

1-1 By: Ogden S.B. No. 365
1-2 (In the Senate - Filed January 18, 2011; February 2, 2011,
1-3 read first time and referred to Committee on Business and Commerce;
1-4 April 20, 2011, reported adversely, with favorable Committee
1-5 Substitute by the following vote: Yeas 8, Nays 0; April 20, 2011,
1-6 sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 365 By: Estes

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to distributed generation of electric power.
1-11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:
1-12 SECTION 1. Section 31.002, Utilities Code, is amended by
1-13 adding Subdivision (4-a) and amending Subdivision (10) to read as
1-14 follows:

1-15 (4-a) "Distributed natural gas generation facility"
1-16 means a facility installed on the customer's side of the meter that
1-17 uses natural gas to generate not more than 2,000 kilowatts of
1-18 electricity.

1-19 (10) "Power generation company" means a person,
1-20 including a person who owns or operates a distributed natural gas
1-21 generation facility, that:

1-22 (A) generates electricity that is intended to be
1-23 sold at wholesale;

1-24 (B) does not own a transmission or distribution
1-25 facility in this state other than an essential interconnecting
1-26 facility, a facility not dedicated to public use, or a facility
1-27 otherwise excluded from the definition of "electric utility" under
1-28 this section; and

1-29 (C) does not have a certificated service area,
1-30 although its affiliated electric utility or transmission and
1-31 distribution utility may have a certificated service area.

1-32 SECTION 2. The heading to Subchapter B, Chapter 35,
1-33 Utilities Code, is amended to read as follows:

1-34 SUBCHAPTER B. EXEMPT WHOLESALE GENERATORS, DISTRIBUTED NATURAL GAS
1-35 GENERATION FACILITIES, AND POWER MARKETERS

1-36 SECTION 3. Subchapter B, Chapter 35, Utilities Code, is
1-37 amended by adding Section 35.036 to read as follows:

1-38 Sec. 35.036. DISTRIBUTED NATURAL GAS GENERATION

1-39 FACILITIES. (a) A person who owns or operates a distributed
1-40 natural gas generation facility may sell electric power generated
1-41 by the facility. The electric utility, electric cooperative, or
1-42 retail electric provider that provides retail electricity service
1-43 to the facility may purchase electric power tendered to it by the
1-44 owner or operator of the facility at a value agreed to by the
1-45 electric utility, electric cooperative, or retail electric
1-46 provider and the owner or operator of the facility. The value of
1-47 the electric power may be based wholly or partly on the clearing
1-48 price of energy at the time of day and at the location at which the
1-49 electric power is made available to the electric grid.

1-50 (b) At the request of the owner or operator of the
1-51 distributed natural gas generation facility, the electric utility
1-52 or electric cooperative shall allow the owner or operator of the
1-53 facility to use transmission and distribution facilities to
1-54 transmit the electric power to another entity that is acceptable to
1-55 the owner or operator in accordance with commission rules or a
1-56 tariff approved by the Federal Energy Regulatory Commission.

1-57 (c) Subject to Subsections (e) and (f), if the owner or
1-58 operator of a distributed natural gas generation facility requests
1-59 to be interconnected to an electric utility or electric cooperative
1-60 that does not have a transmission tariff approved by the Federal
1-61 Energy Regulatory Commission, the electric utility or electric
1-62 cooperative may recover from the owner or operator of the facility
1-63 the reasonable costs of interconnecting the facility with the

2-1 electric utility or electric cooperative that are necessary for and
2-2 directly attributable to the interconnection of the facility.

2-3 (d) Subject to Subsections (e) and (f), an electric utility
2-4 or electric cooperative may recover from the owner or operator of a
2-5 distributed natural gas generation facility the reasonable costs of
2-6 electric facility upgrades and improvements if:

2-7 (1) the rated capacity of the distributed natural gas
2-8 generation facility is greater than the rated capacity of the
2-9 electric utility or electric cooperative; and

2-10 (2) the costs are necessary for and directly
2-11 attributable to accommodating the distributed natural gas
2-12 generation facility's capacity.

2-13 (e) An electric utility or electric cooperative may recover
2-14 costs under Subsection (c) or (d) only if:

2-15 (1) the electric utility or electric cooperative
2-16 provides a written good faith cost estimate to the owner or operator
2-17 of the distributed natural gas generation facility; and

2-18 (2) the owner or operator of the distributed natural
2-19 gas generation facility agrees in writing to pay the reasonable and
2-20 necessary costs of interconnection or capacity accommodation
2-21 requested by the owner or operator and described in the estimate
2-22 before the electric utility or electric cooperative incurs the
2-23 costs.

2-24 (f) If an electric utility or electric cooperative seeks to
2-25 recover from the owner or operator of a distributed natural gas
2-26 generation facility an amount that exceeds the amount in the
2-27 estimate provided under Subsection (e) by more than five percent,
2-28 the commission shall resolve the dispute at the request of the owner
2-29 or operator of the facility.

2-30 (g) A distributed natural gas generation facility must
2-31 comply with emissions limitations established by the Texas
2-32 Commission on Environmental Quality for a standard emissions permit
2-33 for an electric generation facility unit installed after January 1,
2-34 1995.

2-35 (h) This section does not require an electric cooperative to
2-36 transmit electricity to a retail point of delivery in the
2-37 certificated service area of the electric cooperative if the
2-38 electric cooperative has not adopted customer choice.

2-39 SECTION 4. Subsection (c), Section 39.351, Utilities Code,
2-40 is amended to read as follows:

2-41 (c) The commission may establish simplified filing
2-42 requirements for distributed natural gas generation facilities [A
2-43 power generation company may register any time after September 1,
2-44 2000].

2-45 SECTION 5. This Act takes effect September 1, 2011.

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