

By: Turner

H.B. No. 2335

A BILL TO BE ENTITLED

AN ACT

relating to a limitation on an electric utility's installed generation capacity.

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

SECTION 1. Section 39.153, Utilities Code, is amended by amending Subsections (b) and (e) and adding Subsection (a-1) to read as follows:

(a-1) Not later than September 30, 2004, each electric utility subject to this section shall sell at auction additional entitlements to the utility's Texas jurisdictional installed generation capacity so that no utility will control more than:

(1) 20 percent of the installed generation capacity in ERCOT; or

(2) 50 percent of the installed generation capacity in an ERCOT zonal boundary created by ERCOT during the annual commercially significant constraints demonstration.

(b) The obligation to auction the entitlements shall continue until the ~~[earlier of 60 months after the date customer choice is introduced or the]~~ date the commission determines that 40 percent or more of the electric power consumed by residential and small commercial customers within the affiliated transmission and distribution utility's certificated service area before the onset of customer choice is provided by nonaffiliated retail electric providers.

1           (e) The commission shall adopt rules by December 31, 2000,  
2 that define the scope of the capacity entitlements to be auctioned.  
3 The commission shall amend the rules not later than December 31,  
4 2003, as necessary to provide for the auction of additional  
5 entitlements under Subsection (a-1). Entitlements may be auctioned  
6 in blocks of less than 15 percent. The rules shall state the  
7 minimum amount of capacity that can be sold at auction as an  
8 entitlement. At a minimum, the rules shall provide that the  
9 entitlements:

10           (1) may be sold and purchased in periods of not less  
11 than one month nor more than four years;

12           (2) may be resold to any lawful purchaser, except for a  
13 retail electric provider affiliated with the electric utility that  
14 originally auctioned the entitlement;

15           (3) include no possessory interest in the unit from  
16 which the power is produced;

17           (4) include no obligations of a possessory owner of an  
18 interest in the unit from which the power is produced; and

19           (5) give the purchaser the right to designate the  
20 dispatch of the entitlement, subject to planned outages, outages  
21 beyond the control of the utility operating the unit, and other  
22 considerations subject to the oversight of the applicable  
23 independent organization.

24           SECTION 2. This Act takes effect immediately if it receives  
25 a vote of two-thirds of all the members elected to each house, as  
26 provided by Section 39, Article III, Texas Constitution. If this  
27 Act does not receive the vote necessary for immediate effect, this

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1 Act takes effect September 1, 2003.