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1 AN ACT

2 relating to the delay of the transition to competition in the  
3 Western Electricity Coordinating Council service area and to net  
4 metering and energy efficiency goals and programs for utilities in  
5 that area.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

7 SECTION 1. Chapter 39, Utilities Code, is amended by adding  
8 Subchapter L to read as follows:

9 SUBCHAPTER L. TRANSITION TO COMPETITION AND OTHER PROVISIONS FOR  
10 CERTAIN AREAS OUTSIDE OF ERCOT

11 Sec. 39.551. APPLICABILITY. (a) This subchapter applies  
12 only to an investor-owned electric utility:

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

16 (2) that was not affiliated with ERCOT on January 1,  
17 2011; and

18 (3) to which Subchapters I, J, and K do not apply.

19 (b) The legislature finds that an electric utility subject  
20 to this subchapter is unable at this time to offer fair competition  
21 and reliable service to all retail customer classes in the area  
22 served by the utility. As a result, the introduction of retail  
23 competition for such an electric utility is delayed until fair  
24 competition and reliable service are available to all retail

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1 customer classes as determined under this subchapter.

2 Sec. 39.552. COST-OF-SERVICE REGULATION. (a) Until the  
3 date on which an electric utility subject to this subchapter is  
4 authorized by the commission under Section 39.553(f) to implement  
5 retail customer choice, the rates of the utility are subject to  
6 regulation under Chapter 36.

7 (b) Until the date on which an electric utility subject to  
8 this subchapter implements customer choice, the provisions of this  
9 chapter, other than this subchapter and Sections 39.904 and 39.905,  
10 do not apply to that utility.

11 Sec. 39.553. TRANSITION TO COMPETITION. (a) The events  
12 prescribed by Subsections (b)-(f) shall be followed to introduce  
13 retail competition in the service area of an electric utility  
14 subject to this subchapter. The commission shall ensure that the  
15 listed items in each stage are completed before the next stage is  
16 initiated. Unless stated otherwise, the commission shall conduct  
17 each activity with the electric utility and other interested  
18 parties. The commission may modify the sequence of events required  
19 by Subsections (b)-(e), but not the substance of the requirements,  
20 if the commission finds good cause to do so. Full retail  
21 competition may not begin in the service area of an electric utility  
22 subject to this subchapter until all actions prescribed by those  
23 subsections are completed.

24 (b) The first stage for the transition to competition  
25 consists of the following activities:

26 (1) approval of a regional transmission organization  
27 by the Federal Energy Regulatory Commission for the power region

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1 that includes the electric utility's service area and commencement  
2 of independent operation of the transmission network under the  
3 approved regional transmission organization;

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

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

9 (c) The second stage for the transition to competition  
10 consists of the following activities:

11 (1) initiation of the customer choice pilot project in  
12 accordance with Section 39.104;

13 (2) development of a balancing energy market, a market  
14 for ancillary services, and a market-based congestion management  
15 system for the wholesale market in the power region in which the  
16 regional transmission organization operates; and

17 (3) implementation of a seams agreement with adjacent  
18 power regions to reduce barriers to entry and facilitate  
19 competition.

20 (d) The third stage for the transition to competition  
21 consists of the following activities:

22 (1) the electric utility filing with the commission:

23 (A) an application for business separation in  
24 accordance with Section 39.051;

25 (B) an application for unbundled transmission  
26 and distribution rates in accordance with Section 39.201;

27 (C) an application for certification of a

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1 qualified power region in accordance with Section 39.152; and  
2 (D) an application for price-to-beat rates in  
3 accordance with Section 39.202;  
4 (2) the commission:  
5 (A) approving a business separation plan for the  
6 utility;  
7 (B) setting unbundled transmission and  
8 distribution rates for the utility;  
9 (C) certifying a qualified power region, which  
10 includes conducting a formal evaluation of wholesale market power  
11 in the region, in accordance with Section 39.152;  
12 (D) setting price-to-beat rates for the utility;  
13 and  
14 (E) determining which competitive energy  
15 services must be separated from regulated utility activities in  
16 accordance with Section 39.051; and  
17 (3) completion of the testing of retail and wholesale  
18 systems, including those systems necessary for switching customers  
19 to the retail electric provider of their choice and for settlement  
20 of wholesale market transactions, by the regional transmission  
21 organization, the registration agent, and market participants.  
22 (e) The fourth stage for the transition to competition  
23 consists of the following activities:  
24 (1) commission evaluation of the results of the pilot  
25 project;  
26 (2) initiation by the electric utility of a capacity  
27 auction in accordance with Section 39.153 at a time to be determined

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1 by the commission; and

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

6 (f) The fifth stage for the transition to competition  
 7 consists of the following activities:

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

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

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

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

25 Sec. 39.554. INTERCONNECTION OF DISTRIBUTED RENEWABLE  
 26 GENERATION. (a) In this section:

27 (1) "Distributed renewable generation" has the

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1 meaning assigned by Section 39.916.

2 (2) "Distributed renewable generation owner" means an  
3 owner of distributed renewable generation that is a retail electric  
4 customer.

