

## **BILL ANALYSIS**

Senate Research Center  
83R21770 JJT-F

C.S.S.B. 1239  
By: Rodríguez  
Business & Commerce  
5/1/2013  
Committee Report (Substituted)

### **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, C.S.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, C.S.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.

C.S.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](http://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.

C.S.S.B. 1239 amends current law relating to distributed renewable generation and compensation for excess electricity generated by distributed renewable generation.

## **RULEMAKING AUTHORITY**

Rulemaking authority previously granted to the Public Utility Commission of Texas (PUC) is modified in SECTION 4 (Section 39.916, Utilities Code) of this bill.

Rulemaking authority is expressly granted to PUC in SECTION 4 (Section 39.916, Utilities Code) and SECTION 5 (Sections 39.9161 and 39.9162, Utilities Code) of this bill.

## **SECTION BY SECTION ANALYSIS**

SECTION 1. 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 39.9161 applies to a municipally owned utility. Provides that Section 39.9162 applies to an electric cooperative. Makes nonsubstantive changes.

SECTION 2. Amends the heading to Section 39.916, Utilities Code, to read as follows:

Sec. 39.916. **DISTRIBUTED RENEWABLE GENERATION.**

SECTION 3. Amends Section 39.916(a), Utilities Code, by adding Subdivision (4), to define "surplus electricity."

SECTION 4. Amends Section 39.916, Utilities Code, by amending Subsections (c), (f), and (j) and adding Subsections (k), (l), (m), (n), (o), and (p), as follows:

(c) Authorizes a distributed renewable generation owner, rather than a customer, to request interconnection by filing an application for interconnection with the transmission and distribution utility or electric utility. Requires that procedures of a transmission and distribution utility or electric utility for the submission and processing of a distributed renewable generation owner's application, rather than a customer's application, for interconnection be consistent with rules adopted by PUC regarding interconnection.

(f) Requires a transmission and distribution utility or electric utility, on request of a distributed renewable generation owner, to make available to the 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. Makes nonsubstantive changes.

(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 retail electric customer'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 that serves the retail electric customer's load. Requires the independent organization identified in Section 39.151 (Essential Organizations) 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 retail electric provider that serves

that retail electric customer's load, rather than in settling the total load served by the provider that serves that owner's load 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.

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.

(k) 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 determined by a reasonable alternative method, including 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. Authorizes a retail electric provider to compensate a distributed renewable generation owner for purchased surplus electricity at a value greater than the fair market value. Authorizes a distributed renewable generation owner to file a written complaint with PUC for a violation of this subsection or Subsection (l). Provides that this section does not apply to a retail electric provider providing service under Section 39.106 (Provider of Last Resort).

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

(m) Requires an electric utility, 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 as determined by PUC rule. Authorizes a distributed renewable generation owner to file a written complaint with PUC for a violation of this subsection or Subsection (n).

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

(o) 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 annually 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 annually; 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 the premises of a religious organization if the premises are exempt from ad valorem taxation under Section 11.20 (Religious Organizations), Tax Code; 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 that is the premises of a religious organization if those premises are exempt from ad valorem taxation under Section 11.20, Tax Code; or 250 kilowatts for a retail electric customer that is a public school.

(p) Authorizes a distributed renewable generation owner that does not meet the qualifications prescribed by Subsection (o), notwithstanding Subsections (k) and (o), in areas in which customer choice has been introduced, to be paid or credited for the owner's surplus electricity at a value agreed on by the owner and the retail electric provider that serves the retail electric customer's load.

SECTION 5. Amends Subchapter Z, Chapter 39, Utilities Code, by adding Sections 39.9161 and 39.9162, 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 by distributed renewable generation owners and payment for surplus electricity produced by those owners, and provide the utility's customers access to interconnection of distributed renewable generation and payment for surplus electricity produced.

