

BILL ANALYSIS

Senate Research Center
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C.S.H.B. 16
By: Hernandez et al. (Hancock)
Business & Commerce
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Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Nearly all residential and small commercial customers in the Electric Reliability Council of Texas (ERCOT) power region where customers choose their retail electric provider (REP) choose a fixed-rate plan or a variable-rate plan that allows them to tailor the plan to known usage patterns.

But certain retailers have begun to offer a wholesale indexed plan that passes along 100 percent of energy cost to consumers—including scarcity prices of up to \$9,000 per megawatt.

During the February winter storm in Texas, customers on this type of plan experienced extreme electric rate spikes, leaving retail customers with bills of thousands of dollars of charges.

That type of plan simply attributes too much risk to expect average consumers to manage. H.B. 16 would prohibit retail electric providers from offering this type of product to residential and small-commercial customers.

(Original Author's / Sponsor's Statement of Intent)

C.S.H.B. 16 amends current law relating to the regulation of certain retail electric products.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subchapter C, Chapter 39, Utilities Code, by adding Section 39.110, as follows:

Sec. 39.110. WHOLESALE INDEXED PRODUCTS PROHIBITED. (a) Defines "wholesale indexed product."

(b) Prohibits an aggregator, a broker, or a retail electric provider from offering a wholesale indexed product to a residential or small commercial customer.

(c) Authorizes an aggregator, a broker, or a retail electric provider to enroll a customer other than a residential and small commercial customer in a wholesale indexed product only if the provider, aggregator, or broker obtains before the customer's enrollment an acknowledgment signed by the customer that the customer accepts the potential price risks associated with a wholesale indexed product.

(d) Requires that an acknowledgment required by Subsection (c) include a certain statement in clear, boldfaced text, and sets forth the required text of the statement.

(e) Authorizes an acknowledgment required by Subsection (c) to be included as an addendum to a contract.

(f) Requires a retail electric provider that provides a wholesale indexed product to a customer to keep on file the acknowledgment required by Subsection (c) for each customer while the customer is enrolled with the retail electric provider in the wholesale indexed product.

SECTION 2. Amends Section 39.112, Utilities Code, as follows:

Sec. 39.112. NOTICE OF EXPIRATION AND PRICE CHANGE. (a) Makes no changes to this subsection, which defines "fixed rate product."

(b) Requires a retail electric provider to provide a residential customer who has a fixed rate product with at least three written notices, rather than one written notice, of the date the fixed rate product will expire. Requires that the notices be provided during the last third of the contract period and in intervals that allow for, as practicable, even distribution of the notices throughout the last third of the contract period. Requires that the final notice for a contract with a period of more than four months be provided at least 30 days before the date that the contract will expire. Requires that the final notice for a contract with a period of less than four months be provided at least 15 days before the date that the contract will expire.

(c) Requires the retail electric provider to provide each notice required by Subsection (b) to the customer by mail at the customer's billing address, unless the customer has opted to receive communications electronically from the retail electric provider.

(d) Authorizes the retail electric provider to provide additional notice to the customer by text message or call of the date the fixed rate product will expire if the retail electric provider has access to customer contact information that allows the provider to send the customer a text message or call the customer and the customer has agreed to receive notices by text message or call. Provides that notice provided by text message or call does not constitute notice under Subsection (b).

(e) Requires that a notice required by Subsection (b):

(1) for a notice provided by mail, include in a manner visible from the outside of the envelope in which the notice is sent, a statement that reads: "Contract Expiration Notice. See Enclosed.";

(2) if included with a customer's bill, be printed on a separate page or included as a separate document, rather than on a separate page;

(3) redesignates existing Subdivision (5) as Subdivision (3) and makes no further changes; and

(4) describe any renewal offers the retail electric provider chooses to make available to the customer and identify methods by which the customer is authorized to obtain the contract documents for each of those products.

Deletes existing text requiring that a notice provided under Subsection (b) be sent to the customer's billing address by mail at least 30, but not more than 60, days preceding the date the contract will expire, and be sent to the customer's e-mail address, if available to the provider and if the customer has agreed to receive notices electronically, at least 30, but not more than 60, days preceding the date the contract will expire. Makes nonsubstantive changes.

(f) Requires that the final notice provided under Subsection (b) include the pricing terms for the default renewal product required by Subsection (h).

(g) Redesignates existing Subsection (c) as Subsection (g). Requires a retail electric provider to include on each billing statement, in boldfaced and underlined text, the end date of the fixed rate product.

(h) Requires a retail electric provider, except as provided by Subsection (j), if the customer does not select another retail electric product before the expiration of the customer's contract term with the provider, to automatically serve the customer through a default renewal product that the customer is authorized to cancel at any time without a fee. Requires that the default renewal product be a month-to-month product in which the price the customer pays for electricity is authorized to vary between billing cycles and be based on clear terms designed to be easily understood by the average customer.

(i) Requires a retail electric provider to include in each contract for service the terms of the default renewal product that the customer will automatically be enrolled in under Subsection (h) if the customer does not select another retail electric product before the expiration of the contract term.

(j) Requires a retail electric provider, if the provider does not provide notice of the expiration of a customer's contract with the provider in accordance with this section and the customer does not select another retail electric product before the expiration of the customer's contract term with the provider, to continue to serve the customer under the pricing terms of the fixed rate product contract until the provider provides notice of the expiration of the contract in accordance with this section or until the customer selects another retail electric product.

(k) Redesignates existing Subsection (d) as Subsection (k) and makes no further changes.

SECTION 3. Makes application of this Act prospective.

SECTION 4. Effective date: September 1, 2021.