

BILL ANALYSIS

Senate Research Center
82R914 ALL-F

C.S.S.B. 365
By: Ogden
Business & Commerce
4/19/2011
Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Significant amounts of natural gas are currently wasted, stranded, or underutilized for a number of reasons. To help address this problem and to increase the production of electricity in Texas, C.S.S.B. 365 opens the electric market for small power generators. As such, it allows small generators of electricity to connect to the grid and sell their power.

The bill defines a "distributed natural gas generation facility" as a facility installed on the customer's side of the meter that uses natural gas to generate not more than 2,000 kilowatts of electricity. The bill specifically allows the owner or operator of the facility to sell electricity generated by the facility.

C.S.S.B. 365 provides for interconnection of natural gas facilities at the owner's or operator's cost, and allows the electric utility or cooperative (co-op) to increase capacity for an owner or operator's cost, and allows the electric utility or co-op to increase capacity for an owner or operator's distributed generation, also at the owner or operator's cost. However, the bill requires a good-faith cost estimate to be provided to the owner or operator before costs are incurred, and it authorizes the Public Utility Commission of Texas to resolve disputes if costs ultimately come in at more than five percent over the estimate. The bill also requires that the generators used by the natural gas producers meet the emissions requirements of the Texas Commission on Environmental Quality.

C.S.S.B. 365 includes a provision that makes it clear that the bill does not require an electric cooperative to transmit electricity to a retail point of delivery in its service district if it has not adopted customer choice.

C.S.S.B. 365 amends current law relating to distributed generation of electric power.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 31.002, Utilities Code, by adding Subdivision (4-a) and amending Subdivision (10), to define "distributed natural gas generation facility" and redefine "power generation company."

SECTION 2. Amends the heading to Subchapter B, Chapter 35, Utilities Code, to read as follows:

SUBCHAPTER B: EXEMPT WHOLESALE GENERATORS, DISTRIBUTED NATURAL GAS GENERATION FACILITIES, AND POWER MARKETERS

SECTION 3. Amends Subchapter B, Chapter 35, Utilities Code, by adding Section 35.036, as follows:

Sec. 35.036. **DISTRIBUTED NATURAL GAS GENERATION FACILITIES.** (a) Authorizes a person who owns or operates a distributed natural gas generation facility to sell electric power generated by the facility. Authorizes the electric utility, electric

cooperative, or retail electric provider that provides retail electricity service to the facility to purchase electric power tendered to it by the owner or operator of the facility at a value agreed to by the electric utility, electric cooperative, or retail electric provider and the owner or operator of the facility. Authorizes the value of the electric power to be based wholly or partly on the clearing price of energy at the time of day and at the location at which the electric power is made available to the electric grid.

(b) Requires the electric utility or electric cooperative, at the request of the owner or operator of the distributed natural gas generation facility, to allow the owner or operator of the facility to use transmission and distribution facilities to transmit the electric power to another entity that is acceptable to the owner or operator in accordance with Public Utility Commission of Texas (PUC) rules or a tariff approved by the Federal Energy Regulatory Commission.

(c) Authorizes the electric utility or electric cooperative, subject to Subsections (e) and (f), if the owner or operator of a distributed natural gas generation facility requests to be interconnected to an electric utility or electric cooperative, to recover from the owner or operator of the facility the reasonable costs of interconnecting the facility with the electric utility or electric cooperative that are necessary for and directly attributable to the interconnection of the facility.

(d) Authorizes an electric utility or electric cooperative, subject to Subsections (e) and (f), to recover from the owner or operator of a distributed natural gas generation facility the reasonable costs of electric facility upgrades and improvements if:

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

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

(e) Authorizes an electric utility or electric cooperative to recover costs under Subsection (c) or (d) only if:

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

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

(f) Requires PUC, if an electric utility or electric cooperative seeks to recover from the owner or operator of a distributed natural gas generation facility an amount that exceeds the amount in the estimate provided under Subsection (e) by more than five percent, to resolve the dispute at the request of the owner or operator of the facility.

(g) Requires that a distributed natural gas generation facility comply with emissions limitations established by the Texas Commission on Environmental Quality for a standard emissions permit for an electric generation facility unit installed after January 1, 1995.

(h) Provides that this section does not require an electric cooperative to transmit electricity to a retail point of delivery in the certificated service area of the electric cooperative if the electric cooperative has not adopted customer choice.

SECTION 4. Amends Section 39.351(c), Utilities Code, as follows:

(c) Authorizes PUC to establish simplified filing requirements for distributed natural gas generation facilities. Deletes existing text authorizing a power generation company to register any time after September 1, 2000.

SECTION 5. Effective date: September 1, 2011.