5 (3) "Interconnection" has the meaning assigned by  
6 Section 39.916.

7 (b) A distributed renewable generation owner in the service  
8 area of an electric utility subject to this subchapter may request  
9 interconnection by filing an application for interconnection with  
10 the utility. An application for interconnection is subject to the  
11 utility's safety and reliability requirements. The utility's  
12 procedures for the submission and processing of an application for  
13 interconnection shall be consistent with rules adopted by the  
14 commission regarding interconnection.

15 (c) An electric utility that approves an application of a  
16 distributed renewable generation owner under Subsection (b):

17 (1) shall install, maintain, and retain ownership of  
18 the meter and metering equipment; and

19 (2) may install load research metering equipment on  
20 the premises of the owner, at no expense to the owner.

21 (d) At the request of an electric utility that approves an  
22 application of a distributed renewable generation owner under  
23 Subsection (b), the owner shall:

24 (1) provide and install a meter socket, a metering  
25 cabinet, or both a socket and cabinet at a location designated by  
26 the utility on the premises of the owner; and

27 (2) provide, at no expense to the utility, a suitable

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1 location for the utility to install meters and equipment associated  
2 with billing and load research.

3 (e) An electric utility that approves an application of a  
4 distributed renewable generation owner under Subsection (b) shall  
5 provide to the owner the metering options described by Section  
6 39.916(f) and an option to interconnect with the utility through a  
7 single meter that runs forward and backward if:

8 (1) the owner:

9 (A) intends to interconnect the distributed  
10 renewable generation at an apartment house, as defined by Section  
11 184.011, occupied by low-income elderly tenants that qualifies for  
12 master metering under Section 184.012(b) and the distributed  
13 renewable generation is reasonably expected to generate not less  
14 than 50 percent of the apartment house's annual electricity use; or

15 (B) has a qualifying facility with a design  
16 capacity of not more than 50 kilowatts; and

17 (2) the distributed renewable generation or  
18 qualifying facility that is the subject of the application is rated  
19 to produce an amount of electricity that is less than or equal to:

20 (A) the owner's estimated annual kilowatt hour  
21 consumption for a new apartment house or qualifying facility; or

22 (B) the amount of electricity the owner consumed  
23 in the year before installation of the distributed renewable  
24 generation or qualifying facility.

25 (f) For a distributed renewable generation owner that  
26 chooses interconnection through a single meter under Subsection  
27 (e):

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1           (1) the amount of electricity the owner generates  
2 through distributed renewable generation or a qualifying facility  
3 for a given billing period offsets the owner's consumption for that  
4 billing period; and

5           (2) any electricity the owner generates through  
6 distributed renewable generation or a qualifying facility that  
7 exceeds the owner's consumption for a given billing period shall be  
8 credited to the owner under Subsection (g).

9           (g) An electric utility that purchases surplus electricity  
10 under Subsection (f)(2) shall purchase the electricity from the  
11 distributed renewable generation owner at the cost of the utility  
12 as determined by commission rule. The utility shall take  
13 reasonable steps to inform the owner of the amount of surplus  
14 electricity purchased from the owner in kilowatt hours during the  
15 owner's most recent billing cycle. A credit balance of not more  
16 than \$50 on the owner's monthly bill may be carried forward onto the  
17 owner's next monthly bill. The utility shall refund to the owner a  
18 credit balance that is not carried forward or the portion of a  
19 credit balance that exceeds \$50 if the credit balance is carried  
20 forward.

21           (h) In a base rate proceeding or fuel cost recovery  
22 proceeding conducted under Chapter 36, the commission shall ensure  
23 that any additional cost associated with the metering and payment  
24 options described by Subsections (e), (f), and (g) is allocated  
25 only to customer classes that include distributed renewable  
26 generation owners who have chosen those metering options.

27           Sec. 39.555. MARKETING OF ENERGY EFFICIENCY AND RENEWABLE



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1 ENERGY PROGRAMS. An electric utility subject to this subchapter  
2 may market an energy efficiency or renewable energy program  
3 directly to a retail electric customer in its service territory and  
4 provide rebate or incentive funds directly to a customer to promote  
5 or facilitate the success of programs implemented under Section  
6 39.905.

7 SECTION 2. This Act takes effect immediately if it receives  
8 a vote of two-thirds of all the members elected to each house, as  
9 provided by Section 39, Article III, Texas Constitution. If this  
10 Act does not receive the vote necessary for immediate effect, this  
11 Act takes effect September 1, 2011.

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\_\_\_\_\_  
President of the Senate

\_\_\_\_\_  
Speaker of the House

I hereby certify that S.B. No. 1910 passed the Senate on May 5, 2011, by the following vote: Yeas 31, Nays 0; and that the Senate concurred in House amendment on May 25, 2011, by the following vote: Yeas 31, Nays 0.

\_\_\_\_\_  
Secretary of the Senate

I hereby certify that S.B. No. 1910 passed the House, with amendment, on May 20, 2011, by the following vote: Yeas 148, Nays 1, one present not voting.

\_\_\_\_\_  
Chief Clerk of the House

Approved:

\_\_\_\_\_  
Date

\_\_\_\_\_  
Governor