

By: Ogden

S.B. No. 2349

A BILL TO BE ENTITLED

AN ACT

relating to distributed generation of electric power by natural gas  
powered generation facilities.

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

SECTION 1. Section 31.002, Utilities Code, is amended by  
adding Subdivision (4-a) and amending Subdivision (10) to read as  
follows:

(4-a) "Distributed natural gas generation facility"  
means a facility installed on the customer's side of the meter that  
is used for the generation of not more than 2,000 kilowatts of  
electricity.

(10) "Power generation company" means a person,  
including a person who owns or operates a distributed natural gas  
generation facility, that:

(A) generates electricity that is intended to be  
sold at wholesale;

(B) does not own a transmission or distribution  
facility in this state other than an essential interconnecting  
facility, a facility not dedicated to public use, or a facility  
otherwise excluded from the definition of "electric utility" under  
this section; and

(C) does not have a certificated service area,  
although its affiliated electric utility or transmission and  
distribution utility may have a certificated service area.

SECTION 2. The heading to Subchapter B, Chapter 35, Utilities Code, is amended to read as follows:

SUBCHAPTER B. EXEMPT WHOLESALE GENERATORS, DISTRIBUTED NATURAL GAS GENERATION FACILITIES, AND POWER MARKETERS

SECTION 3. Subchapter B, Chapter 35, Utilities Code, is amended by adding Section 35.036 to read as follows:

Sec. 35.036. DISTRIBUTED NATURAL GAS GENERATION FACILITIES. (a)(1) A person who owns or operates a distributed natural gas generation facility may sell electric power generated by the facility.

(2) The electric utility, electric cooperative, or retail electric provider that provides retail electricity service to the facility may purchase electric power tendered to it by the owner or operator of the facility at a value agreed to by the electric utility, electric cooperative, or retail electric provider and the owner or operator of the facility, which may include a value based on the clearing price of energy at the time of day and location that the electricity is made available to the electric grid.

(3) At the request of the owner or operator of the facility, the electric utility or electric cooperative shall allow the owner or operator of the facility to use the transmission and distribution facilities to transmit the electric power to another entity that is acceptable to the owner or operator in accordance with commission rules or a tariff approved by the Federal Energy Regulatory Commission.

(b) If the owner or operator of a distributed natural gas

1 generation facility requests to be interconnected to an electric  
2 utility or electric cooperative that does not have a transmission  
3 tariff approved by the Federal Energy Regulatory Commission, the  
4 electric utility or electric cooperative may recover from the owner  
5 or operator of the facility the reasonable costs of interconnecting  
6 the facility with the electric utility or electric cooperative that  
7 are necessary for and directly attributable to the interconnection  
8 of the facility. If the rated capacity of the distributed natural  
9 gas generation exceeds the capacity of the electric utility or  
10 electric cooperative and the owner or operator of the facility  
11 requests that such an electric utility or electric cooperative make  
12 upgrades to accommodate the distributed natural generation  
13 capacity, the electric utility or electric cooperative may recover  
14 from the owner or operator of the facility the reasonable cost of  
15 electric facility upgrades and improvements that are necessary for  
16 and directly attributable to the requested accommodation of the  
17 distributed natural gas generation capacity.

18 (c) In order to recover costs under Subsection (b), an  
19 electric utility or electric cooperative must have provided a  
20 good-faith cost estimate in writing to the owner or operator of the  
21 distributed natural gas generation facility and the owner or  
22 operator must have, prior to the incurring of any cost by the  
23 electric utility or electric cooperative, agreed in writing to pay  
24 the reasonable and necessary cost of interconnection or capacity  
25 accommodation requested by the owner or operator and described in  
26 the cost estimate. If an electric utility or electric cooperative  
27 seeks to recover from the owner or operator of the facility an

1 amount that exceeds the good-faith estimate by more than five  
2 percent and the owner or operator of the facility disputes the  
3 amount that exceeds the good-faith estimate, the commission shall  
4 resolve the dispute at the request of the owner or operator of the  
5 facility.

6 (d) A distributed natural gas generation facility must  
7 comply with emissions limitations established by the Texas  
8 Commission on Environmental Quality for a standard emissions permit  
9 for an electric generation facility unit installed after January 1,  
10 1995.

11 SECTION 4. Subsection (c), Section 39.351, Utilities Code,  
12 is amended to read as follows:

13 (c) The commission may establish simplified filing  
14 requirements for distributed natural gas generation facilities [A  
15 ~~power generation company may register any time after September 1,~~  
16 ~~2000].~~

17 SECTION 5. This Act takes effect immediately if it receives  
18 a vote of two-thirds of all the members elected to each house, as  
19 provided by Section 39, Article III, Texas Constitution. If this  
20 Act does not receive the vote necessary for immediate effect, this  
21 Act takes effect September 1, 2009.