

BILL ANALYSIS

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S.B. 1239
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

This legislation allows customers to capture the full value of an investment in onsite renewable generation. When a property owner installs solar panels or similar onsite generation, any excess electricity they produce flows onto the electric distribution system, reducing the energy costs of that customer's electric provider during peak hours. Texas is one of only seven states (Alabama, Idaho, Mississippi, South Carolina, South Dakota, and Tennessee) that do not require customers to be compensated for this electricity they provide to the grid, most often during peak hours when electricity prices are highest. The lack of fair compensation is cited by potential purchasers of onsite renewable energy ranging from large commercial stores to residential customers as a key reason for declining to invest in Texas.

Under current statute, customers of retail providers in the competitive market that do not voluntarily offer "solar buyback rates" or similar programs have to negotiate directly with their provider to be compensated for their excess generation. In areas in which customer choice has been introduced, S.B. 1239 requires the property owner's retail electric provider to either purchase the distributed renewable generation device owner's surplus electricity at fair market value, or allow that customer to switch to a retail provider or plan that offers fair compensation. Customers will be paid using the same market-based pricing mechanism as a traditional generator. In areas where customer choice has not been introduced, S.B. 1239 requires the property owner's electric utility or electric cooperative to purchase the surplus electricity at a minimum of that utility's avoided cost.

This legislation gives the Public Utility Commission of Texas authority to establish standards that the renewable generation device has to meet to be eligible for the program. The bill also requires municipally owned utilities to allow interconnection and metering to account for electricity produced by renewable generation owners.

S.B. 1239 also provides guidelines for the information that is required to be on the municipally owned utility's website to provide information to prospective and current customers. The bill requires information on electric providers' offers for distributed renewable generation owners for their surplus electricity to be available on powertochoose.org.

This bill requires municipally owned utilities, electric utilities, distribution utilities, and electric cooperatives to pay a fair value to customers who put excess electric generation on the grid, providing businesses and homeowners with more certainty as they decide whether to invest in on-site renewable generation. Payments will be made at least once each quarter or be reflected on the renewable generation device owner's electricity bill. Most of Texas is expected to see very tight supply conditions for electricity this summer and into the foreseeable future; by making it easier for customers to invest in onsite generation that can be built very quickly, this legislation will help relieve those constraints.

As proposed, S.B. 1239 amends current law relating to compensation for excess electricity generated by a retail electric customer's on-site generation.

RULEMAKING AUTHORITY

Rulemaking authority previously granted to the Public Utility Commission of Texas (PUC) is modified in SECTION 5 (Section 39.916, Utilities Code) of this bill.

Rulemaking authority is expressly granted to PUC in SECTION 5 (Section 39.916, Utilities Code) and SECTION 6 (Section 39.9161, Utilities Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 31.002(6), Utilities Code, to define "electric utility" to include a distributed renewable generation owner, as defined by Section 39.916.

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

Sec. 39.002. **APPLICABILITY.** Provides that this chapter, other than Sections 39.155 (Commission Assessment of Market Power), 39.157(e) (relating to requiring the Public Utility Commission of Texas (PUC) by rule to establish a code of conduct that is required to be observed by electric cooperatives and municipally owned utilities and their affiliates to protect against anticompetitive practices), 39.203 (Transmission and Distribution Service), 39.903 (System Benefit Fund), 39.904 (Goal for Renewable Energy), 39.9051 (Energy Efficiency for Municipally Owned Utilities), 39.9052 (Energy Efficiency for Electric Cooperatives), and 39.914(e) (relating to requiring a municipally owned utility or electric cooperative to consider and complete certain determinations after proceedings conducted in accordance with that law), does not apply to a municipally owned utility or to an electric cooperative, except as provided by this section. 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(a), Utilities Code, by adding Subdivision (4), to define "surplus electricity."

SECTION 5. Amends Section 39.916, Utilities Code, by amending Subsections (b), (c), (e), (f), and (j) and adding Subsections (d-1), (l), (m), (n), (o), and (p), as follows:

(b) Requires a transmission and distribution utility, electric cooperative, or electric utility to allow interconnection if certain requirements are met, including 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) Authorizes a customer to request interconnection by filing an application for interconnection with the transmission and distribution utility, electric cooperative, or electric utility. Requires that procedures of a transmission and distribution utility, electric cooperative, or electric utility for the submission and processing of a customer's application for interconnection be consistent with rules adopted by PUC regarding interconnection.

(d-1) Provides that the sale, rental, lease, or maintenance of distributed renewable generation equipment, or the sale of electric energy produced by distributed renewable generation to the customer on whose side of the meter the distributed renewable generation is installed does not constitute provision of retail electric service.

(e) Prohibits a transmission and distribution utility, electric cooperative, electric utility, or retail electric provider from requiring a distributed renewable generation owner whose distributed renewable generation meets the standards established by rule under Subsection (d) (relating to requiring PUC by rule to establish safety, technical, and

performance standards for distributed renewable generation that may be interconnected) to purchase an amount, type, or classification of liability insurance the distributed renewable generation owner would not have in the absence of the distributed renewable generation.

