

**SUBJECT:** Exempting demand charges by transmission and distribution utilities

**COMMITTEE:** State Affairs — committee substitute recommended

**VOTE:** 10 ayes — Solomons, Menendez, Cook, Farabee, Gallego, Geren, Jones, Maldonado, Oliveira, S. Turner

3 nays — Craddick, Harless, Swinford

2 absent — Hilderbran, Lucio

**WITNESSES:** For — Kristen Doyle, Cities Aggregation Power Project, South Texas Aggregation Project, and Steering Committee of Cities Served by Oncor; Bill Tarleton, Abbott ISD. Texas Rural Educators Association;  
(*Registered, but did not testify:* Wes Allison, Texas Association of Fairs & Events; Ramiro Canales, Texas Association of School Administrators; Ruben Longoria, Texas Association of School Boards; Paul Smolen, Texas Electricity Professionals Association)

Against — Mike Sherburne, Association of Electric Companies of Texas

On — Bill Peacock, Texas Public Policy Foundation; Barry Smitherman, Public Utility Commission

**BACKGROUND:** Electric customers are charged a contracted price for electricity from retail electric providers (REPs) as well as a charge from the transmission and distribution service providers for the costs associated with electric delivery. Transmission and distribution utilities (TDUs) 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 in kilowatts the customer used during the billing period. This is done because some customers require large amounts of power for short periods of time. This high short-term power use requires larger transformers and power lines to meet these infrequent peak needs. Once installed, these facilities will remain in place, and the utility is allowed to recover the costs.

Demand rates were designed to recover the costs of building and maintaining the electrical system for the peak periods to serve the

customers who require 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 for wires charges and is based on their 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 takes action to reduce the maximum amount of electricity demanded.

**DIGEST:**

CSHB 230 would require a TDU to exempt schools, nonprofit athletic and sports associations, and municipally owned facilities from the application of any ratchet provision contained in a tariff relating to distribution service by January 1, 2010.

The Public Utility Commission (PUC) would be required to adopt rules as necessary.

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, 2009.

**SUPPORTERS  
SAY:**

CSHB 230 would create a limited exception to demand ratchets that inequitably boost electric rates. The demand ratchet is an inequitable system for groups such as schools, nonprofit athletic and sports associations, and municipally owned facilities because they often host night events during spring and fall. These are typically 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. School districts and others in similar situations are paying thousands of dollars every month, long after the sport season is over. These charges are based on those few months of high usage. In one example, a school district currently is paying 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 even though they only use the lights on the field for a couple of months out of the year.

Before electric deregulation, a “time of use” program was available that was appropriate for the seasonal, off-peak power usage typical of these organizations.

The Legislature already has granted an exemption for seasonal agricultural users, for the same reasons that would make it appropriate for schools, nonprofit athletic and sports associations, and municipally-owned facilities. Universities also receive a 20 percent reduction for demand charges.

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 their monthly car payment regardless of whether they drive the car or it sits in the driveway.

These regulated, non-bypassable charges are charged by TDUs to all REPs. It is then either passed on to the end-use customer or absorbed by the REP. CSHB 230 would shift the transmission and distribution costs associated with providing power for specific types of customers onto other customer classes. If demand ratchets are not used, other customers would be required to pay more than they otherwise would have paid.

The issue of demand charge exemptions would be more appropriately handled by the PUC in a rate review, rather than statutorily.

NOTES:

The PUC has opened a docket — project # 35885 — to take comments on the use of demand charge exemptions.

The committee substitute differs from the bill as filed by including municipally owned facilities in the exemption.