

BILL ANALYSIS

C.S.H.B. 3916
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State Affairs
Committee Report (Substituted)

BACKGROUND AND PURPOSE

In February of this year, Winter Storm Uri struck Texas, crippling the state's electric grid and forcing half of the normal generating capacity offline, resulting in more than four million Texans going without electricity during the most intense winter weather in recent memory. This event exposed significant vulnerabilities in the ERCOT grid, which will require many years and additional billions of dollars in public investment to address. Distributed generation facilities provide a means for individual consumers to generate their own electricity, either to provide supplemental power to their homes and businesses during outages or to sell power at wholesale on the market. This can protect consumers against future blackouts, provide additional generating resources, and contribute to the overall reliability and resilience of the grid. Distributed generation resources can include rooftop solar panels, small- and community-scale wind turbines, fuel cells that run on hydrogen, natural gas, gasoline, or diesel generators. Consumers who own distributed generation facilities are less likely to lose power and more likely to contribute to the reliability of their regional electric network than those who do not. Unfortunately, the state lacks a cohesive policy for allowing large-scale customers to interconnect and sell their power on the market. C.S.H.B. 3916 seeks to address this issue by establishing a framework for the interconnection and operation of distributed generation facilities under which every Texan in the ERCOT power region can operate.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 3916 amends the Utilities Code to authorize a person who owns or operates a distributed generation facility in the ERCOT power region to sell electric power generated by the facility, as follows:

- in areas where retail customer choice exists, the owner or operator may sell to the retail electric customer on whose side of the meter the facility is installed and operated;
- in areas where retail customer choice does not exist, the owner or operator may sell to the retail electric customer on whose side of the meter the facility is installed and operated for on-site use as follows:
 - during certain emergencies;
 - during times of service interruption or inadequacy at the customer's premises;
 - during construction on the customer's premises;
 - for maintenance and testing of the facility; and

- up to an additional 75 hours per calendar year in any other situation; and
- in the ERCOT power region market, the owner or operator may sell at wholesale, including for ancillary services in that market.

C.S.H.B. 3916 authorizes an electric cooperative, municipally owned utility, or retail electric provider that provides retail electric service to the owner or operator of a distributed generation facility to purchase electric power provided to the cooperative, utility, or provider by the owner or operator at a value agreed to by both parties, which may be based wholly or partly on the ERCOT power region market clearing price of energy at the time of day and at the location at which the electric power is made available.

C.S.H.B. 3916 requires an electric utility to allow interconnection and provide distribution and transmission service to a distributed generation facility on a nondiscriminatory basis and in a timely manner. The bill authorizes the utility to recover reasonable costs directly attributable to the interconnection from the facility's owner or operator.

C.S.H.B. 3916 requires an electric utility that receives a request for interconnection from the owner or operator of a distributed generation facility to provide the owner or operator with a written good-faith cost estimate for interconnection-related costs and to interconnect the facility not later than the 90th day after the date the utility receives the request. The bill provides for a 30-day extension of the interconnection deadline under certain circumstances and prohibits the utility from incurring a cost for the interconnection without entering into a written agreement for payment of the costs by the owner or operator.

C.S.H.B. 3916 prohibits an electric utility or political subdivision from imposing an additional charge or pricing difference on a development, building permit application, ERCOT power region wholesale market access request, or interconnection agreement related to the connection or reconnection of a distributed generation facility. The bill authorizes an electric utility to charge the owner or operator of a distributed generation facility reasonable and nondiscriminatory rates for distribution service but only to the extent that the rates are in accordance with a tariff filed with the Public Utility Commission of Texas (PUC).

C.S.H.B. 3916 requires the owner or operator of a distributed generation facility that is located in the certificated area of an electric utility that owns and operates generation and that has adopted retail customer choice to contract with the utility for any services required to participate in the ERCOT power region wholesale market if the utility offers the services on a nondiscriminatory basis at a commercially reasonable cost. The owner or operator may instead contract with a third-party provider to obtain those services if the owner or operator, in their sole reasonable discretion, determines that the services are not offered on a nondiscriminatory basis at a commercially reasonable cost.

C.S.H.B. 3916 establishes that the PUC has jurisdiction to resolve a dispute between an electric utility and the owner or operator of a distributed generation facility that arises under the bill's provisions. The bill requires a facility to comply with emissions limitations established by the Texas Commission on Environmental Quality for electric generation facilities installed after January 1, 1995, that are subject to certain standard permit requirements.

C.S.H.B. 3916 defines "distributed generation facility" as a facility installed on the customer's side of the meter with a nameplate capacity of at least 250 kilowatts and not more than 2,500 kilowatts that is capable of providing backup or supplementary power to the customer's premises. The bill defines "electric utility" as an electric utility, a municipally owned utility, and an electric cooperative.

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2021.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 3916 may differ from the original in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

While both the original and the substitute address the regulation of distributed generation facilities, they differ in scope and approach. The original prohibited certain restrictive regulation of distributed power generation, whereas the substitute instead establishes a detailed framework for the interconnection and operation of distributed generation facilities in the ERCOT power region. The substitute limits the applicability of the bill's provisions to facilities with a nameplate capacity of at least 250 kilowatts and not more than 2,500 kilowatts.