

All Published Pre-filed Amendments for HB 3916

Goldman

Amendment

871222

**The following amendment was
published on 5/12/21 9:17 PM**



21 MAY 12 PM 9:08

HOUSE OF REPRESENTATIVES

[Signature]

FLOOR AMENDMENT NO. _____

BY:

1 Amend C.S.H.B. No. 3916 (house committee printing) by
2 striking all below the enacting clause and substituting the
3 following:

4 SECTION 1. It is the intent of the legislature in enacting
5 Section 35.037, Utilities Code, to allow grocers the ability to
6 deploy back-up generation in the ERCOT power region in areas that
7 have not implemented retail customer choice.

8 SECTION 2. Subchapter B, Chapter 35, Utilities Code, is
9 amended by adding Section 35.037 to read as follows:

10 Sec. 35.037. INTERCONNECTION AND OPERATION OF CERTAIN
11 DISTRIBUTED GENERATION FACILITIES FOR FOOD SUPPLY CHAIN. (a) In
12 this section:

- 13 (1) "Customer" means a retail electric customer:
 - 14 (A) with a distributed generation facility
 - 15 installed on the retail electric customer's side of the meter; and
 - 16 (B) that has a primary purpose of or derives a
 - 17 material source of revenue from:
 - 18 (i) retail grocery sales; or
 - 19 (ii) food manufacturing or distribution for
 - 20 retail grocery sales.

21 (2) "Distributed generation facility" means a
22 facility installed on the customer's side of the meter but
23 separately metered from the customer:

- 24 (A) with a nameplate capacity of at least 250
- 25 kilowatts and not more than 10 megawatts;
- 26 (B) that is capable of generating and providing
- 27 backup or supplementary power to the customer's premises; and
- 28 (C) that is owned or operated by a person
- 29 registered as a power generation company in accordance with Section

1 39.351.

2 (b) This section only applies in the ERCOT power region in
3 areas where retail customer choice has not been implemented.

4 (c) A person who owns or operates a distributed generation
5 facility served by a municipally owned utility or electric
6 cooperative in the ERCOT power region may sell electric power
7 generated by the distributed generation facility at wholesale,
8 including the provision of ancillary services.

9 (d) A person who owns or operates a distributed generation
10 facility may sell electric power generated by the distributed
11 generation facility at wholesale to a municipally owned utility or
12 electric cooperative certificated for retail service to the area
13 where the distributed generation facility is located or to a
14 related generation and transmission electric cooperative. The
15 municipally owned utility or electric cooperative shall purchase
16 the quantity of electric power generated by the distributed
17 generation facility needed to satisfy the full electric
18 requirements of the customer on whose side of the meter the
19 distributed generation facility is installed and operated at a
20 wholesale price agreed to by the customer and shall resell that
21 quantity of power at retail to the customer at the rate applicable
22 to the customer for retail service, which must include all amounts
23 paid for the wholesale electric power, during:

24 (1) an emergency declared by the independent
25 organization certified under Section 39.151 for the ERCOT power
26 region that creates the potential for interruption of service to
27 the customer;

28 (2) any service interruption at the customer's
29 premises;

30 (3) construction on the customer's premises that
31 creates the potential for interruption of service to the customer;

1 (4) maintenance and testing of the distributed
2 generation facility; and

3 (5) additional times mutually agreed on by the owner
4 or operator of the distributed generation facility and the
5 municipally owned utility or electric cooperative.

6 (e) The customer shall provide written notice as soon as
7 reasonably practicable to the municipally owned utility or electric
8 cooperative of a circumstance described by Subsection (d)(3) or
9 (4).

10 (f) In addition to a sale authorized under Subsection (d),
11 on request by an owner or operator of a distributed generation
12 facility, the municipally owned utility or electric cooperative
13 shall provide wholesale transmission service to the distributed
14 generation facility owner in the same manner as to other power
15 generation companies for the sale of power from the distributed
16 generation facility at wholesale, including for the provision of
17 ancillary services, in the ERCOT market. The distributed generation
18 facility owner shall comply with all applicable commission rules
19 and protocols and with governing documents of the independent
20 organization certified under Section 39.151 for the ERCOT power
21 region. This subsection does not require a municipally owned
22 utility or electric cooperative to transmit electricity to a retail
23 point of delivery in the certificated service area of the
24 municipally owned utility or electric cooperative.

25 (g) In addition to a sale authorized under Subsection (d) or
26 (f), a municipally owned utility or electric cooperative or related
27 generation and transmission electric cooperative may purchase
28 electric power provided by the owner or operator of the distributed
29 generation facility at wholesale at a mutually agreed on price. The
30 price may be based wholly or partly on the ERCOT market clearing
31 price of energy at the time of day and at the location at which the

1 electric power is made available.

