

## **BILL ANALYSIS**

Senate Research Center

C.S.S.B. 1910  
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Business & Commerce  
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Committee Report (Substituted)

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

El Paso Electric Company (EPE) is an investor-owned electric utility operating in portions of Texas, outside of the Electric Reliability Council of Texas (ERCOT), but within the Western Electric Coordinating Council (WECC). The Public Utility Commission (PUC) has determined that EPE is not ready to support electric utility competition, and that certain criteria will determine when full retail competition can begin in this area. These criteria include the approval of an independent transmission operator, a balancing energy market, a market-based congestion management system, and market protocols. Furthermore, continued support of a customer choice pilot program and demonstration of fair competition and reliable service is required within each defined customer class.

C.S.S.B. 1910 amends current law relating to transition to competition for an investor-owned utility that is operating in portions of Texas that are located in WECC's service area. The purpose is to provide statutory postponement of the introduction of retail electric competition and to provide EPE with the necessary certainty to make long-term commitments and assure cost-of-service rates for electric consumers in EPE's service territory until the legislature acts to introduce retail electric competition in this area.

C.S.S.B. 1910 also adds specific rules that govern small solar generation within EPE's service territory and the installation of solar distributed generation facilities that may be located on the retail electric customer's side of the meter, the interconnection and reliability with the EPE system, and metering and purchase of generation by the solar distributed generation facility. C.S.S.B. 1910 allows certain retail customers, in addition to the metering options allowed in Section 39.916(f), Utilities Code, the option of interconnection with the electric utility through a single meter that runs both forward and backward. Any production by such a customer in excess of consumption for a given billing period will be purchased by the utility in accordance with the provisions of the electric utility's rate schedule as approved by PUC in the utility's most recent rate case.

C.S.S.B. 1910 amends current law relating to the delay of the transition to competition for an electric utility located in the Western Electricity Coordinating Council service area and net metering requirements for a certain non-ERCOT electric utility and relating to energy efficiency goals and programs for a certain non-ERCOT utility.

### **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 Chapter 39, Utilities Code, by adding Subchapter L, as follows:

#### **SUBCHAPTER L. TRANSITION TO COMPETITION FOR CERTAIN AREAS OUTSIDE OF ERCOT**

Sec. 39.551. APPLICABILITY. (a) Provides that this subchapter applies only to an investor-owned electric utility:

(1) that is operating solely outside of the Electric Reliability Council of Texas (ERCOT) in areas of this state that were included in the Western Electricity Coordinating Council on January 1, 2011;

(2) that was not affiliated with ERCOT on January 1, 2011; and

(3) to which Subchapters I (Provisions for Certain Non-ERCOT Utilities), J (Transitions to Competition in Certain Non-ERCOT Areas), and K (Transition to Competition for Certain Areas Outside of ERCOT) do not apply.

(b) Provides that the legislature finds that an electric utility subject to this subchapter is unable at this time to offer fair competition and reliable service to all retail customer classes in the area served by the utility. Provides that, as a result, the introduction of retail competition for such an electric utility is delayed until fair competition and reliable service are available to all retail customer classes as determined under this subchapter.

Sec. 39.552. COST-OF-SERVICE REGULATION. (a) Provides that until the date on which an electric utility subject to this subchapter is authorized by the Public Utility Commission of Texas (PUC) under Section 39.553(f) to implement retail customer choice, the rates of the utility are subject to regulation under Chapter 36 (Rates).

(b) Provides that, until the date on which an electric utility subject to this subchapter implements customer choice, the provisions of this chapter, other than this subchapter and Sections 39.904 (Goal for Renewable Energy) and 39.905 (Goal for Energy Efficiency), do not apply to that utility.

Sec. 39.553. TRANSITION TO COMPETITION. (a) Requires that the events prescribed by Subsections (b)-(f) be followed to introduce retail competition in the service area of an electric utility subject to this subchapter. Requires PUC to ensure that the listed items in each stage are completed before the next stage is initiated. Requires PUC, unless stated otherwise, to conduct each activity with the electric utility and other interested parties. Authorizes PUC to modify the sequence of events required by Subsections (b)-(e), but not the substance of the requirements, if PUC finds good cause to do so. Prohibits full retail competition from beginning in the service area of an electric utility subject to this subchapter until all actions prescribed by those subsections are completed.

(b) Provides that the first stage for the transition to competition consists of the following activities:

(1) approval of a regional transmission organization by the Federal Energy Regulatory Commission for the power region that includes the electric utility's service area and commencement of independent operation of the transmission network under the approved regional transmission organization;

(2) development of retail market protocols to facilitate retail competition; and

(3) completion of an expedited proceeding to develop nonbypassable delivery rates for the customer choice pilot project to be implemented under Subsection (c)(1).

(c) Provides that the second stage for the transition to competition consists of the following activities:

- (1) initiation of the customer choice pilot project in accordance with Section 39.104 (Customer Choice Pilot Projects);
- (2) development of a balancing energy market, a market for ancillary services, and a market-based congestion management system for the wholesale market in the power region in which the regional transmission organization operates; and
- (3) implementation of a seams agreement with adjacent power regions to reduce barriers to entry and facilitate competition.

