

By: Ellis

S.B. No. 436

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to a statewide goal for electric energy generation to meet  
3 base load demands from renewable energy technologies.

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

5 SECTION 1. Section 39.002, Utilities Code, is amended to  
6 read as follows:

7 Sec. 39.002. APPLICABILITY. This chapter, other than  
8 Sections 39.155, 39.157(e), 39.203, 39.903, 39.904, 39.9051,  
9 39.9052, ~~[and]~~ 39.914(e), and 39.918, does not apply to a  
10 municipally owned utility or an electric cooperative. Sections  
11 39.157(e), 39.203, ~~[and]~~ 39.904, and 39.918, however, apply only to  
12 a municipally owned utility or an electric cooperative that is  
13 offering customer choice. If there is a conflict between the  
14 specific provisions of this chapter and any other provisions of  
15 this title, except for Chapters 40 and 41, the provisions of this  
16 chapter control.

17 SECTION 2. Subchapter Z, Chapter 39, Utilities Code, is  
18 amended by adding Section 39.918 to read as follows:

19 Sec. 39.918. GOAL FOR BASE LOAD RENEWABLE ENERGY  
20 GENERATION. (a) In this section, "renewable energy technology"  
21 has the meaning assigned by Section 39.904.

22 (b) It is the intent of the legislature that by January 1,  
23 2020, additional generating capacity from renewable energy  
24 technologies will have been installed in this state that is capable

1 of producing not less than an additional 3,000 megawatts to meet  
2 base load demands, as compared to the base load generating capacity  
3 from renewable energy technologies installed in this state as of  
4 September 1, 2009, for use by retail electric providers,  
5 municipally owned utilities, and electric cooperatives and their  
6 customers.

7 (c) Each retail electric provider, municipally owned  
8 utility, or electric cooperative in this state shall directly own  
9 or purchase the appropriate generating capacity or base load  
10 renewable energy credits not later than January 1, 2020, so that the  
11 installed base load generating capacity from renewable energy  
12 technologies in this state increases to meet the goal provided by  
13 Subsection (b).

14 (d) The commission by rule shall establish a base load  
15 renewable energy credits trading program. Each retail electric  
16 provider, municipally owned utility, or electric cooperative that  
17 does not satisfy the requirements of Subsection (c) by directly  
18 owning or purchasing generating capacity from sources using  
19 renewable energy technologies to meet base load demands shall  
20 purchase sufficient base load renewable energy credits to satisfy  
21 the requirements by holding base load renewable energy credits in  
22 lieu of base load generating capacity from renewable energy  
23 technologies. Commission rules must provide for base load capacity  
24 from electric energy that is generated by renewable energy  
25 technologies and stored for later release to the electric  
26 transmission and distribution system to be eligible for a credit  
27 that is double that for which capacity from renewable energy

1 technologies alone is eligible.

2 (e) The commission shall adopt rules necessary to  
3 administer and enforce this section. At a minimum, the rules shall:

4 (1) establish the minimum annual base load renewable  
5 energy requirement for each retail electric provider, municipally  
6 owned utility, and electric cooperative operating in this state in  
7 a manner reasonably calculated by the commission to produce, on a  
8 statewide basis, compliance with the requirement prescribed by  
9 Subsection (c); and

10 (2) specify reasonable performance standards that all  
11 base load renewable capacity additions must meet to count against  
12 the requirement prescribed by Subsection (c) and that:

13 (A) are designed and operated so as to maximize  
14 the energy output from the capacity additions in accordance with  
15 then-current industry standards, as necessary to meet base load  
16 demands; and

17 (B) encourage the development, construction, and  
18 operation of new base load renewable energy projects at those sites  
19 in this state that have the greatest economic potential for capture  
20 and development of this state's environmentally beneficial  
21 renewable resources.

22 (f) A municipally owned utility operating a gas  
23 distribution system may credit toward satisfaction of the  
24 requirements of this section any production or acquisition of  
25 landfill gas supplied to the gas distribution system, based on  
26 conversion to kilowatt hours of the thermal energy content in  
27 British thermal units of the renewable source and using for the

1 conversion factor the systemwide average heat rate of the gas-fired  
2 units of the combined utility's electric system as measured in  
3 British thermal units per kilowatt hour.

4 (g) The commission, after consultation with each  
5 appropriate independent organization, electric reliability  
6 council, or regional transmission organization, shall develop a  
7 plan to construct transmission capacity necessary to deliver to  
8 electric customers in a manner that is most beneficial and  
9 cost-effective to the customers the electric output from renewable  
10 energy technologies to meet base load demands.

11 (h) The commission, after consultation with each  
12 appropriate independent organization, electric reliability  
13 council, or regional transmission organization, shall file a report  
14 with the legislature not later than December 31 of each  
15 even-numbered year. The report must include:

16 (1) an evaluation of the commission's implementation  
17 of this section;

18 (2) the estimated cost of transmission service  
19 improvements and other system improvements necessary to implement  
20 this section; and

21 (3) an evaluation of the effects that additional base  
22 load renewable generation has on system reliability and on the cost  
23 of alternatives to mitigate the effects.

24 (i) The commission may adopt rules requiring renewable base  
25 load power facilities to have reactive power control capabilities  
26 or any other feasible technology designed to reduce the facilities'  
27 effects on system reliability.

1       (j) As provided by this subsection, the commission shall  
2 reduce the requirement under Subsection (c) for a retail electric  
3 provider, municipally owned utility, or electric cooperative that  
4 is subject to a requirement under this section and that serves a  
5 customer receiving electric service at transmission-level voltage  
6 if, before any year for which the commission calculates  
7 requirements for base load generating capacity from renewable  
8 energy technologies under Subsection (c), the customer notifies the  
9 commission in writing that the customer chooses not to support that  
10 goal as established under this section for that year. The  
11 commission shall exclude from the calculation of a retail electric  
12 provider's, municipally owned utility's, or electric cooperative's  
13 requirement under Subsection (c) energy sold by the retail electric  
14 provider, municipally owned utility, or electric cooperative at  
15 transmission-level voltage to customers who have submitted the  
16 notice to the commission under this subsection for the applicable  
17 year. The commission shall determine the reporting requirements  
18 and schedule necessary to implement this subsection. This  
19 subsection does not alter the goal established in Subsection (b) or  
20 reduce the minimum statewide requirements of Subsection (c).

21       SECTION 3. This Act takes effect immediately if it receives  
22 a vote of two-thirds of all the members elected to each house, as  
23 provided by Section 39, Article III, Texas Constitution. If this  
24 Act does not receive the vote necessary for immediate effect, this  
25 Act takes effect September 1, 2009.