

SUBJECT: Exempting transmission and distribution utility demand charges

COMMITTEE: State Affairs — favorable, without amendment

VOTE: 13 ayes — Cook, Menendez, Craddick, Frullo, Gallego, Geren, Harless, Hilderbran, Huberty, Oliveira, Smithee, Solomons, Turner

0 nays

WITNESSES: For — Nicholas Brown, Bill Tarleton, Texas Rural Education Association; T.J. Ermoian, Southwest Region State Little Leagues; Mike Sherburne, Association of Electric Companies of Texas, Inc. (AECT); (*Registered, but did not testify*: Mark Bruce, Distributed Wind Energy Association; Ruben Longoria, Texas Association of School Boards; Stephen Reeves, Texas Baptist Christian Life Commission; Paul Smolen, Texas Electricity Professional Association)

Against — None

On — Nathan Benedict, Office of Public Utility Counsel; Phillip Oldham, Texas Association of Manufacturers; Darryl Tietjen, Public Utility Commission

BACKGROUND: Electric customers are charged a contracted price for electricity from retail electric providers as well as a charge from transmission and distribution service providers for the costs associated with electric delivery. Transmission and distribution utilities use demand rates, or demand charges, which are applied to certain rate schedules, mostly for large general-service or industrial-class customers. These rates are based on the peak demand or highest amount of power the customer used during the billing period. Some customers require large amounts of power for short periods of time. This high but short-term power use requires larger transformers and power lines to meet the infrequent peak needs. Once installed, these facilities remain in place, and the utility is allowed to recover the costs.

Demand rates are designed to recover the costs of building and maintaining the electrical system for the peak periods to serve the customers who required that capacity. Some demand charges are based on

the highest demand for power measured over the current month and the previous 11 months. This is called a ratchet demand charge.

A ratchet demand charge establishes the minimum amount that a customer will pay and is based on the highest demand in the last 12 months. If a customer uses more than the minimum determined by the ratchet, the customer will pay the higher amount. The ratchet will reset after 11 months if the customer acts to reduce the maximum amount of electricity demanded.

DIGEST:

HB 1064 would require the Public Utilities Commission (PUC) to establish rules for a transmission and distribution utility to waive ratchet demand charges for nonresidential customers whose maximum load factor equaled or fell below the threshold set by PUC.

The bill would require the transmission and distribution utility to verify annually whether each nonresidential customer qualified for such a waiver and to specify whether the qualifying customers would be charged based on kilowatts, kilowatt-hours, or kilovolt-amperes. The tariff in the utility's next base rate case would be modified to implement the waiver.

HB 1064 would require the PUC to adopt rules to implement the waiver by June 1, 2012.

The 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, 2011.

**SUPPORTERS
SAY:**

HB 1064 would create a limited exception to demand ratchets, which inequitably boost electric rates for groups with only limited or seasonal demand for electricity. Typically, schools, nonprofit athletic associations, churches, and municipally owned facilities host night events during spring and fall. Churches use most of their electricity on Sunday mornings. Most of these periods fall during the off-peak hours of power usage, when there is little strain on the electric grid.

Schools and nonprofit athletic and sports associations typically only operate during certain months of the year and are idle during other times. Sometimes these groups pay thousands of dollars every month, long after the athletic season has ended. The charges are based on those few months of high usage. For example, one school district currently pays several

hundred dollars a month on a meter that has zero usage outside of football season. In another example, a Little League has been paying \$1,200 every month for electric delivery despite using the field lights only a couple of months during the year.

HB 1064 would ensure fairness for all electricity customers who depend on having a reliable transmission and distribution grid. The bill would require establishment of an objective threshold on demand based on usage, rather than a laundry list of exempt organizations. It also would require the PUC to implement procedures to review the waivers on an annual basis. The PUC also would have to consider these exemptions as part of the transmission and distribution utility rate-making process to ensure that the costs were not passed onto other ratepayers.

Before electric deregulation, a “time of use” program was available that was appropriate for the seasonal, off-peak power usage typical of these organizations. HB 1064 would provide such exemptions in the restructured Texas electric utilities marketplace.

**OPPONENTS
SAY:**

There are two types of charges for electricity — the contracted price for the amount of electricity actually used and the transmission and distribution charges for the costs associated with electric delivery. Customers are responsible for the transmission and distribution demand ratchet charge regardless of the amount of electricity actually used. This can be compared to a car loan. A person is responsible for a monthly car payment regardless of whether he or she drives the car or it sits in the driveway.

A demand ratchet is simply a billing mechanism that allows a utility to assign costs to those customers who use the transmission and distribution grid. Transmission and distribution utilities must be sensitive to the cost pressures on groups like schools, churches, and Girl Scout and Little League organizations whose use is limited or seasonal, but all utilities are obligated to ensure that reliable electric service is available for all electric customers.

NOTES:

On March 9, the House State Affairs Committee held a hearing on HB 538 by C. Anderson, a similar bill to waive demand ratchet charges, but left it pending.

During the 2009 regular session, the House by 111-38 passed HB 230 by

Pitts, a similar bill that would have required a transmission and distribution utility to exempt schools, nonprofit athletic associations, and municipally owned facilities from demand ratchet charges. That bill died in the Senate Business and Commerce Committee.