.3515.

3 (a-1) A person may register as a power generation company by
4 filing the following information with the commission:

5 (1) a description of the location of any facility used
6 to generate electricity;

7 (2) a description of the type of services provided;

8 (3) a copy of any information filed with the Federal
9 Energy Regulatory Commission in connection with registration with
10 that commission; and

11 (4) any other information required by commission rule,
12 provided that in requiring that information the commission shall
13 protect the competitive process in a manner that ensures the
14 confidentiality of competitively sensitive information.

15 SECTION 4. Subchapter H, Chapter 39, Utilities Code, is
16 amended by adding Section 39.3515 to read as follows:

17 Sec. 39.3515. AGGREGATE DISTRIBUTED ENERGY RESOURCES. (a)
18 A person who aggregates distributed energy resources:

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

21 (2) shall comply with rules, guidelines, and
22 registration requirements established by the commission and by
23 Chapter 17 and this chapter; and

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

1 (b) The commission may establish rules and registration
2 requirements for the aggregation of distributed energy resources.

3 SECTION 5. Subchapter 2, Chapter 39, Utilities Code, is
4 amended by adding Section 39.919 to read as follows:

5 Sec. 39.919. AVERAGE TOTAL RESIDENTIAL LOAD REDUCTION
6 GOALS. (a) The commission by rule shall establish goals in the
7 ERCOT power region to reduce the average total residential load.

8 (b) The rules adopted under Subsection (a) must provide for
9 the adoption of a program that:

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

12 (2) promotes the use of smart metering technology;

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

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

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

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

26 (7) establishes the method by which the components of
27 the ratio described by Subsection (c) are calculated for purposes

1 of determining whether the goals described by Subsection (a) have
2 been achieved;

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

5 (9) allows a retail electric provider that offers a
6 demand response program under this section to obtain funding for
7 the demand response program through an energy efficiency incentive
8 program established under Section 39.905 if the program complies
9 with commission requirements related to the evaluation,
10 measurement, and verification of demand response programs adopted
11 under Section 39.905.

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

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

21 SECTION 6. The Public Utility Commission of Texas shall
22 adopt rules as necessary for the adoption of a program to begin
23 facilitating the widespread deployment of appliances and devices
24 capable of being part of a demand response product or plan offered
25 by a retail electric provider, as provided by Section 39.919(b)(6),
26 Utilities Code, as added by this Act, before December 31, 2024.

27 SECTION 7. This Act takes effect September 1, 2023.

President of the Senate

Speaker of the House

I hereby certify that S.B. No. 1699 passed the Senate on April 12, 2023, by the following vote: Yeas 31, Nays 0; and that the Senate concurred in House amendments on May 28, 2023, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

I hereby certify that S.B. No. 1699 passed the House, with amendments, on May 23, 2023, by the following vote: Yeas 145, Nays 0, one present not voting.

Chief Clerk of the House

Approved:

Date

Governor