SUBJECT: Providing compensation for surplus electricity from distributed generation

COMMITTEE: State Affairs — committee substitute recommended

VOTE: 11 ayes — Solomons, Menendez, Cook, Farabee, Gallego, Geren, Jones, Lucio, Maldonado, Swinford, S. Turner

2 nays — Craddick, Harless

2 absent — Hilderbran, Oliveira

WITNESSES: (*On original bill:)*
For — Karen Hadden, Sustainable Energy and Economic Development Coalition; Kathy Jack Lambert; Luke Metzger, Environment Texas; Cyrus Reed, Lone Star Chapter, Sierra Club; Mike Renner; Tom "Smitty" Smith, Public Citizen; (*Registered, but did not testify:* John Berger, Standard Renewable Energy; James Brannen, Northern Power Systems; Jim Duncan, North Texas Renewable Energy Inc.; Sandra Haverlah, Environmental Defense Fund; Michael Kuhn, Imagine Solar, LLC; Tyra Rankin; Bret Raymis, Alamo Solar Manufacturing; Carl Richie, TXU Energy; Emily Shelton, Texas Impact; Mike Sloan, Southwest Wind Power, Bergey Wind, Entegrity Wind; David W. Smith, Wind Eagle Corporation; Bill Stout, Green Party of Texas)

Against — Mark Zion, Texas Public Power Association

On — David Hedrick, Texas Electric Cooperatives; Michael Jewell, Association of Electric Companies of Texas; David Smithson, Public Utility Commission; Catherine Webking, Texas Energy Association for Marketers; Steve Wiese, Texas Renewable Energy Industries Association; (*Registered, but did not testify:* Stephen Davis, Alliance for Retail Markets; Jess Totten, Public Utility Commission)

(*On committee substitute:*)
For — Susan Neel, Association of Electric Companies of Texas and CenterPoint Energy

Against — None

BACKGROUND:

Distributed Renewable Generation (DRG), or "on-site" generation, is produced from renewable sources, such as solar photovoltaic panels, on-site small wind generators, or biogas. Most DRG systems produce enough energy to meet a portion of a home or business' energy needs, reducing the amount of electricity purchased from a utility. In some cases, a system can produce surplus electricity and sell it back to the grid.

DIGEST:

CSHB 1243 would require electric utilities, electric cooperatives, or retail electric providers (REPs) to contract with owners of DRG so that surplus electricity produced by DRG would be available for sale to the transmission and distribution system at fair market value, credited to the DRG owner. The bill would do the following:

- provide pricing guidelines for surplus electricity;
- direct the Public Utility Commission (PUC) to provide a methodology for determining fair market value;
- provide qualifications to receive compensation;
- provide instructions for municipally owned utilities (MOUs) for handling DRG;
- require certain information be provided on the Internet; and
- revise the definition of a DRG owner and provide that DRGs are not to be defined as electric utilities.

Also, CSHB 1243 would provide that a DRG owner would not be considered a power generation company if, at the time DRG was installed on a retail electric customer's side of the meter, the estimated annual amount of energy produced was less than or equal to the estimated annual amount of energy consumed.

Pricing for surplus electricity from DRG. CSHB 1243 would provide that a DRG would sell surplus electricity at a fair market value, rather than a value agreed to between the owner and the provider that served the owner's load. The owner's surplus electricity could also be exchanged for a credit applied at the fair market value.

In a competitive area, a REP would be required to pay a DRG owner the local market clearing price for energy at the time of day the surplus electricity was made available to the grid or at least the fair market value.

Determining the fair market value of surplus electricity. The PUC would be required to provide, by rule, a methodology for determining a fair market value price for surplus electricity. The value could not be less than 80 percent of the customer's applicable retail rate minus any non-bypassable charges. The PUC would be required to post the prices on its website.

Until the PUC provided the methodology, a REP in a competitive area would be required to pay at least 5 cents per kilowatt-hour for surplus electricity generated by solar energy and at least 4 cents per kilowatt-hour for surplus electricity generated by another renewable energy technology. In areas not open to competition, an electric utility or cooperative would be required to pay a price no less than their avoided cost.

Qualifications for compensation. A DRG owner would be qualified to be paid the local market clearing price for energy or the fair market value price for surplus electricity only if the DRG:

- was installed on a residential electric customer's side of the meter;
- had a generating capacity no greater than 10 kilowatts; and
- was rated to produce less or equal electricity than the DRG owner was expected to consume.

