

AN ACT

relating to the classification, use, and regulation of electric energy storage equipment or facilities.

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

SECTION 1. Subdivision (10), Section 31.002, Utilities Code, is amended to read as follows:

(10) "Power generation company" means a person that:

(A) generates electricity that is intended to be sold at wholesale, including the owner or operator of electric energy storage equipment or facilities to which Subchapter E, Chapter 35, applies;

(B) does not own a transmission or distribution facility in this state other than an essential interconnecting facility, a facility not dedicated to public use, or a facility otherwise excluded from the definition of "electric utility" under this section; and

(C) does not have a certificated service area, although its affiliated electric utility or transmission and distribution utility may have a certificated service area.

SECTION 2. Chapter 35, Utilities Code, is amended by adding Subchapter E to read as follows:

SUBCHAPTER E. ELECTRIC ENERGY STORAGE

Sec. 35.151. ELECTRIC ENERGY STORAGE. This subchapter applies to electric energy storage equipment or facilities that are

1 intended to provide energy or ancillary services at wholesale,  
2 including electric energy storage equipment or facilities listed on  
3 a power generation company's registration with the commission or,  
4 for an exempt wholesale generator, on the generator's registration  
5 with the Federal Energy Regulatory Commission.

6 Sec. 35.152. GENERATION ASSETS. (a) Electric energy  
7 storage equipment or facilities that are intended to be used to sell  
8 energy or ancillary services at wholesale are generation assets.

9 (b) The owner or operator of electric energy storage  
10 equipment or facilities that are generation assets under Subsection  
11 (a) is a power generation company and is required to register under  
12 Section 39.351(a). The owner or operator of the equipment or  
13 facilities is entitled to:

14 (1) interconnect the equipment or facilities;

15 (2) obtain transmission service for the equipment or  
16 facilities; and

17 (3) use the equipment or facilities to sell  
18 electricity or ancillary services at wholesale in a manner  
19 consistent with the provisions of this title and commission rules  
20 applicable to a power generation company or an exempt wholesale  
21 generator.

22 (c) Notwithstanding Subsection (a), this section does not  
23 affect a determination made by the commission in a final order  
24 issued before December 31, 2010.

25 SECTION 3. Subdivision (10), Section 31.002, Utilities  
26 Code, as amended by this Act, and Subchapter E, Chapter 35,  
27 Utilities Code, as added by this Act, may not be construed to

1 determine the regulatory treatment of electricity acquired to  
2 charge electric energy storage equipment or facilities and used  
3 solely for the purpose of later sale as energy or ancillary  
4 services.

5 SECTION 4. (a) The Public Utility Commission of Texas  
6 shall adopt or revise rules as necessary to implement this Act not  
7 later than January 1, 2012.

8 (b) The Public Utility Commission of Texas shall ensure that  
9 the Electric Reliability Council of Texas adopts or revises the  
10 council's protocols, standards, and procedures to implement this  
11 Act not later than April 1, 2012.

12 SECTION 5. This Act takes effect September 1, 2011.

\_\_\_\_\_  
President of the Senate

\_\_\_\_\_  
Speaker of the House

I hereby certify that S.B. No. 943 passed the Senate on April 21, 2011, by the following vote: Yeas 31, Nays 0; and that the Senate concurred in House amendment on May 27, 2011, by the following vote: Yeas 31, Nays 0.

\_\_\_\_\_  
Secretary of the Senate

I hereby certify that S.B. No. 943 passed the House, with amendment, on May 20, 2011, by the following vote: Yeas 149, Nays 0, one present not voting.

\_\_\_\_\_  
Chief Clerk of the House

Approved:

\_\_\_\_\_  
Date

\_\_\_\_\_  
Governor