

BILL ANALYSIS

S.B. 365
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State Affairs
Committee Report (Unamended)

BACKGROUND AND PURPOSE

According to industry observers, significant amounts of natural gas currently are wasted, stranded, or underutilized for a number of reasons. S.B. 365 seeks to address this problem and to increase the production of electricity in Texas by opening the electric market for small power generators and allowing small generators of electricity to connect to the grid and sell their power.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the Public Utility Commission of Texas in SECTION 3 of this bill.

ANALYSIS

S.B. 365 amends the Utilities Code to authorize a person who owns or operates a distributed natural gas generation facility to sell electric power generated by the facility. The bill authorizes the electric utility, electric cooperative, or retail electric provider that provides retail electricity service to the facility to 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 facility's owner or operator. The bill authorizes the value of the electric power to be based wholly or partly on the clearing price of energy at the time of day and at the location at which the electric power is made available to the electric grid.

S.B. 365 requires the electric utility or electric cooperative, at the request of the owner or operator of the distributed natural gas generation facility, to allow the owner or operator of the facility to use transmission and distribution facilities to transmit the electric power to another entity that is acceptable to the owner or operator in accordance with the Public Utility Commission of Texas (PUC) rules or a tariff approved by the Federal Energy Regulatory Commission (FERC). The bill authorizes the electric utility or electric cooperative, subject to certain conditions, to recover from the owner or operator of a distributed natural gas generation facility the following:

- the reasonable costs of interconnecting the facility with the electric utility or electric cooperative that are necessary for and directly attributable to the interconnection if the facility's owner or operator requests to be interconnected to an electric utility or electric cooperative that does not have a transmission tariff approved by FERC; and
- the reasonable costs of electric facility upgrades and improvements if the rated capacity of the distributed natural gas generation facility is greater than the rated capacity of the electric utility or electric cooperative and the costs are necessary for and directly attributable to accommodating the distributed natural gas generation facility's capacity.

S.B. 365 authorizes an electric utility or electric cooperative to recover the costs specified above only if the electric utility or electric cooperative provides a written good faith cost estimate to the owner or operator of the distributed natural gas generation facility and the owner or operator of the distributed natural gas generation facility agrees in writing to pay the reasonable and

necessary costs of interconnection or capacity accommodation requested by the owner or operator and described in the estimate before the electric utility or electric cooperative incurs the costs.

S.B. 365 requires the PUC to resolve a dispute at the request of the owner or operator of a distributed natural gas generation facility if an electric utility or electric cooperative seeks to recover from the owner or operator of the facility an amount that exceeds the amount provided by the electric utility or cooperative in the good faith cost estimate by more than five percent. The bill requires a distributed natural gas generation facility to comply with emissions limitations established by the Texas Commission on Environmental Quality for a standard emissions permit for an electric generation facility unit installed after January 1, 1995. The bill establishes that its provisions relating to distributed natural gas generation facilities do not require an electric cooperative to transmit electricity to a retail point of delivery in the cooperative's certificated service area if the cooperative has not adopted customer choice.

S.B. 365 authorizes the PUC to establish simplified filing requirements for distributed natural gas generation facilities.

S.B. 365 defines "distributed natural gas generation facility" and redefines "power generation company."

S.B. 365 removes an obsolete provision and makes a conforming change.

EFFECTIVE DATE

September 1, 2011.