(d) Provides that the third stage for the transition to competition consists of the following activities:

- (1) the electric utility filing with PUC:
  - (A) an application for business separation in accordance with Section 39.051 (Unbundling);
  - (B) an application for unbundled transmission and distribution rates in accordance with Section 39.201 (Cost of Service Tariffs and Charges);
  - (C) an application for certification of a qualified power region in accordance with Section 39.152 (Qualifying Power Regions); and
  - (D) an application for price-to-beat rates in accordance with Section 39.202 (Price to Beat);

- (2) PUC:
  - (A) approving a business separation plan for the utility;
  - (B) setting unbundled transmission and distribution rates for the utility;
  - (C) certifying a qualified power region, which includes conducting a formal evaluation of wholesale market power in the region, in accordance with Section 39.152;
  - (D) setting price-to-beat rates for the utility; and
  - (E) determining which competitive energy services must be separated from regulated utility activities in accordance with Section 39.051; and

(3) completion of the testing of retail and wholesale systems, including those systems necessary for switching customers to the retail electric provider of their choice and for settlement of wholesale market transactions, by the regional transmission organization, the registration agent, and market participants.

(e) Provides that the fourth stage for the transition to competition consists of the following activities:

- (1) PUC evaluation of the results of the pilot project;
- (2) initiation by the electric utility of a capacity auction in accordance with Section 39.153 (Capacity Auction) at a time to be determined by PUC; and

(3) separation by the utility of competitive energy services from its regulated utility activities, in accordance with PUC order approving the separation of competitive energy services.

(f) Provides that the fifth stage for the transition to competition consists of the following activities:

(1) evaluation by PUC of whether the electric utility can offer fair competition and reliable service to all retail customer classes in the area served by the utility, and:

(A) if PUC concludes that the electric utility can offer fair competition and reliable service to all retail customer classes in the area served by the utility, PUC issuing an order initiating retail competition for the utility; and

(B) if PUC determines that the electric utility cannot offer fair competition and reliable service to all retail customer classes in the area served by the utility, PUC issuing an order further delaying retail competition for the utility; and

(2) on the issuance of an order from PUC initiating retail competition for the utility, completion by the utility of the business separation and unbundling in accordance with PUC order approving the unbundling.

Sec. 39.554. INTERCONNECTION OF DISTRIBUTED RENEWABLE GENERATION. (a) Defines, in this section, "distributed renewable generation," "distributed renewable generation owner," and "interconnection."

(b) Authorizes a distributed renewable generation owner to request interconnection by filing an application for interconnection with the electric utility. Provides that a retail customer's application for interconnection with an electricity utility in accordance with this subsection is subject to the safety and reliability requirements of the electric utility. Requires that procedures of the electric utility for the submission and processing of a distributed renewable generation owner's application for interconnection be consistent with rules adopted by PUC regarding interconnection.

(c) Requires the electric utility to install, own and maintain the meter and metering equipment. Requires the retail electric customer to install a customer-furnished meter socket or metering cabinet, or both, at the electric utility's designated location solely on the retail electric customer's premises. Authorizes the electric utility, at its own expense, to install load research metering equipment solely on the retail electric customer's premises. Requires the retail electric customer to also supply, at no expense to the electric utility, a suitable location for meters and associated equipment that will be used for billing and for load research.

(d) Provides that for a retail electric customer:

(1) that is an apartment house for occupancy by low-income elderly tenants, reasonably expected to generate no less than 50 percent of its annual energy use with distributed renewable generation and qualifying for master metering pursuant to Utilities Code Section 184.012(b) (relating to issuance of permit to nonprofit organizations); or,

(2) having a qualifying facility with a design capacity which is 50 kW or less, and such distributed renewable generation or qualifying facility identified in (1) or (2) is rated to produce an amount of electricity that is

less than or equal to the amount of electricity the retail electricity customer consumed in the twelve month period prior to installation of the qualifying facility or for new facilities their estimated annual kilowatt hour consumption, in addition to the metering options in PURA Section 39.916(f), the electric utility is required to also provide such customers with the additional option of interconnection with the electric utility through a single meter that runs forward and backward. Requires that any renewable generation production for a given billing period by a customer choosing this additional option offset consumption for the billing period by the customer, and excess production from the renewable generation above the customer's consumption for a given billing period be credited to the customer in accordance with the provisions of Subsection (e).

(e) Requires an electric utility that purchases surplus generated electricity from a distributed renewable generation owner in accordance with this subsection to purchase surplus generated electricity generated by the renewable generation owner at the cost of the electric utility as determined by PUC rule, and:

(1) the electric utility shall take reasonable steps to inform the distributed renewable generation owner of the amount of surplus electricity purchased as measured in kilowatt hours during the retail customers most recent billing cycle; and

(2) the amount of any credit balance on a monthly bill of a retail electric customer with distributed renewable energy may be carried forward on the retail customer's bill until the credit exceeds \$50 at which time the electric utility must provide a refund of the credit balance to the customer.

Sec. 39.555 **MARKETING OF ENERGY EFFICIENCY AND RENEWABLE ENERGY PROGRAMS.** (a) Authorizes an electric utility subject to this subchapter to directly market energy efficiency and renewable energy programs to retail electric customers within its service territory and provide rebate or incentive funds directly to its customers to promote or facilitate the success of the programs subject to Section 39.905 (Goal for Energy Efficiency).

SECTION 2. Effective date: upon passage or September 1, 2011.