

By: Johnson

S.B. No. 2021

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[7
~~including a person who owns or operates a distributed natural gas~~

~~generation facility,~~] that:

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

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

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

SECTION 2. Section 39.351(a), Utilities Code, is amended to read as follows:

(a) A person may not generate electricity unless:

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

(2) the electricity is generated as part of a registered aggregated ~~[aggregate]~~ distributed energy resource ~~[under Section 39.3515]~~.

SECTION 3. Subchapter H, Chapter 39, Utilities Code, is amended by adding Section 39.3514 to read as follows:

Sec. 39.3514. REGISTRATION OF DISTRIBUTED ENERGY RESOURCES. An owner or operator of a distributed energy resource may provide energy or ancillary services in the wholesale market in the 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 commission as a power generation company under Section 39.351 and authorized by the independent organization certified under Section 39.151 for the ERCOT power region; or

(2) the distributed energy resource:

(A) is part of an aggregated distributed energy resource that is:

(i) 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

(ii) authorized by the commission and registered under Section 39.3515; and

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

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

SUBCHAPTER O. INTERCONNECTION OF DISTRIBUTED ENERGY RESOURCES

Sec. 39.701. INTEGRATION AND COST RECOVERY. (a) The commission by rule shall 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

1 customers of providers of aggregated distributed energy services;

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

6 (4) interconnection guidelines that address:

7 (A) the determination of whether a given
8 interconnection or combination of interconnections would exceed a
9 transmission and distribution utility's system capacity in a
10 particular location;

11 (B) considerations for feeder locations related
12 to distributed energy resources;

13 (C) considerations of the size or capacity of a
14 distributed energy resource;

15 (D) the assessment by the interconnecting
16 transmission and distribution utility of potential impacts to other
17 customers in the area of the distributed energy resource; and

18 (E) other operating parameters necessary for the
19 transmission and distribution utility's reliable operation of its
20 transmission and distribution system;

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

24 (6) requirements for the independent organization
25 certified under Section 39.151 for the ERCOT power region to report
26 to the commission periodically;

27 (A) the categories and generation levels of

distributed energy resources allowed to participate in the ERCOT wholesale market;

(B) the categories and megawatt levels of aggregated distributed energy resources allowed to participate in the ERCOT wholesale market;

(C) performance metrics for distributed energy resources allowed to participate in the ERCOT wholesale market; and

(D) other information the commission may require.

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

(1) 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

(2) 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 or 36.210 or in another ratemaking proceeding regardless of whether the utility or cooperative first requested recovery in a base-rate proceeding.

(c) This subchapter does not:

(1) require or authorize a distribution service provider to procure distributed energy resource services to enable

1 the operation of the distribution system;

2 (2) require a distribution service provider to
3 disclose to any third party, except as required by the independent
4 system operator, the provider's system planning information,
5 studies, models, critical infrastructure information, or other
6 confidential information;

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

11 (4) obligate a distribution service provider to
12 interconnect a distributed energy resource with a capacity equal to
13 or greater than 10 megawatts; or

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

22 Sec. 39.702. LIABILITY. An interconnecting transmission
23 and distribution utility or retail electric provider providing
24 service to a distributed energy resource to which this subchapter
25 applies is not liable for:

26 (1) a violation of reliability or service metrics
27 caused by distributed energy resource operations that violate its

1 interconnection agreement; or

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

5 SECTION 5. Subchapter 2, Chapter 39, Utilities Code, is
6 amended by 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, may only 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 6. As soon as practicable after the effective date
25 of this Act, the Public Utility Commission of Texas shall adopt
26 rules necessary to implement the changes in law made by this Act.

27 SECTION 7. This Act takes effect immediately if it receives

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1 a vote of two-thirds of all the members elected to each house, as
2 provided by Section 39, Article III, Texas Constitution. If this
3 Act does not receive the vote necessary for immediate effect, this
4 Act takes effect September 1, 2025.