(c) Requires the governing body of a municipally owned utility to provide oversight and adopt rates, rules, and procedures to allow interconnection and provide payment for surplus electricity 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 payment for surplus electricity 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 payment for surplus electricity, and by rule to establish minimum standards and procedures for interconnection and payment for surplus electricity 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:

(1) file the utility's interconnection and surplus electricity rates, rules, and procedures with the State Energy Conservation Office not later than January 1, 2015; and

(2) make timely updates to the utility's rates, rules, and procedures filed under Subdivision (1).

(f) Requires a municipally owned utility that has adopted rules and procedures related to interconnection and payment for surplus electricity 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 rates, rules, and procedures related to interconnection and payment for surplus electricity 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.

Sec. 39.9162. DISTRIBUTED RENEWABLE GENERATION WITH ELECTRIC COOPERATIVES. (a) Defines “distributed renewable generation,” “distributed renewable generation owner,” and “interconnection” in this section.

(b) Requires an electric cooperative to:

(1) allow interconnection by distributed renewable generation owners and payment for surplus electricity produced by those owners; and

(2) provide its members access to interconnection of distributed renewable generation and payment for surplus electricity produced.

(c) Requires an electric cooperative to allow interconnection if the distributed renewable generation to be interconnected has a five-year warranty against breakdown or undue degradation, the rated capacity of the distributed renewable generation does not exceed the electric cooperative service capacity, and the distributed renewable generation meets other technical requirements for interconnection that are consistent with PUC rules.

(d) Requires the board of directors of an electric cooperative to provide oversight and adopt rates, rules, and procedures to allow interconnection and provide payment for surplus electricity consistent with the goals established by Section 39.916. Provides that this subsection does not prevent the board of directors of an electric cooperative from adopting rates, rules, and procedures for interconnection and payment for surplus electricity that are more favorable to a distributed renewable generation owner than those established by any other law or rule of PUC.

(e) Authorizes a member to request interconnection by filing an application for interconnection with the electric cooperative. Requires an electric cooperative’s procedures for the submission and processing of a member’s application for interconnection to be consistent with rules adopted by PUC regarding interconnection.

(f) Prohibits an electric cooperative from requiring a distributed renewable generation owner whose distributed renewable generation meets the standards established under Subsection (c) 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.

(g) Requires an electric cooperative to compensate the distributed renewable generation owner for surplus electricity at a value that is at least equal to the avoided cost of the cooperative. Authorizes the electric cooperative to determine the cooperative’s avoided cost as either the sum of the average wholesale fuel and energy costs, expressed in cents per kilowatt hour, on the wholesale power bill for

the applicable billing period, or the avoided cost of the wholesale power supplier as determined in accordance with the rules and regulations of the Federal Energy Regulatory Commission if the electric cooperative purchases all of its power from a wholesale power supplier regulated by the Federal Energy Regulatory Commission.

(h) Provides that PUC, if an electric cooperative implements customer choice under Chapter 41 (Electric Cooperatives and Competition) has jurisdiction over the electric cooperative's distributed renewable generation interconnection and payment for surplus electricity, and by rule is required to establish minimum standards and procedures for interconnection and payment for surplus electricity by the electric cooperative.

(i) Requires an electric cooperative that had retail sales of 500,000 megawatt hours or more in 2012 to file the cooperative's interconnection and surplus electricity rates, rules, and procedures with the State Energy Conservation Office not later than January 1, 2015, and to make timely updates to the cooperative's filed rates, rules, and procedures.

(j) Requires an electric cooperative that has adopted rules and procedures related to interconnection and payment for surplus electricity to make available, on the cooperative's Internet website or at the customary location for the cooperative's posted notices information on the purchase price offered per kilowatt hour for surplus electricity produced by distributed renewable generation, and information instructing members with distributed renewable generation how to request and obtain the purchase rates offered.

(k) Requires the board of directors of an electric cooperative that had retail sales of less than 500,000 megawatt hours in 2012 to provide oversight and adopt rates, rules, and procedures related to interconnection of distributed renewable generation and payment for surplus electricity on or before the 120th day after the date the board of directors 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. Requires PUC 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, on an Internet website maintained by PUC.

SECTION 7. 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 8. Effective date: January 1, 2014.