

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 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 uses natural gas to generate 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,

1 Utilities Code, is amended to read as follows:

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

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

6 Sec. 35.036. DISTRIBUTED NATURAL GAS GENERATION  
7 FACILITIES. (a) A person who owns or operates a distributed  
8 natural gas generation facility may sell electric power generated  
9 by the facility. The electric utility, electric cooperative, or  
10 retail electric provider that provides retail electricity service  
11 to the facility may purchase electric power tendered to it by the  
12 owner or operator of the facility at a value agreed to by the  
13 electric utility, electric cooperative, or retail electric  
14 provider and the owner or operator of the facility. The value of  
15 the electric power may be based wholly or partly on the clearing  
16 price of energy at the time of day and at the location at which the  
17 electric power is made available to the electric grid.

18 (b) At the request of the owner or operator of the  
19 distributed natural gas generation facility, the electric utility  
20 or electric cooperative shall allow the owner or operator of the  
21 facility to use transmission and distribution facilities to  
22 transmit the electric power to another entity that is acceptable to  
23 the owner or operator in accordance with commission rules or a  
24 tariff approved by the Federal Energy Regulatory Commission.

25 (c) Subject to Subsections (e) and (f), if the owner or  
26 operator of a distributed natural gas generation facility requests  
27 to be interconnected to an electric utility or electric cooperative

1 that does not have a transmission tariff approved by the Federal  
2 Energy Regulatory Commission, the electric utility or electric  
3 cooperative may recover from the owner or operator of the facility  
4 the reasonable costs of interconnecting the facility with the  
5 electric utility or electric cooperative that are necessary for and  
6 directly attributable to the interconnection of the facility.

7 (d) Subject to Subsections (e) and (f), an electric utility  
8 or electric cooperative may recover from the owner or operator of a  
9 distributed natural gas generation facility the reasonable costs of  
10 electric facility upgrades and improvements if:

11 (1) the rated capacity of the distributed natural gas  
12 generation facility is greater than the rated capacity of the  
13 electric utility or electric cooperative; and

14 (2) the costs are necessary for and directly  
15 attributable to accommodating the distributed natural gas  
16 generation facility's capacity.

17 (e) An electric utility or electric cooperative may recover  
18 costs under Subsection (c) or (d) only if:

19 (1) the electric utility or electric cooperative  
20 provides a written good faith cost estimate to the owner or operator  
21 of the distributed natural gas generation facility; and

22 (2) the owner or operator of the distributed natural  
23 gas generation facility agrees in writing to pay the reasonable and  
24 necessary costs of interconnection or capacity accommodation  
25 requested by the owner or operator and described in the estimate  
26 before the electric utility or electric cooperative incurs the  
27 costs.

1       (f) If an electric utility or electric cooperative seeks to  
2 recover from the owner or operator of a distributed natural gas  
3 generation facility an amount that exceeds the amount in the  
4 estimate provided under Subsection (e) by more than five percent,  
5 the commission shall resolve the dispute at the request of the owner  
6 or operator of the facility.

7       (g) A distributed natural gas generation facility must  
8 comply with emissions limitations established by the Texas  
9 Commission on Environmental Quality for a standard emissions permit  
10 for an electric generation facility unit installed after January 1,  
11 1995.

12       (h) This section does not require an electric cooperative to  
13 transmit electricity to a retail point of delivery in the  
14 certificated service area of the electric cooperative if the  
15 electric cooperative has not adopted customer choice.

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

18       (c) The commission may establish simplified filing  
19 requirements for distributed natural gas generation facilities [A  
20 ~~power generation company may register any time after September 1,~~  
21 ~~2000].~~

22       SECTION 5. This Act takes effect September 1, 2011.

\_\_\_\_\_  
President of the Senate

\_\_\_\_\_  
Speaker of the House

I hereby certify that S.B. No. 365 passed the Senate on April 28, 2011, by the following vote: Yeas 31, Nays 0.

\_\_\_\_\_  
Secretary of the Senate

I hereby certify that S.B. No. 365 passed the House on May 25, 2011, by the following vote: Yeas 147, Nays 0, one present not voting.

\_\_\_\_\_  
Chief Clerk of the House

Approved:

\_\_\_\_\_  
Date

\_\_\_\_\_  
Governor