A DRG owner that did not meet these qualifications would sell their surplus electricity at a value agreed to between the owner and utility provider.

The PUC could, by rule, establish standards that would have to be met to be eligible for compensation, including interconnection standards and standards for generating equipment. The standards would have to be designed for small-scale residential DRG.

The PUC, by rule, would require an electric utility, REP, or electric cooperative that purchased surplus electricity to include on the DRG owner's bill:

- line items of the amount of surplus electricity from DRG;
- the price credited; and
- the amount of any credit applied or carried forward from the previous billing period.

Providers could charge a monthly or annual administrative fee.

DRG within municipally owned utilities (MOUs). MOUs would be required to provide customers access to the interconnection and net metering of DRG and would be required to provide oversight and adopt rates, rules, and procedures.

A MOU that had retail sales of 500,000 megawatt hours or more in 2008 would be required to file its interconnection and net metering rates, rules, and procedures with the comptroller's State Energy Conservation Office by January 1, 2010, and would be required to make timely updates. Also, information on the purchase price and how to get the purchase rates offered would have to be made available.

A MOU that had retail sales of less than 500,000 megawatt-hours in 2008 would be required to provide oversight and adopt rules and procedures for DRG systems sized with a generating capacity deemed appropriate on or before the 120th day after the MOUs received a request for interconnection.

Information on the Internet. The PUC would be required to provide information on www.powertochoose.org regarding REPs' offers for surplus electricity from DRG, including contract terms for each REP. Also included would be information regarding offers of renewable energy credit marketers to DRG owners.

Electric utilities, electric cooperatives, and REPs would be required to put information on the Internet regarding purchase price offers and how to obtain those rates.

Effective date. This bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2009.

SUPPORTERS SAY:

DRG reduces the need for new conventional generation, transmission, and distribution systems, and reduces reliance on existing generation that is damaging to the environment. There is a great deal of interest in DRG and the market for it is growing, but there are barriers that are slowing growth. For example, a DRG owner currently is subject to the same registration requirements as a big generation company. Also, not all providers are allowing interconnection access or offering to buy surplus electricity

generated from DRG. CSHB 1243 would remove some of the barriers by guaranteeing that a DRG owner would receive compensation for surplus electricity at a fair payment. Also, this bill would relieve the DRG owner of the requirements of a larger electricity generation company.

Requiring electric providers to buy back surplus electricity ultimately could be a net benefit to them by reducing their own peak demand. This would offset any initial burden that may be placed on them in order to comply with the requirements of this bill.

Many of the concerns raised about the bill as filed have been addressed in the committee substitute. The committee substitute contains compromise language with stakeholder involvement, and includes input from the environmental community as well as the electric industry.

OPPONENTS SAY:

CSHB 1243 could place a burden on electric providers by requiring them to put systems in place to buy back surplus electricity produced from DRG.

OTHER OPPONENTS SAY:

The goals of CSHB 1243 are good, but the bill would not go far enough. For example, there are many values to DRG beyond just the price of electricity. DRG systems could allow for reduced need for transmission and distribution systems and could have a positive environmental impact. The price for surplus electricity should be adjusted to consider these benefits.

Also, this bill would provide that only the DRG systems that have generating capacities of 10 kilowatts or less would be able to qualify for the fair market value price. The threshold of 10 kilowatts may be a good average for a residential solar system, but would not be large enough to handle a school or church. Also, other renewables such as biogas or wind could need much greater generating capacity than 10 kilowatts. By limiting the generation capacity to 10 kilowatts, this is functionally a solar-only bill.

NOTES:

The committee substitute differs from the bill as filed by:

- removing provision requiring providers to offer net metering service;
- providing that a DRG owner would not be included as an electric utility;

- providing that new and existing law regarding DRG would apply to electric cooperatives;
- providing instructions to MOUs regarding DRG;
- revising the definition of a DRG owner;
- providing instructions and guidelines for determining fair pricing;
- adding the provision that a DRG owner would not be considered a power generation company if, at the time DRG was installed on a retail electric customer's side of the meter, the estimated annual amount of energy produced was less or equal to the estimated annual amount of energy consumed; and
- requiring that certain information be available on the Internet.