

BILL ANALYSIS

Senate Research Center
88R20666 CXP-D

C.S.S.B. 2015
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Business & Commerce
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Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

In S.B. 7 (76R), the legislature adopted a goal that 50 percent of the generating capacity in the state installed after January 1, 2000, would be produced using natural gas and authorized the Public Utility Commission (PUC) to set up an energy credits program to meet this goal. However, renewable energy was a fledgling industry at the time and S.B. 7 separately promoted growth of wind and solar generation through a renewable energy credits (REC) program. As a result, renewable energy was excluded in calculating whether the state was meeting this 50% goal.

Since the adoption of S.B. 7, the PUC has implemented rules to govern the natural gas credits trading program. The PUC's rules require municipally owned utilities, power generation companies, and electric cooperatives to either own sufficient natural gas generation to meet this 50% requirement, or to purchase credits from other natural gas generators to support the requirement. However, the PUC has subsequently waived the requirements each year after finding that the 50% goal is met because renewable capacity is excluded.

Today, there is a proliferation of renewable generation in Texas and the Renewable Energy Credit (REC) mandate is no longer needed. Conversely, the state is seeking to incentivize additional dispatchable generation, including but not limited to natural gas generation.

The purpose of this bill is to update the original natural gas goal from S.B. 7 in two key ways: (1) to include all dispatchable generating technologies, not just natural gas, and (2) to include renewable generating capacity in determining whether the 50% goal is being achieved. This will update the natural gas goal to satisfy modern conditions and support reliability of the state's electric grid given our current resource mix.

Benefits:

These changes will better support grid reliability by requiring power generators, electric cooperatives and municipally owned utilities to ensure that at least 50% of their capacity comes from a reliable, dispatchable generating source. Federal mandates, investing trends, and other economic factors have caused an imbalance today as between intermittent/renewable generation and dispatchable generation. This provides a cost-effective way of rebalancing our generating portfolio in Texas and limits the need to increase consumer costs.

(Original Author's/Sponsor's Statement of Intent)

C.S.S.B. 2015 amends current law relating to the legislature's goals for electric generation capacity in this state.

RULEMAKING AUTHORITY

Rulemaking authority previously granted to the Public Utility Commission of Texas is modified in SECTION 1 (Section 39.9044, Utilities Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 39.9044, Utilities Code, as follows:

Sec. 39.9044. New heading: GOAL FOR DISPATCHABLE GENERATION. (a) Provides that it is the intent of the legislature that 50 percent of the megawatts of generating capacity installed in the ERCOT power region after January 1, 2024, be sourced from dispatchable generation, rather than that 50 percent of the megawatts of generating capacity installed in this state, after January 1, 2000, use natural gas. Deletes existing text requiring the Public Utility Commission of Texas (PUC), to the extent permitted by law, to establish a program to encourage utilities to comply with this section by using natural gas produced in this state as the preferential fuel. Deletes existing text providing that this section does not apply to generating capacity for renewable energy technologies.

(b) Requires the PUC to establish a dispatchable generation, rather than natural gas energy, credits trading program. Requires any power generation company, municipally owned utility, or electric cooperative that does not satisfy the requirements of Subsection (a) by directly owning or purchasing rights to dispatchable generation capacity to purchase sufficient dispatchable generation credits to satisfy the requirements of this section. Deletes existing text requiring any power generation company, municipally owned utility, or electric cooperative that does not satisfy the requirements of Subsection (a) by directly owning or purchasing capacity using natural gas technologies to purchase sufficient natural gas energy credits to satisfy the requirements by holding natural gas energy credits in lieu of capacity from natural gas energy technologies.

(c) Requires the PUC to adopt rules necessary to administer and enforce this section. Requires that the rules, at a minimum:

(1) describe how the PUC will calculate the annual dispatchable generation requirement, rather than establish the minimum annual natural gas generation requirement, for each power generation company, municipally owned utility, and electric cooperative operating in the ERCOT power region, rather than in this state, in a manner reasonably calculated by the PUC to produce compliance, rather than produce, on a statewide basis, compliance, with the requirement prescribed by Subsection (a); and

(2) specify reasonable performance standards that all dispatchable generation, rather than natural gas, capacity additions are required to meet to count against the requirement prescribed by Subsection (a) and that:

(A) are designed and implemented so as to maximize reliability, rather than are designed and operated so as to maximize the energy output from the capacity additions in accordance with then-current industry standards and best industry standards; and

(B) encourage the development, construction, and operation of new natural gas energy projects at those sites in the ERCOT power region, rather than in this state, that have the greatest economic potential for capture and development of this state's environmentally beneficial natural gas resources.

Deletes existing requiring the PUC not later than January 1, 2000, to adopt rules necessary to administer and enforce this section and to perform any necessary studies in cooperation with the Railroad Commission of Texas (RRC).

(d) Requires the PUC, on or before January 1, 2025, to activate the dispatchable generation credits trading program established by this section if the PUC determines that dispatchable generation may provide less than 55 percent of all new generating capacity installed in the ERCOT power region after January 1, 2024. Requires the PUC, not later than the 180th day after the date of the program's activation, by rule to determine the conditions for compliance and

penalties for noncompliance for each power generation company, municipally owned utility, and electric cooperative subject to the program. Authorizes the PUC to adopt rules providing for alternative compliance payments.

Deletes existing text requiring the PUC, with the assistance of RRC, to adopt rules allowing and encouraging retail electric providers and municipally owned utilities and electric cooperatives that have adopted customer choice to market electricity generated using natural gas produced in this state as environmentally beneficial. Deletes existing text requiring that the rules allow a provider, municipally owned utility, or cooperative to emphasize that natural gas produced in this state is the cleanest-burning fossil fuel and label the electricity generated using natural gas produced in this state as "green" electricity.

(e) Defines "dispatchable generation" and deletes the definition of "natural gas technology."

(f) Requires the independent organization certified under Section 39.151 (Essential Organizations) for the ERCOT power region to establish a tracking system to award dispatchable generation credits to new dispatchable generation facilities that meet eligibility requirements established by the PUC. Provides that each megawatt of installed dispatchable generation capacity energized after January 1, 2024, is eligible for one dispatchable generation credit.

(g) Requires the independent organization certified under Section 39.151 for the ERCOT power region, not later than September 15 of each year, to file with the PUC a report on all generating facilities energized in the ERCOT power region during the prior year that includes a calculation of whether the prior year's installed dispatchable generation capacity is in compliance with this section.

(h) Requires the PUC, not later than January 15 of each year, to notify each power generation company, municipally owned utility, and electric cooperative of the power generation company's, municipally owned utility's, or electric cooperative's dispatchable generation credits requirement for the prior year, if any.

(i) Requires each power generation company, municipally owned utility, or electric cooperative to retire sufficient dispatchable generation credits to meet the power generation company's, municipally owned utility's, or electric cooperative's dispatchable generation credits requirement not later than an annual deadline established by the PUC.

SECTION 2. Amends Section 40.004, Utilities Code, as follows:

Sec. 40.004. JURISDICTION OF COMMISSION. Provides that the PUC, except as specifically otherwise provided in Chapter 40 (Competition For Municipally Owned Utilities and River Authorities), has jurisdiction over municipally owned utilities only for the following purposes:

(1)-(5) makes no changes to these subdivisions;

(6) to administer the renewable energy credits program under Section 39.904(b) (relating to requiring the PUC to establish a renewable energy credits trading program) and the dispatchable generation, rather than natural gas energy, credits program under Section 39.9044(b);

(7)-(8) makes no changes to these subdivisions;

SECTION 3. Effective date: September 1, 2023.