

By: Darby

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, Utilities Code, is amended by amending Subdivision (13) 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. A qualifying cogenerator includes an owner or operator of dispatchable generation that:

(A) provides thermal, steam or waste heat for use by a co-located desalination facility; and

(B) serves a load whose primary purpose is the manufacture of digital products.

SECTION 2. Subsection 37.001, Utilities Code, is amended by amending Subdivision (3) to read as follows:

(3) "Retail electric utility" means a person, political subdivision, electric cooperative, or agency that operates, maintains, or controls in this state a facility to provide retail electric utility service. The term does not include a corporation described by Section 32.053 to the extent that the

1 corporation sells electricity exclusively at wholesale and not to  
2 the ultimate consumer. A qualifying cogenerator that sells  
3 electric energy at retail to the sole purchaser of the  
4 cogenerator's thermal output under Sections 35.061 and 36.007 is  
5 not for that reason considered to be a retail electric utility. The  
6 owner or operator of a qualifying cogeneration facility who was  
7 issued the necessary environmental permits from the Texas Natural  
8 Resource Conservation Commission after January 1, 1998, and who  
9 commenced construction of such qualifying facility before July 1,  
10 1998, may provide electricity to the purchasers of the thermal  
11 output of that qualifying facility and shall not for that reason be  
12 considered an electric utility or a retail electric utility,  
13 provided that the purchasers of the thermal output are owners of  
14 manufacturing or process operation facilities that are located on a  
15 site entirely owned before September, 1987, by one owner who  
16 retained ownership after September, 1987, of some portion of the  
17 facilities and that those facilities now share some integrated  
18 operations, such as the provision of services and raw materials. A  
19 person who is an electric generation equipment lessor or operator  
20 is not for that reason considered to be a retail electric utility.  
21 A person who owns or operates equipment used solely to provide  
22 electricity charging service for consumption by an alternatively  
23 fueled vehicle, as defined by Section 502.004, Transportation Code,  
24 is not for that reason considered to be a retail electric utility.  
25 The owner or operator of a qualifying congenator as defined by  
26 Subdivision 31.002(13) is not considered to be a retail electric  
27 utility if the owner or operator of a qualifying cogenerator is

1 providing electricity to a manufacturer of digital products and  
2 thermal, steam, or waste heat to a colocated desalination facility.

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