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Lone Star Chapter

SB 981: An On-Site Energy Bill of Rights

Fair Compensation for Surplus Distributed Electricity
Remove Red Tape on Registration and Third-Party Ownership

Ease of registration, third-party ownership, and fair market payments for surplus electricity from distributed renewable generation are critical steps toward developing a robust on-site renewable industry in Texas. These steps to fix the market for on-site solar, wind and geothermal will allow consumers to receive a fair price for surplus electricity they generate. Texas had such a policy in place in the 1980s, but with the restructuring of the electric market, old definitions of electric utilities no longer applied and net metering was inadvertently ended. Last session, HB 1243 by Gallego was passed out of the House and Senate due to agreed to language between the solar industry, the environmental community, retail electric providers and utilities. The bill ultimately failed in the final days of the session due to issues unrelated to the original compromise. This session several bills, including HB 340 by Gallego and SB 981 by Corona seek a balanced approach to resolve these issues.

In 2007, the Texas Legislature attempted to correct this mistake by declaring the intent in HB 3693 "that net metering...be deployed as rapidly as possible." Unfortunately, because net metering was not defined in the legislation, the Public Utilities Commission of Texas (PUCT) determined that "use of the term 'net metering service' could be confusing ... and is not necessary to implement the statute". Their rule essentially makes net metering optional, leaving the decision to purchase surplus electricity up to the Retail Electric Providers. The PUC's interpretation of the law has hampered solar development, leading the International Renewable Energy Council (IREC) to site Texas as a state with one of the "Worst Practices" with regard to surplus electricity policy in 2008. PUCT also determined that under current law, businesses and homeowners that put solar on their roofs of a certain size would have to effectively register as a utility, an enormous burden. Finally, PUCT determined that third party ownership of distributed generation (an innovative model to promote solar) might be prohibited. In the latest PUC Scope of Competition Report, PUC asks the Legislature for clarification on these issues. SB 981 provides this clarification.

SB 981 would:

- Require the PUCT to pass rules on interconnection of distributed renewable generation and the sale of surplus electricity generated by these resources;
- Define "Distributed renewable generation owner" to include a retail electric customer who contracts with another person to install or maintain distributed renewable generation on the customer's side of the meter, notwithstanding the fact that the customer does not take actual ownership of the installed distributed renewable generation. This allows third-party ownership.
- Make it clear that distributed renewable generation does not have to register as a power generating company as long as the intent is to provide energy on-site and should not be considered as a retail electric provider.
- Require PUCT to conduct a study on the methods for compensating an owner for surplus electricity, including how to arrive at a fair market price.

Rather than a study, we would suggest that PUCT through rulemaking establish a fair market price methodology and require REPs to pay a minimum for surplus electricity. The rulemaking would help determine fair market price through the stakeholder process rather than waiting an additional two years.

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