

By: Darby, Landgraf, Anchía, Craddick

H.B. No. 4290

A BILL TO BE ENTITLED

AN ACT

relating to a qualifying cogenerator that serves a large load and a colocated desalination facility.

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

SECTION 1. Section 31.002(13), Utilities Code, is amended to read as follows:

(13) "Qualifying cogenerator" and "qualifying small power producer" have the meanings assigned those terms by 16 U.S.C. Sections 796(18)(C) and 796(17)(D). A qualifying cogenerator that provides electricity to a purchaser of the cogenerator's thermal output is not for that reason considered to be a retail electric provider or a power generation company. The term includes an owner or operator of dispatchable generation that:

(A) provides thermal, steam, or waste heat for use by a colocated desalination facility;

(B) serves a load used for the primary purpose of manufacturing digital products; and

(C) is not located in an area in which a municipally owned utility or electric cooperative is certificated to provide retail electric utility service.

SECTION 2. Section 37.001(3), Utilities Code, is amended to read as follows:

(3) "Retail electric utility" means a person, political subdivision, electric cooperative, or agency that

1 operates, maintains, or controls in this state a facility to
2 provide retail electric utility service. The term does not include
3 a corporation described by Section 32.053 to the extent that the
4 corporation sells electricity exclusively at wholesale and not to
5 the ultimate consumer. A qualifying cogenerator that sells
6 electric energy at retail to the sole purchaser of the
7 cogenerator's thermal output under Sections 35.061 and 36.007 is
8 not for that reason considered to be a retail electric utility. The
9 owner or operator of a qualifying cogenerator that provides
10 thermal, steam, or waste heat for use by a colocated desalination
11 facility and serves a load used for the primary purpose of
12 manufacturing digital products is not for that reason considered to
13 be a retail electric utility. The owner or operator of a qualifying
14 cogeneration facility who was issued the necessary environmental
15 permits from the Texas Natural Resource Conservation Commission
16 after January 1, 1998, and who commenced construction of such
17 qualifying facility before July 1, 1998, may provide electricity to
18 the purchasers of the thermal output of that qualifying facility
19 and shall not for that reason be considered an electric utility or a
20 retail electric utility, provided that the purchasers of the
21 thermal output are owners of manufacturing or process operation
22 facilities that are located on a site entirely owned before
23 September, 1987, by one owner who retained ownership after
24 September, 1987, of some portion of the facilities and that those
25 facilities now share some integrated operations, such as the
26 provision of services and raw materials. A person who is an
27 electric generation equipment lessor or operator is not for that

1 reason considered to be a retail electric utility. A person who owns
2 or operates equipment used solely to provide electricity charging
3 service for consumption by an alternatively fueled vehicle, as
4 defined by Section 502.004, Transportation Code, is not for that
5 reason considered to be a retail electric utility.

6 SECTION 3. This Act takes effect immediately if it receives
7 a vote of two-thirds of all the members elected to each house, as
8 provided by Section 39, Article III, Texas Constitution. If this
9 Act does not receive the vote necessary for immediate effect, this
10 Act takes effect September 1, 2025.