

AN ACT

relating to a qualifying cogeneration facility's ability to sell electric energy to multiple purchasers.

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

SECTION 1. Section 31.002(13), Utilities Code, is amended to read as follows:

(13) "Qualifying cogenerator" and "qualifying small power producer" have the meanings assigned those terms by 16 U.S.C. Sections 796(18)(C) and 796(17)(D). A qualifying cogenerator that provides electricity to a ~~the~~ purchaser of the cogenerator's thermal output is not for that reason considered to be a retail electric provider or a power generation company.

SECTION 2. Subchapter B, Chapter 37, Utilities Code, is amended by adding Section 37.0521 to read as follows:

Sec. 37.0521. EXCEPTION FOR RETAIL SALES BY CERTAIN QUALIFYING COGENERATORS. (a) Notwithstanding Section 37.001(3), a qualifying cogenerator may sell electric energy at retail to more than one purchaser of the cogenerator's thermal output.

(b) Selling electric energy at retail to more than one purchaser does not, as a result of that sale, subject a qualifying cogenerator to regulation as:

(1) a retail electric provider or power generation company; or

(2) a retail electric utility under Chapter 37.

1 (c) This section does not apply to sales in an area:

2 (1) in which customer choice has not been adopted and
3 where a municipally owned utility or an electric cooperative is
4 certificated to provide retail electric utility service; or

5 (2) that is served by an electric utility that
6 operates solely outside of ERCOT.

7 SECTION 3. This Act takes effect September 1, 2013.

President of the Senate

Speaker of the House

I certify that H.B. No. 2049 was passed by the House on May 4, 2013, by the following vote: Yeas 136, Nays 0, 2 present, not voting; and that the House concurred in Senate amendments to H.B. No. 2049 on May 22, 2013, by the following vote: Yeas 147, Nays 0, 2 present, not voting.

Chief Clerk of the House

I certify that H.B. No. 2049 was passed by the Senate, with amendments, on May 17, 2013, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

APPROVED: _____

Date

Governor