

BILL ANALYSIS

Senate Research Center

H.B. 1243
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Before the implementation of competition in the electricity market, utilities were required to pay customers for the electricity they delivered to the grid from their solar panels and small wind turbines. An unintended consequence of S.B. 7, 76th Legislature, Regular Session, 1999, was to drop this requirement.

H.B. 1243 corrects this oversight by establishing a minimum price at which the excess electricity from customer-sited small renewable generation must be bought by retail electric providers within the Electric Reliability Council of Texas (ERCOT), utilities outside of ERCOT, and electric cooperatives statewide. The bill also clarifies whether the owners of small renewable energy systems should be required to register as power generation companies.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Public Utility Commission in SECTION 4 (Section 39.916, Utilities Code), SECTION 5 (Section 39.9161, Utilities Code), and SECTION 6 (Section 39.926, Utilities Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 31.002(6), Utilities Code, to redefine "electric utility."

SECTION 2. Amends Section 39.002, Utilities Code, as follows:

Sec. 39.002. APPLICABILITY. Provides that, except as provided by this section, this chapter, other than certain sections, does not apply to a municipally owned utility or to an electric cooperative. Provides that Section 39.916 applies to an electric cooperative. Provides that Section 39.9161 applies to a municipally owned utility. Makes nonsubstantive changes.

SECTION 3. Amends the heading to Section 39.916, Utilities Code, to read as follows:

Sec. 39.916. DISTRIBUTED RENEWABLE GENERATION.

SECTION 4. Amends Section 39.916, Utilities Code, by amending Subsections (a), (b), (c), (e), (f), (h), and (j) and adding Subsections (d-1), (k), (l), (m), (n), (o), (p), and (r), as follows:

(a) Redefines "distributed renewable generation owner."

(b) Requires a transmission and distribution utility, electric cooperative, or electric utility to allow interconnection if the rated capacity of the distributed renewable generation does not exceed the transmission and distribution utility, electric cooperative, or electric utility service capacity.

(c) Makes conforming changes.

(d-1) Prohibits the Public Utility Commission (PUC), if, at the time distributed renewable generation is installed on a retail electric customer's side of the meter, the estimated annual amount of electric energy to be produced by the distributed renewable generation is less than or equal to the customer's estimated annual electric energy

consumption, from considering the distributed renewable generation owner to be a power generation company or require the distributed renewable generation owner to register as a power generation company.

(e) Makes a conforming change.

(f) Makes a conforming change.

(h) Requires, rather than authorizes, an electric utility, electric cooperative, or retail electric provider, on the request of a distributed renewable generation owner and in accordance with this section, to contract with a distributed renewable generation owner so that the fair market value, rather than net value, of that surplus electricity is credited to the distributed renewable generation owner. Makes a nonsubstantive change.

(j) Requires the distributed renewable generation owner, for a distributed renewable generation owner who chooses to sell the owner's surplus electricity in an area in which customer choice has been introduced, rather than distributed renewable generation owners in areas in which customer choice has been introduced, to sell the owner's surplus electricity produced to the retail electric provider that serves the owner's load, rather than that serves the distributed renewable generation owner's load. Requires a distributed renewable generation owner who chooses to sell the owner's surplus electricity in an area in which customer choice has not been introduced, to sell the owner's surplus electricity to the electric utility or electric cooperative that serves the owner's load at a value that is greater than or equal to the avoided cost of the electric utility or electric cooperative, as determined in accordance with PUC rules, and, for an electric cooperative, that is at least 4.5 cents per kilowatt hour regardless of the electric cooperative's avoided cost. Requires a distributed generation owner who chooses to sell the owner's surplus electricity in an area in which customer choice has been introduced to sell owner's surplus electricity at a fair market value, determined in accordance with this section, or the owner's surplus electricity is authorized to be exchanged for a credit applied at a fair market value, rather than at a value agreed to between the distributed renewable generation owner and the provider that serves the owner's load which is authorized to include, but is not limited to, an agreed value based on the clearing price of energy at the time of day that the electricity is made available to the grid or it is authorized to be a credit applied to an account at a certain time, determined in accordance with this section, to an account during a billing period that is authorized to be carried over to subsequent billing periods until the credit has been redeemed. Requires the independent organization identified in Section 39.151 to develop procedures so that the amount of electricity purchased from a distributed renewable generation owner under this section is accounted for in settling the total load served by the provider that serves that owner's load, rather than that serves that owner's load by January 1, 2009. Requires a distributed renewable generation owner requesting metering services, rather than net metering services, for purposes of this section to have metering devices capable of providing measurements consistent with the independent organization's settlement requirements.

