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S.B. No. 388

A BILL TO BE ENTITLED

AN ACT

relating to the legislature's goals for electric generation capacity in this state.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 39.9044, Utilities Code, is amended to read as follows:

Sec. 39.9044. GOAL FOR DISPATCHABLE GENERATION [~~NATURAL GAS~~]. (a) It is the intent of the legislature that 50 percent of the megawatts of generating capacity installed in the ERCOT power region [~~this state~~] after January 1, 2026 [~~2000~~], be sourced from dispatchable generation other than battery energy storage [~~use natural gas~~]. [~~To the extent permitted by law, the commission shall establish a program to encourage utilities to comply with this section by using natural gas produced in this state as the preferential fuel. This section does not apply to generating capacity for renewable energy technologies.~~]

(b) The commission shall establish a dispatchable generation [~~natural gas energy~~] credits trading program. 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 [~~using natural gas technologies~~] shall purchase sufficient dispatchable generation [~~natural gas energy~~] credits, from sources other than battery energy storage capacity,

1 to satisfy the requirements of this section [~~by holding natural gas~~
2 ~~energy credits in lieu of capacity from natural gas energy~~
3 ~~technologies~~]. A power generation company that exclusively
4 operates battery energy storage resources is not required to
5 purchase dispatchable generation credits under this section.

6 (c) The [~~Not later than January 1, 2000, the~~] commission
7 shall adopt rules necessary to administer and enforce this section
8 [~~and to perform any necessary studies in cooperation with the~~
9 ~~Railroad Commission of Texas~~]. At a minimum, the rules must
10 [~~shall~~]:

11 (1) describe how the commission will calculate
12 [~~establish~~] the [~~minimum~~] annual dispatchable [~~natural gas~~]
13 generation requirement for each power generation company,
14 municipally owned utility, and electric cooperative operating in
15 the ERCOT power region [~~this state~~] in a manner reasonably
16 calculated by the commission to produce[~~, on a statewide basis,~~]
17 compliance with the requirement prescribed by Subsection (a); and

18 (2) specify reasonable performance standards that all
19 dispatchable generation [~~natural gas~~] capacity additions must meet
20 to count against the requirement prescribed by Subsection (a) and
21 that:

22 (A) are designed and implemented [~~operated~~] so as
23 to maximize reliability [~~the energy output from the capacity~~
24 ~~additions in accordance with then-current industry standards and~~
25 ~~best industry standards~~]; and

26 (B) encourage the development, construction, and
27 operation of new natural gas energy projects at those sites in the

1 ERCOT power region [~~this state~~] that have the greatest economic
2 potential for capture and development of this state's
3 environmentally beneficial natural gas resources.

4 (d) On or before January 1, 2027, the commission shall
5 activate the dispatchable generation credits trading program
6 established by this section if the commission determines that
7 dispatchable generation may provide less than 55 percent of all new
8 generating capacity installed in the ERCOT power region after
9 January 1, 2026. Not later than the 180th day after the date of the
10 program's activation, the commission by rule shall determine the
11 conditions for compliance and penalties for noncompliance for each
12 power generation company, municipally owned utility, and electric
13 cooperative subject to the program. A power generation company
14 that exclusively operates battery energy storage resources is not
15 subject to the program. The commission may adopt rules providing
16 for alternative compliance payments [~~The commission, with the~~
17 ~~assistance of the Railroad Commission of Texas, shall adopt rules~~
18 ~~allowing and encouraging retail electric providers and municipally~~
19 ~~owned utilities and electric cooperatives that have adopted~~
20 ~~customer choice to market electricity generated using natural gas~~
21 ~~produced in this state as environmentally beneficial. The rules~~
22 ~~shall allow a provider, municipally owned utility, or cooperative~~
23 ~~to:~~

24 [~~(1) emphasize that natural gas produced in this state~~
25 ~~is the cleanest-burning fossil fuel, and~~

26 [~~(2) label the electricity generated using natural gas~~
27 ~~produced in this state as "green" electricity]~~.

1 (e) In this section, "dispatchable generation" [~~"natural~~
2 ~~gas technology"~~] means generating technologies other than
3 technologies considered non-dispatchable under Section 39.159(a)
4 ~~[any technology that exclusively relies on natural gas as a primary~~
5 ~~fuel source]~~.

6 (f) The independent organization certified under Section
7 39.151 for the ERCOT power region shall establish a tracking system
8 to award dispatchable generation credits to new dispatchable
9 generation facilities that meet eligibility requirements
10 established by the commission. Each megawatt of installed
11 dispatchable generation capacity energized after January 1, 2026,
12 is eligible for one dispatchable generation credit.

13 (g) For the purposes of this subsection, a compliance
14 premium is an additional tradable instrument that is equal to one
15 dispatchable generation credit. The commission shall require the
16 independent organization certified under Section 39.151 for the
17 ERCOT power region to award to a nuclear generation facility
18 energized after January 1, 2026, one compliance premium in addition
19 to each dispatchable generation credit awarded to the facility.

20 (h) Not later than September 15 of each year, the
21 independent organization certified under Section 39.151 for the
22 ERCOT power region shall file with the commission a report on all
23 generating facilities energized in the ERCOT power region during
24 the prior year that includes a calculation of whether the prior
25 year's installed dispatchable generation capacity is in compliance
26 with this section.

27 (i) Not later than January 15 of each year, the commission

1 shall notify each power generation company, municipally owned
2 utility, and electric cooperative of the power generation
3 company's, municipally owned utility's, or electric cooperative's
4 dispatchable generation credits requirement for the prior year, if
5 any.

6 (j) Each power generation company, municipally owned
7 utility, or electric cooperative shall retire sufficient
8 dispatchable generation credits to meet the power generation
9 company's, municipally owned utility's, or electric cooperative's
10 dispatchable generation credits requirement not later than an
11 annual deadline established by the commission.

12 SECTION 2. Section 40.004, Utilities Code, is amended to
13 read as follows:

14 Sec. 40.004. JURISDICTION OF COMMISSION. Except as
15 specifically otherwise provided in this chapter, the commission has
16 jurisdiction over municipally owned utilities only for the
17 following purposes:

18 (1) to regulate wholesale transmission rates and
19 service, including terms of access, to the extent provided by
20 Subchapter A, Chapter 35;

21 (2) to regulate certification of retail service areas
22 to the extent provided by Chapter 37;

23 (3) to regulate rates on appeal under Subchapters D
24 and E, Chapter 33, subject to Section 40.051(c);

25 (4) to establish a code of conduct as provided by
26 Section 39.157(e) applicable to anticompetitive activities and to
27 affiliate activities limited to structurally unbundled affiliates

1 of municipally owned utilities, subject to Section 40.054;

2 (5) to establish terms and conditions for open access
3 to transmission and distribution facilities for municipally owned
4 utilities providing customer choice, as provided by Section 39.203;

5 (6) to administer the dispatchable generation
6 [~~natural gas energy~~] credits trading program under Section
7 39.9044(b);

8 (7) to require reports of municipally owned utility
9 operations only to the extent necessary to:

10 (A) enable the commission to determine the
11 aggregate load and energy requirements of the state and the
12 resources available to serve that load; or

13 (B) enable the commission to determine
14 information relating to market power as provided by Section 39.155;
15 and

16 (8) to evaluate and monitor the cybersecurity
17 preparedness of a municipally owned utility described by Section
18 39.1516(a)(3) or (4).

19 SECTION 3. This Act takes effect September 1, 2025.