2 (h) A municipally owned utility or electric cooperative
3 shall make available a standard interconnection application and
4 agreement for distributed generation facilities that is
5 substantially similar to the commission's distributed generation
6 interconnection agreement form and consistent with this section to
7 facilitate the connection of distributed generation facilities. A
8 municipally owned utility or electric cooperative shall allow
9 interconnection of a distributed generation facility and provide to
10 a distributed generation facility on a nondiscriminatory basis
11 wholesale transmission service, including at distribution voltage,
12 in the same manner as for other power generation companies to
13 transmit to the ERCOT power grid the electric power generated by the
14 distributed generation facility. A municipally owned utility or
15 electric cooperative may recover from the owner or operator of the
16 distributed generation facility all reasonable costs necessary for
17 and directly attributable to the interconnection of the facility,
18 including the reasonable costs of necessary system upgrades and
19 improvements directly attributable to the distributed generation
20 facility.

21 (i) Not later than the 30th day after the date a complete
22 application for interconnection of a distributed generation
23 facility is received, the municipally owned utility or electric
24 cooperative shall provide the applicant with a written good faith
25 cost estimate for interconnection-related costs. The municipally
26 owned utility or electric cooperative may not incur any
27 interconnection-related costs without entering into a written
28 agreement for the payment of those costs by the applicant.

29 (j) The process to interconnect a distributed generation
30 facility must be completed not later than the 240th day after the
31 date the municipally owned utility or electric cooperative receives

1 payment of all estimated costs to complete the interconnection,
2 except that:

3 (1) the period may be extended by written agreement
4 between the parties; and

5 (2) the period may be extended after a good faith
6 showing by the municipally owned utility or electric cooperative
7 that the interconnection requires improvements, upgrades, or
8 construction of new facilities that cannot reasonably be completed
9 within that period, in which case the period may be extended for a
10 time not to exceed the time necessary for the improvements,
11 upgrades, or construction of new facilities to be completed.

12 (k) A municipally owned utility or electric cooperative
13 shall charge the owner or operator of a distributed generation
14 facility rates on a reasonable and nondiscriminatory basis for
15 providing wholesale transmission service to the distributed
16 generation facility owner in the same manner as for other power
17 generation companies to transmit to the ERCOT power grid the
18 electric power generated by the distributed generation facility in
19 accordance with a tariff filed by the municipally owned utility or
20 electric cooperative with the commission.

21 (l) The owner or operator of the distributed generation
22 facility shall contract with the municipally owned utility or
23 electric cooperative or the municipally owned utility's or electric
24 cooperative's designee for any scheduling, settlement,
25 communication, telemetry, or other services required to
26 participate in the ERCOT wholesale market, but only to the extent
27 that the utility, cooperative, or designee offers the services on a
28 nondiscriminatory basis and at a commercially reasonable cost. If
29 the municipally owned utility or electric cooperative or the
30 municipally owned utility's or electric cooperative's designee does
31 not offer or declines to offer the services, or fails to do so on a

1 nondiscriminatory basis and at a commercially reasonable cost as
2 determined by quotes from at least three third parties providing
3 the same services, the owner or operator of the distributed
4 generation facility may contract with a third party provider to
5 obtain the services.

6 (m) A distributed generation facility must comply with
7 emissions limitations established by the Texas Commission on
8 Environmental Quality for a standard emissions permit for an
9 electric generation facility unit installed after January 1, 1995.

10 (n) A municipally owned utility or electric cooperative is
11 not required to interconnect a distributed generation facility
12 under this section if, on the date the utility or cooperative
13 receives an application for interconnection of the facility, the
14 municipally owned utility or electric cooperative has
15 interconnected distributed generation facilities with an aggregate
16 capacity that equals the lesser amount of:

17 (1) 5 percent of the municipally owned utility's or
18 electric cooperative's average of the 15-minute summer peak load
19 coincident with the independent system operator's 15-minute summer
20 peak load in each of the months of June, July, August, and
21 September; or

22 (2) 300 megawatts, adjusted annually by the percentage
23 of total system load growth in the ERCOT power region beginning in
24 2022.

25 (o) A municipally owned utility or electric cooperative
26 that, on the date the utility or cooperative receives an
27 application for interconnection of a distributed generation
28 facility, has interconnected distributed generation facilities
29 with an aggregate capacity less than the threshold described by
30 Subsection (n) is required to increase that capacity only up to that
31 threshold.

1 (p) This section is not intended to change registration
2 standards or other qualifications required by the independent
3 organization certified under Section 39.151 for the ERCOT power
4 region related to the participation of distributed generation
5 facilities in the wholesale market. This section is not intended to
6 allow distributed generation facilities to participate in a manner
7 that is not technically feasible or that is otherwise in conflict
8 with wholesale rules and requirements adopted by the independent
9 organization certified under Section 39.151 for the ERCOT power
10 region.

11 SECTION 3. This Act takes effect immediately if it receives
12 a vote of two-thirds of all the members elected to each house, as
13 provided by Section 39, Article III, Texas Constitution. If this
14 Act does not receive the vote necessary for immediate effect, this
15 Act takes effect September 1, 2021.