

By: King

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 [~~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 to satisfy the requirements of this section [~~by holding~~

1 ~~natural gas energy credits in lieu of capacity from natural gas~~
2 ~~energy technologies].~~

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

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

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

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

23 (B) encourage the development, construction, and
24 operation of new natural gas energy projects at those sites in the
25 ERCOT power region ~~[this state]~~ that have the greatest economic
26 potential for capture and development of this state's
27 environmentally beneficial natural gas resources.

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

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

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

23 (e) In this section, "dispatchable generation" [~~"natural~~
24 ~~gas technology"~~] means generating technologies other than
25 technologies considered non-dispatchable under Section 39.159(a)
26 [~~any technology that exclusively relies on natural gas as a primary~~
27 ~~fuel source].~~

1 (f) The independent organization certified under Section
2 39.151 for the ERCOT power region shall establish a tracking system
3 to award dispatchable generation credits to new dispatchable
4 generation facilities that meet eligibility requirements
5 established by the commission. Each megawatt of installed
6 dispatchable generation capacity energized after January 1, 2026,
7 is eligible for one dispatchable generation credit.

8 (g) Not later than September 15 of each year, the
9 independent organization certified under Section 39.151 for the
10 ERCOT power region shall file with the commission a report on all
11 generating facilities energized in the ERCOT power region during
12 the prior year that includes a calculation of whether the prior
13 year's installed dispatchable generation capacity is in compliance
14 with this section.

15 (h) Not later than January 15 of each year, the commission
16 shall notify each power generation company, municipally owned
17 utility, and electric cooperative of the power generation
18 company's, municipally owned utility's, or electric cooperative's
19 dispatchable generation credits requirement for the prior year, if
20 any.

21 (i) Each power generation company, municipally owned
22 utility, or electric cooperative shall retire sufficient
23 dispatchable generation credits to meet the power generation
24 company's, municipally owned utility's, or electric cooperative's
25 dispatchable generation credits requirement not later than an
26 annual deadline established by the commission.

27 SECTION 2. Section 40.004, Utilities Code, is amended to

1 read as follows:

2 Sec. 40.004. JURISDICTION OF COMMISSION. Except as
3 specifically otherwise provided in this chapter, the commission has
4 jurisdiction over municipally owned utilities only for the
5 following purposes:

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

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

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

13 (4) to establish a code of conduct as provided by
14 Section 39.157(e) applicable to anticompetitive activities and to
15 affiliate activities limited to structurally unbundled affiliates
16 of municipally owned utilities, subject to Section 40.054;

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

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

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

24 (A) enable the commission to determine the
25 aggregate load and energy requirements of the state and the
26 resources available to serve that load; or

27 (B) enable the commission to determine

1 information relating to market power as provided by Section 39.155;
2 and
3 (8) to evaluate and monitor the cybersecurity
4 preparedness of a municipally owned utility described by Section
5 39.1516(a)(3) or (4).

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