

BILL ANALYSIS

Senate Research Center

H.B. 2049
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Business & Commerce
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Interested parties contend that the current statutory definition of a cogeneration facility as one that sells electric energy to the sole purchaser of a cogenerator's thermal output is incongruent with a regulatory ruling allowing cogeneration facilities to sell thermal energy to multiple purchasers to maximize operational efficiency. H.B. 2049 seeks to clarify related statutory provisions.

H.B. 2049 amends the Utilities Code to authorize a qualifying cogenerator to sell electric energy at retail to more than one purchaser of the cogenerator's thermal output under statutory provisions relating to the encouragement of economical production and discounted wholesale or retail rates. The bill establishes that a qualifying cogenerator that sells electric energy at retail to more than one purchaser is not subject to regulation as a retail electric utility or subject to regulation as a retail electric provider or power generation company if the transmission services used to provide electricity necessary to serve the purchasers of the thermal output do not extend beyond the site of any thermal purchaser and are owned by the qualifying cogenerator, the thermal purchaser, or an affiliate of the qualifying cogenerator or thermal purchaser. The bill excepts the sale of wholesale electricity from the limitation on the sale of electricity and exempts from its provisions a municipally owned utility or electric cooperative providing service to an area where competition has not been introduced.

H.B. 2049 amends current law relating to a qualifying cogeneration facility's ability to sell electric energy to multiple purchasers.

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(13), Utilities Code, to redefine "qualifying cogenerator."

SECTION 2. Amends Subchapter B, Chapter 37, Utilities Code, by adding Section 37.0521, as follows:

Sec. 37.0521. EXCEPTION FOR RETAIL SALES BY CERTAIN QUALIFYING COGENERATORS. (a) Authorizes a qualifying cogenerator to sell electric energy at retail to more than one purchaser of the cogenerator's thermal output under Sections 35.061 (Encouragement of Economical Production) and 36.007 (Discounted Wholesale or Retail Rates).

(b) Provides that 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 (Certificates of Convenience and Necessity) 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) Provides that the limitation on the sale of electricity does not apply to the sale of wholesale electricity.

(d) Provides that 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.

SECTION 3. Effective date: September 1, 2013.