(k) Requires PUC by rule, in areas in which customer choice has been introduced, to provide a methodology for determining a fair market value price for surplus electricity generated by distributed renewable generation that provides a monthly or longer periodic proxy for the market clearing price. Prohibits the methodology from allowing the aggregate fair market value of surplus electricity in any billing period to be less than zero. Requires PUC to review the methodology periodically. Requires PUC to post on its Internet website the fair market value prices derived from the methodology provided under this subsection.

(l) Requires a retail electric provider, in an area in which customer choice has been introduced, to pay a distributed renewable generation owner for surplus electricity generated by the owner's distributed renewable generation the local market clearing price for energy at the time of day the surplus electricity is made available to the grid or a price that is not less than the fair market value price determined in accordance with the methodology provided under Subsection (k).

(m) Provides that in areas in which customer choice has been introduced, a distributed renewable generation owner is qualified to be paid for surplus electricity under Subsection (h), (j), (k), or (l) only if the owner's distributed renewable generation meets certain conditions and the generating capacity of the distributed renewable generation does not exceed certain varying kilowatts for certain customers.

(n) Provides that a distributed renewable generation owner who does not meet the qualifications prescribed by Subsection (m) will be paid for the owner's surplus electricity or will have the owner's surplus electricity exchanged for a credit to the owner's electric service account at a value to which the owner and the provider that serves the owner's load agree.

(o) Authorizes PUC by rule to establish standards distributed renewable generation must meet to be eligible for compensation under this section, including interconnection standards and standards for the generating equipment. Requires that the standards be designed so that small-scale distributed renewable generation at residential addresses is eligible for compensation.

(p) Requires PUC by rule to require an electric utility, retail electric provider, or electric cooperative that purchases surplus electricity from distributed renewable generation to include on each bill or separate statement to the distributed renewable generation owner line items to inform the owner of the amount of surplus electricity from the distributed renewable generation, in terms of kilowatt hours; the price credited to or the payment made to the owner for each kilowatt hour; and the amount of any credit for surplus electricity applied or carried forward from the previous billing period.

(r) Requires a retail electric provider, until PUC provides the methodology under Subsection (k) for determining a fair market value price in an area open to competition, to pay a price for surplus electricity that is not less than five cents per kilowatt hour for electricity generated by a solar energy technology or not less than four cents per kilowatt hour for electricity generated by another renewable energy technology.

SECTION 5. Amends Subchapter Z, Chapter 39, Utilities Code, by adding Section 39.9161, as follows:

Sec. 39.9161. DISTRIBUTED RENEWABLE GENERATION WITHIN MUNICIPALLY OWNED UTILITIES. (a) Defines "distributed renewable generation," "distributed renewable generation owner," and "interconnection."

(b) Provides that it is the goal of the legislature that municipally owned utilities are required to allow interconnection and net metering by distributed renewable generation owners.

(c) Requires a municipally owned utility to provide its customers access to the interconnection and net metering of distributed renewable generation.

(d) Requires the governing body of a municipally owned utility to provide oversight and adopt rates, rules, and procedures to allow interconnection and provide net metering consistent with the goals of Section 39.916. Provides that this section does not prevent the governing body of a municipally owned utility from adopting rates, rules, and procedures for interconnection and net metering that are more favorable to a distributed renewable generation owner than those established by Section 39.916 or rules of PUC.