(f) Requires a transmission and distribution utility, electric cooperative, or electric utility to make available to a distributed renewable generation owner for purposes of this section metering required for services provided under this section, including separate meters that measure the load and generator output or a single meter capable of measuring in-flow and out-flow at the point of common coupling meter point.

(j) Requires a distributed renewable generation owner who chooses to sell the owner's surplus electricity in an area 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. 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.

Deletes existing text requiring the distributed renewable generation owner, for 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 distributed renewable generation owner's load at a value agreed to between the distributed renewable generation owner and the provider that serves the owner's load which may 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 during a billing period that is authorized to be carried over to subsequent billing periods until the credit has been redeemed. Deletes existing text requiring the independent organization identified in Section 39.151 (Essential Organizations) to develop certain procedures by January 1, 2009. Requires a distributed renewable generation owner requesting metering services, rather than requesting net metering services, for purposes of this section to have metering devices capable of providing measurements consistent with the independent organization's settlement requirements.

(l) Requires a retail electric provider, in areas in which customer choice has been introduced, to purchase surplus electricity at a fair market value determined using a price that provides a periodic proxy, using a period of a month or longer, for the load zone real-time market clearing price, unless the provider chooses to use a fair market value by an alternative method authorized by this subsection. Authorizes a retail electric provider to choose to determine the fair market value for purchasing surplus electricity by the load zone real-time market clearing price at the time of day the surplus electricity is made available to the grid or by the simple average, during the period for which the surplus electricity being purchased was generated, of the load zone real-time market clearing price for energy at the time of day specified in the ERCOT protocols for the applicable type of distributed renewable generation for load reduction at locations without interval data meters. Requires a retail electric provider to use the same method of determining fair market value for all distributed renewable generation owners eligible to be compensated for purchased surplus electricity. Prohibits a retail electric provider that chooses to determine the fair market value by an alternative method from at any time after that date using the periodic proxy method described by this subsection. Authorizes a distributed renewable generation owner to file a written complaint with PUC for a violation of this subsection or Subsection (m).

(m) Requires a retail electric provider that purchases surplus electricity from a distributed renewable generation owner under Subsection (l) to compensate the distributed renewable generation owner by making a payment not less frequently than once each quarter or by applying a credit to an account the credit balance of which is authorized to be carried forward until the credit has been redeemed. Requires the retail electric provider to inform the distributed renewable generation owner of the amount of

surplus electricity purchased, measured in kilowatt hours, and the price paid for the surplus electricity purchased.

(n) Requires an electric utility or electric cooperative, in areas in which customer choice has not been introduced, to purchase surplus electricity at a value that is at least equal to the avoided cost of the electric utility or electric cooperative, as applicable. Authorizes a distributed renewable generation owner to file a written complaint with PUC for a violation of this subsection or Subsection (o).

(o) Requires an electric utility or electric cooperative that purchases surplus electricity from a distributed renewable generation owner under Subsection (n) to compensate the distributed renewable generation owner by making a payment made not less frequently than once each quarter or by applying a credit to an account the credit balance of which is authorized to be carried forward until the credit has been redeemed. Requires the electric utility or electric cooperative to inform the distributed renewable generation owner of the amount of surplus electricity purchased, measured in kilowatt hours, and the price paid for the surplus electricity purchased.

(p) Authorizes PUC by rule to establish standards distributed renewable generation is required to 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. Provides that a distributed renewable generation owner is qualified to be compensated for surplus electricity purchased under this section only if:

(1) the distributed renewable generation is rated to produce an amount of electricity that is less than or equal to the amount of electricity the retail electric customer for whom the distributed renewable generation is installed is reasonably expected to consume; and installed on the customer's side of the meter for a residential retail electric customer or a retail electric customer that is a public school or a facility owned by a religious organization and used primarily as a place of religious worship, such as a church, synagogue, or mosque; and

(2) the generating capacity of the distributed renewable generation does not exceed 10 kilowatts for a residential retail electric customer; 150 kilowatts for a retail electric customer at a facility owned by a religious organization and used primarily as a place of religious worship, such as a church, synagogue, or mosque; or 250 kilowatts for a retail electric customer that is a public school.

SECTION 6. Amends Subchapter Z, Chapter 39, Utilities Code, by adding Section 39.9161, as follows:

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

(b) Requires a municipally owned utility to allow interconnection and metering to account for electricity produced by distributed renewable generation owners, and provide the utility's customers access to interconnection and metering of distributed renewable generation.

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

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

(e) Requires a municipally owned utility that had retail sales of 500,000 megawatt hours or more in 2012 to file the utility's interconnection and metering rates, rules, and procedures with the State Energy Conservation Office not later than January 1, 2014. Requires the municipally owned utility to make timely updates to the utility's filed rates, rules, and procedures.

(f) Requires a municipally owned utility that has adopted rules and procedures related to interconnection and 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.

(g) Requires the governing body of a municipally owned utility that had retail sales of less than 500,000 megawatt hours in 2012 to provide oversight and adopt rules and procedures related to interconnection and metering of distributed renewable generation systems with a generating capacity considered 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 7. 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. 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.

SECTION 8. Repealer: Section 39.916(h) (relating to authorizing an electric utility or retail electric provider to contract with a distributed renewable generation owner for certain purposes), Utilities Code.

SECTION 9. Effective date: January 1, 2014.