

BILL ANALYSIS

S.B. 2236
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State Affairs
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Texas public policy favors increased reliance on renewable resources to supply the state's electric energy requirements. There is tremendous potential in Texas for development of wind-generated electricity, but wind power is intermittent and dependent on prevailing wind conditions. Electric energy consumers expect energy to be available on demand.

Electric cooperatives and their members support Texas public policy and are taking steps to increase their ability to make greater use of renewable energy resources such as wind power, but they can only do so if these intermittent resources are reinforced with backup generation sources that respond rapidly when energy from the renewable resource is reduced or unavailable.

One way to address this reliability challenge is with quick-start gas-fired generators, such as aero-derivative combustion turbine generators. These generators can respond rapidly during low wind conditions to supply the energy needed, are relatively efficient, and have lower emissions than generators powered by other fossil fuels, but they cannot operate without the immediate availability of fuel, posing an operational challenge. Natural gas pipelines usually require a day's notice of the quantity of gas that a customer will buy to allow appropriate arrangements for operation of the gas pipeline system. Absent such prior notice, gas may not be available when needed. This problem may be addressed if electric cooperatives maintain a supply of readily available natural gas in an underground gas storage facility that is designed to support the quick-start generation relied on by the cooperatives to back up the intermittent wind generation.

Modern quick-start generation technology is very expensive, as is developing, operating, and maintaining an underground gas storage facility that is sufficient in size to support such generation, but these are unavoidable costs if electric cooperatives increase the amount of renewable energy included in their resource portfolios. To reduce these costs and the costs borne by members, the cooperatives could offer short-term gas storage services to other entities at times when the storage facility has capacity that temporarily exceeds the electric cooperative's needs. These negotiated contracts would contain clear provisions stating that these gas storage services are short-term and subject to termination.

Current Texas law does not envision this type of arrangement. If an electric cooperative or an affiliated owner or operator of a gas storage facility offers gas storage to another party, even an affiliated party, it may fall under multiple definitions of current law and incur related obligations such as the obligation to offer or provide gas storage services to others without favoring its own operations and needs. Under Texas law, the electric cooperative would not be able to contract with other entities to provide temporary gas storage services while maintaining the assurance that it can rely on the facility to support its own generation needs. Instead, the basic purpose of making a substantial investment in quick-start generation and the acquisition of underground gas storage facilities to support renewable generation would be frustrated by demands of third parties for access to the gas storage facility.

S.B. 2236 exempts certain electric cooperatives from certain regulations and makes clarifications to the definition of "gas utility" and "public utility."

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

S.B. 2236 amends provisions of the Utilities Code relating to natural gas pipelines to specify that an electric cooperative or its subsidiary that sells electricity at wholesale is not a gas utility or subject to regulation as a gas utility solely because it provides gas storage services for hire if the gas storage facility is predominantly operated to support the integration of renewable resources. The bill prohibits such a gas storage facility from having a working gas capacity of greater than five billion cubic feet. The bill makes a conforming change in the definition of "gas utility" under the Gas Utility Regulatory Act.

S.B. 2236 amends the Natural Resources Code to establish that provisions relating to common carriers, public utilities, and common purchasers, and any common law requirements or limitations applicable to a common carrier do not apply to an underground storage facility owned or operated by an electric cooperative or its subsidiary that sells electricity at wholesale and offers or provides gas storage services to the public for hire if the gas storage facility is predominantly operated to support the integration of renewable resources. The bill prohibits such a gas storage facility from having a working gas capacity of greater than five billion cubic feet. The bill redefines "public utility" to make a conforming change establishing that the term does not include such an electric cooperative or its subsidiary.

EFFECTIVE DATE

On passage, or, if the act does not receive the necessary vote, the act takes effect September 1, 2009.