

House Bill 2049
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SECTION 1. Section 31.002(13), Utilities Code, is amended to read as follows:

(13) "Qualifying cogenerator" and "qualifying small power producer" have the meanings assigned those terms by 16 U.S.C. Sections 796(18)(C) and 796(17)(D). A qualifying cogenerator that provides electricity to a ~~the~~ purchaser of the cogenerator's thermal output is not for that reason considered to be a retail electric provider or a power generation company.

SECTION 2. Subchapter B, Chapter 37, Utilities Code, is amended by adding Section 37.0521 to read as follows:

Sec. 37.0521. EXCEPTION FOR RETAIL SALES BY CERTAIN QUALIFYING COGENERATORS. (a) A qualifying cogenerator may sell electric energy at retail to more than one purchaser of the cogenerator's thermal output under Sections 35.061 and 36.007.

(b) A qualifying cogenerator that sells electric energy at retail to more than one purchaser is not subject to regulation as a retail electric utility under Chapter 37 or subject to regulation as a retail electric provider or power generation company under this subtitle if the transmission facilities used to provide electricity necessary to serve the purchasers of the thermal output are connected to the purchasers of the thermal output using transmission facilities that are not owned or operated by an electric utility.

(c) The limitation on the sale of electricity does not apply to the sale of wholesale electricity.

(d) This section does not apply to a municipally owned utility or an electric cooperative providing service to an area where competition has not been introduced.

SENATE VERSION (IE)

SECTION 1. Same as House version.

SECTION 2. Subchapter B, Chapter 37, Utilities Code, is amended by adding Section 37.0521 to read as follows:

Sec. 37.0521. EXCEPTION FOR RETAIL SALES BY CERTAIN QUALIFYING COGENERATORS. (a) ~~Notwithstanding Section 37.001(3), a qualifying cogenerator may sell electric energy at retail to more than one purchaser of the cogenerator's thermal output.~~

(b) ~~Selling electric energy at retail to more than one purchaser does not, as a result of that sale, subject a qualifying cogenerator to regulation as:~~ [FA1]

(1) a retail electric provider or power generation company; or

(2) a retail electric utility under Chapter 37.

(c) This section does not apply to sales in an area:

(1) in which customer choice has not been adopted and where a municipally owned utility or an electric cooperative is certificated to provide retail electric utility service; or

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(2) that is served by an electric utility that operates solely outside of ERCOT.

SECTION 3. This Act takes effect September 1, 2013.

SECTION 3. Same as House version.