(e) Provides that if a municipally owned utility implements customer choice under Chapter 40 (Competition for Municipality Owned Utilities and River Authority), PUC has jurisdiction over the municipally owned utility's distributed renewable generation interconnection and net metering and by rule requires PUC to establish minimum standards and procedures for interconnection and net metering by the municipally owned utility.

(f) Requires a municipally owned utility that had retail sales of 500,000 megawatt hours or greater in 2008 to file its interconnection and net metering rates, rules, and procedures with the State Energy Conservation Office not later than January 1, 2010, and to make timely updates to the utility's filed rates, rules, and procedures.

(g) Requires a municipally owned utility that has adopted rules and procedures related to interconnection and net metering to make available, on a publicly accessible Internet website or at the customary location for publicly posted notices, information on the purchase price offered per kilowatt hour for surplus electricity produced by distributed renewable generation and information instructing customers with distributed renewable generation how to request and obtain the purchase rates offered.

(h) Requires the governing body of a municipally owned utility that had retail sales of less than 500,000 megawatt hours in 2008 to provide oversight and adopt rules and procedures related to interconnection and net metering of distributed renewable generation systems sized with a generating capacity deemed appropriate by the municipally owned utility on or before the 120th day after the date the governing body receives a bona fide request for interconnection.

SECTION 6. Amends Subchapter Z, Chapter 39, Utilities Code, by adding Section 39.926, as follows:

Sec. 39.926. INFORMATION ON INTERNET REGARDING PURCHASE OF SURPLUS ELECTRICITY PRODUCED BY DISTRIBUTED RENEWABLE GENERATION. (a) Requires PUC, On the Internet website found at <http://www.powertochoose.org>, to provide for access to easily comparable information regarding retail electric providers' offers to residential distributed renewable generation owners for their surplus electricity, including information regarding their contract terms, for each retail electric provider using that website.

(b) Requires PUC, on the Internet website found at <http://www.powertochoose.org>, to provide for access to easily comparable information regarding offers of renewable energy credit marketers to residential distributed renewable generation owners, for each renewable energy credit marketer using that website.

(c) Requires PUC by rule to require electric utilities, electric cooperatives, and retail electric providers to provide on publicly accessible Internet websites information on purchase price offers per kilowatt hour for surplus electricity produced by residential distributed renewable generation and information instructing customers with distributed renewable generation on how to request and obtain the purchase rates offered.

SECTION 7. Requires PUC, not later than January 1, 2010, to provide the methodology for determining a fair market value price for surplus electricity generated by distributed renewable generation, as required by Section 39.916(k), Utilities Code, as added by this Act.

SECTION 8. (a) Provides that Section 39.916, Utilities Code, as amended by this Act, expires September 2, 2011.

(b) Requires PUC to conduct a study to determine the effect of the pricing methodology PUC provides under Section 39.916(k), Utilities Code, as added by this Act, and to report its findings and recommendations to the 82nd Legislature not later than January 15, 2011. Requires that the study include assessments of:

(1) the development of the market in ERCOT for the sale of surplus electricity, including the prices that retail electric providers and electric utilities, municipal electric utilities, and electric cooperatives in areas in which customer choice has

not been introduced pay for surplus electricity, and the amount of surplus electricity such entities have purchased;

(2) the rate of adoption by customers in this state of distributed renewable generation, including generation by solar and other on-site renewable technologies, including a comparison of adoption rates in this state compared to the adoption rates in other states, the extent to which adoption rates vary by retail market structure, the amount of direct installation incentives, the pricing for purchasing of surplus electricity, and the extent to which adoption rates are affected by the cost of other electric supplies;

(3) a comparison of the default fair market value price for surplus electricity to the local market clearing prices of energy at the time of day surplus electricity has been made available to the grid and the avoided costs of electric utilities as determined in accordance with PUC rules; and

(4) the extent to which electric service customers with distributed renewable generation help avoid transmission and distribution upgrades and reduce pollution, including an estimation of the value of those benefits regionally.

(c) Requires that the study report include any recommendations for improvements in policies necessary to appropriately encourage the development of distributed renewable generation technologies on customer premises.

SECTION 9. Effective date: upon passage or September 1, 2009.