

By: Ogden

S.B. No. 2349

A BILL TO BE ENTITLED

AN ACT

relating to distributed generation of electric power.

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

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

(4-1) "Distributed generation facility" means a facility for the generation of electricity with a capacity of not more than 5,000 kilowatts that is installed on the customer's side of the meter.

(10) "Power generation company" means a person, including a person who owns or operates a distributed 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 title of Subchapter B of Chapter 35,

Utilities Code, is amended to read as follows:

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

SECTION 3. Subchapter A of Chapter 35, Utilities Code, is amended by adding Section 35.009, to read as follows:

Sec. 35.009. DISTRIBUTED GENERATION FACILITIES.

A person who owns or operates a distributed generation facility may sell electric energy at wholesale. The electric utility or retail electric provider providing retail service to the facility shall purchase energy tendered to it by the distributed generation facility owner or operator at a price that is consistent with rules adopted by the commission. The rules adopted by the commission shall provide for a reasonable price for the energy, based on factors that the commission determines are relevant, including the electric utility's or retail electric provider's avoided cost of energy and the market value of energy.

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

(c) ~~A power generation company may register any time after September 1, 2000.~~ The commission may establish simplified filing requirements for distributed generation facilities.

SECTION 5. Section 40.004(1), Utilities Code, is amended to read as follows:

Except as specifically otherwise provided in this chapter, the commission has jurisdiction over municipally owned utilities only for the following purposes:

(1) to regulate wholesale transmission rates and

1 service, including terms of access, and the pricing of energy
2 supplied by distributed generation facility to a municipal utility,
3 to the extent provided by Subchapter A, Chapter 35;

4 SECTION 6. Section 41.004(1), Utilities Code, is amended to
5 read as follows:

6 Except as specifically otherwise provided in this chapter,
7 the commission has jurisdiction over electric cooperatives only for
8 the following purposes:

9 (1) to regulate wholesale transmission rates and
10 service, including terms of access, and the pricing of energy
11 supplied by a distributed generation facility to an electric
12 cooperative, to the extent provided by Subchapter A, Chapter 35;

13 SECTION 7. This Act is effective September 1, 2009.