

BILL ANALYSIS

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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

As Texas faces rising energy demands and extreme weather events, ensuring grid reliability and capacity is more crucial than ever. The 2021 winter storm exposed vulnerabilities in the power grid, with record-low temperatures causing wide-spread outages. With peak demand expected to double by 2030, one innovative solution is allowing distributed energy resources (DERs) to connect and supply power back to the grid. The Federal Energy Regulatory Commission issued Order 2222 in 2020, which enabled DERs to be aggregated and connected to regional wholesale markets. Bringing this technology to Texas would help to ensure long-term grid stability and reliability.

While individual DERs may be too small to be involved in market activity, aggregating multiple DERs creates a bundle of devices that can supply sufficient electricity to be helpful and effective in supplying power back to the grid. S.B. 2021 would create the regulatory structure necessary to aggregate and connect DERs to the grid.

As proposed, S.B. 2021 amends current law relating to the interconnection and integration of distributed energy resources.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Public Utility Commission of Texas in SECTION 4 (Section 39.701, Utilities Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 31.002, Utilities Code, by adding Subdivisions (2-a) and (4-c) and amending Subdivision (10), to define "aggregated distributed energy resources" and "distributed energy resource" and to redefine "power generation company."

SECTION 2. Amends Section 39.351(a), Utilities Code, as follows:

(a) Prohibits a person from generating electricity unless certain criteria are met, including that the electricity is generated as part of a registered aggregated distributed energy resource, rather than as part of a registered aggregate distributed energy resource under Section 39.3515 (Aggregate Distributed Energy Resources).

SECTION 3. Amends Subchapter H, Chapter 39, Utilities Code, by adding Section 39.3514, as follows:

Sec. 39.3514. REGISTRATION OF DISTRIBUTED ENERGY RESOURCES. Authorizes an owner or operator of a distributed energy resource to provide energy or ancillary services in the wholesale market in the Electric Reliability Council of Texas (ERCOT) power region through generating electricity and providing that electricity onto a distribution system only if:

(1) the owner or operator is registered with the Public Utility Commission of Texas (PUC) as a power generation company under Section 39.351 (Registration of Power Generation Companies) and authorized by the independent organization

certified under Section 39.151 (Essential Organizations) for the ERCOT power region; or

(2) the distributed energy resource:

(A) is part of an aggregated distributed energy resource that is included in the registration of a power generation company under Section 39.351 and the independent organization certified under Section 39.151 for the ERCOT power region or authorized by the PUC and registered under Section 39.3515; and

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

SECTION 4. Amends Chapter 39, Utilities Code, by adding Subchapter O, as follows:

SUBCHAPTER O. INTERCONNECTION OF DISTRIBUTED ENERGY RESOURCES

Sec. 39.701. INTEGRATION AND COST RECOVERY. (a) Requires the PUC by rule to establish for the ERCOT power region:

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

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

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

(4) interconnection guidelines that address certain determinations, considerations, assessments, and operating parameters.

(5) a methodology for the appropriate allocation and recovery of the transmission and distribution utility's costs to interconnect a distributed energy resource; and

(6) requirements for the independent organization certified under Section 39.151 for the ERCOT power region to report to the PUC periodically the categories and generation levels of distributed energy resources allowed to participate in the ERCOT wholesale market, the categories and megawatt levels of aggregated distributed energy resources allowed to participate in the ERCOT wholesale market, performance metrics for distributed energy resources allowed to participate in the ERCOT wholesale market, and other information the PUC may require.

(b) Requires the PUC to authorize a transmission and distribution utility to defer for recovery in a later ratemaking proceeding the incremental operations and maintenance expenses, or other expenses, and the return, not otherwise recovered in a rate proceeding, associated with the installation, modification, upgrade, or maintenance of its transmission or distribution facilities required by an interconnection with a distributed energy resource and request recovery of the costs associated with an interconnection with a distributed energy resource, including any deferred expenses, through a proceeding under Section 35.004 (Provision of Transmission Service) or 36.210 (Periodic Rate Adjustments) or in another ratemaking proceeding regardless of whether the utility or cooperative first requested recovery in a base-rate proceeding.

(c) Provides that this subchapter does not:

- (1) require or authorize a distribution service provider to procure distributed energy resource services to enable the operation of the distribution system;
- (2) require a distribution service provider to disclose to any third party, except as required by the independent system operator, the provider's system planning information, studies, models, critical infrastructure information, or other confidential information;
- (3) diminish a distribution service provider's rights or obligations to own or operate its distribution system and provide electric delivery service to retail customers in the provider's certificated service area;
- (4) obligate a distribution service provider to interconnect a distributed energy resource with a capacity equal to or greater than 10 megawatts; or
- (5) prohibit an interconnecting distribution service provider from shedding a distributed energy resource, or otherwise obligate an interconnecting distribution service provider to provide preferential treatment to feeders with distributed energy resources or prevent a transmission and distribution utility from fulfilling its load shedding obligations during an involuntary load shedding event initiated by the independent system operator or a planned or unplanned outage of the distribution system.

Sec. 39.702. **LIABILITY.** Provides that an interconnecting transmission and distribution utility or retail electric provider providing service to a distributed energy resource to which this subchapter applies is not liable for a violation of reliability or service metrics caused by distributed energy resource operations that violate its interconnection agreement or a distributed energy resource's inability or failure to provide services that violate its interconnection agreement or a penalty for such inability or failure.

SECTION 5. Amends Subchapter Z, Chapter 39, Utilities Code, by adding Section 39.9166, as follows:

Sec. 39.9166. **DISTRIBUTED ENERGY RESOURCES.** (a) Entitles a customer who purchases or leases a distributed energy resource or enters into a power purchase agreement for a distributed energy resource in the ERCOT power region to the information and disclosures required under Chapter 115 (Sales and Leasing of Distributed Renewable Generation Resources), Business & Commerce Code, and to protection from fraudulent, unfair, misleading, or deceptive practices.

(b) Authorizes an owner or operator of a distributed energy resource to provide energy or ancillary services in the wholesale market in the ERCOT power region.

(c) Provides that a person who owns or operates a distributed energy resource in an area in which customer choice has been introduced and is part of an aggregated distributed energy resource, or has not individually registered with the PUC as its own power generation company, is authorized only to sell the surplus electricity that is produced by the distributed energy resource and not consumed by the owner's premise to the retail electric provider that serves the premise's load at a value agreed to between the distributed energy resource owner and the retail electric provider that serves the premise's load. Authorizes the value to be an agreed value based on the clearing price of energy or ancillary service at the time of day that the electricity is made available to the grid.

(d) Provides that a person who operates an aggregated distributed energy resource in an area in which customer choice has been introduced is subject to customer

protection rules established by the PUC under Chapter 17 (Customer Protection) and Chapter 39 (Restructuring of Electric Utility Industry).

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

(f) Requires a distributed energy resource owner that requests net metering services for purposes of this section to have metering devices capable of providing measurements consistent with the independent organization's settlement requirements.

(g) Authorizes a transmission and distribution utility to provide to customers educational information regarding the technical requirements for the interconnection of distributed energy resources to the distribution system. Provides that the provision of information under this subsection is not considered a competitive energy service.

(h) Provides that this section does not apply to a purchase or agreement entered into under Section 39.914 (Credit for Surplus Solar Generation by Public Schools) or 39.916 (Interconnection of Distributed Renewable Generation).

SECTION 6. Requires the PUC, as soon as practicable after the effective date of this Act, to adopt rules necessary to implement the changes in law made by this Act.

SECTION 7. Effective date: upon passage or September 1, 2025.