

By: Christian

H.B. No. 3349

A BILL TO BE ENTITLED

AN ACT

relating to the availability of baseload generation at a price
reflective of its cost in this state's competitive wholesale
market.

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

SECTION 1. Subchapter D, Chapter 39, Utilities Code, is
amended by adding Section 39.1531 to read as follows:

Sec. 39.1531. SALES PRICE BY CERTAIN GENERATORS. (a) Each
generator described by Subsection (b) must sell 15 percent of its
total energy sales from its coal, lignite, and nuclear capacity for
each period described by Subsection (c) to retail electric
providers at a price equal to the average variable cost of its coal,
lignite, and nuclear-fueled resources plus 10 percent.

(b) The requirement described by Subsection (a) applies to
each generator that owns coal, lignite, or nuclear generating
capacity and that was at any time owned by an entity affiliated with
a formerly regulated investor-owned utility. The requirement does
not apply to municipal utilities, electric cooperatives, or river
authorities.

(c) At the end of each quarterly period, generators to which
this section applies must submit to the commission a report
detailing the quantity, price, and buyer of the energy sold under
this section for the quarterly period. The commission shall make
this information publicly available. If, based on this report, the

1 commission staff or any party believes that the required amount of
2 capacity was not sold at the required price, the commission staff or
3 any party may seek a commission hearing to determine the
4 generator's compliance with this section. If the commission
5 determines that a generator did not sell the required quantity of
6 generation at the required price, the commission may:

7 (1) initiate an enforcement proceeding against the
8 generator; or

9 (2) require the generator to conduct capacity auctions
10 to ensure that the required quantity of coal-fired, lignite-fired,
11 or nuclear-fueled generation is available to the market.

12 (d) The requirement described by Subsection (a) does not
13 apply if the market price for energy is less than the average
14 variable cost of energy produced by a generator's coal, lignite,
15 and nuclear units plus 10 percent. Any generator claiming
16 exemption from the requirement for a particular quarterly period or
17 portion of a quarterly period must substantiate its qualification
18 for the exemption in its regular quarterly filing.

19 (e) It is a violation of this section for an entity subject
20 to this section to adjust its prices or offers of its remaining
21 capacity or energy to negate the effect of this section's
22 requirement.

23 (f) The commission shall adopt rules to implement this
24 section.

25 SECTION 2. (a) The Public Utility Commission of Texas
26 shall adopt rules implementing Section 39.1531, Utilities Code, as
27 added by this Act, not later than December 1, 2007.

1 (b) The quarterly report required under Subsection (c),
2 Section 39.1531, Utilities Code, as added by this Act, must be
3 submitted to the Public Utility Commission of Texas by a date
4 determined by the commission by rule. The first quarterly report
5 must be submitted for the quarterly period ending March 31, 2008.

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, 2007.