

1-1 By: King, Kolthorst S.B. No. 388  
1-2 (In the Senate - Filed November 19, 2024; February 3, 2025,  
1-3 read first time and referred to Committee on Business & Commerce;  
1-4 March 13, 2025, reported adversely, with favorable Committee  
1-5 Substitute by the following vote: Yeas 7, Nays 4; March 13, 2025,  
1-6 sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	Schwertner	X		
1-10	King	X		
1-11	Blanco		X	
1-12	Campbell	X		
1-13	Creighton	X		
1-14	Johnson		X	
1-15	Kolthorst	X		
1-16	Menéndez		X	
1-17	Middleton	X		
1-18	Nichols	X		
1-19	Zaffirini		X	

1-20 COMMITTEE SUBSTITUTE FOR S.B. No. 388 By: King

1-21 A BILL TO BE ENTITLED  
1-22 AN ACT

1-23 relating to the legislature's goals for electric generation  
1-24 capacity in this state.

1-25 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-26 SECTION 1. Section 39.9044, Utilities Code, is amended to  
1-27 read as follows:

1-28 Sec. 39.9044. GOAL FOR DISPATCHABLE GENERATION ~~[NATURAL~~  
1-29 ~~GAS]~~. (a) It is the intent of the legislature that 50 percent of  
1-30 the megawatts of generating capacity installed in the ERCOT power  
1-31 region ~~[this state]~~ after January 1, 2026 ~~[2000]~~, be sourced from  
1-32 dispatchable generation ~~[use natural gas]~~. ~~[To the extent~~  
1-33 ~~permitted by law, the commission shall establish a program to~~  
1-34 ~~encourage utilities to comply with this section by using natural~~  
1-35 ~~gas produced in this state as the preferential fuel. This section~~  
1-36 ~~does not apply to generating capacity for renewable energy~~  
1-37 ~~technologies.]~~

1-38 (b) The commission shall establish a dispatchable  
1-39 generation ~~[natural gas energy]~~ credits trading program. Any power  
1-40 generation company, municipally owned utility, or electric  
1-41 cooperative that does not satisfy the requirements of Subsection  
1-42 (a) by directly owning or purchasing rights to dispatchable  
1-43 generation capacity ~~[using natural gas technologies]~~ shall  
1-44 purchase sufficient dispatchable generation ~~[natural gas energy]~~  
1-45 credits to satisfy the requirements of this section ~~[by holding~~  
1-46 ~~natural gas energy credits in lieu of capacity from natural gas~~  
1-47 ~~energy technologies]~~.

1-48 (c) ~~The [Not later than January 1, 2000, the]~~ commission  
1-49 shall adopt rules necessary to administer and enforce this section  
1-50 ~~[and to perform any necessary studies in cooperation with the~~  
1-51 ~~Railroad Commission of Texas]~~. At a minimum, the rules must  
1-52 ~~[shall]~~:

1-53 (1) describe how the commission will calculate  
1-54 ~~[establish] the [minimum] annual dispatchable [natural gas]~~  
1-55 generation requirement for each power generation company,  
1-56 municipally owned utility, and electric cooperative operating in  
1-57 the ERCOT power region [this state] in a manner reasonably  
1-58 calculated by the commission to produce~~[, on a statewide basis,]~~  
1-59 compliance with the requirement prescribed by Subsection (a); and  
1-60 (2) specify reasonable performance standards that all

dispatchable generation ~~[natural gas]~~ capacity additions must meet to count against the requirement prescribed by Subsection (a) and that:

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

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

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

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

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

(e) In this section, "dispatchable generation" ~~["natural gas technology"]~~ means generating technologies other than technologies considered non-dispatchable under Section 39.159(a). ~~The term does not apply to a battery energy storage facility for the purposes of this section [any technology that exclusively relies on natural gas as a primary fuel source].~~

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

(g) For the purposes of this subsection, a compliance premium is an additional tradable instrument that is equal to one dispatchable generation credit. The commission shall require the independent organization certified under Section 39.151 for the ERCOT power region to award to a nuclear generation facility energized after January 1, 2026, one compliance premium in addition to each dispatchable generation credit awarded to the facility.

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

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

(j) Each power generation company, municipally owned utility, or electric cooperative shall retire sufficient

dispatchable generation credits to meet the power generation company's, municipally owned utility's, or electric cooperative's dispatchable generation credits requirement not later than an annual deadline established by the commission.

SECTION 2. Section 40.004, Utilities Code, is amended to read as follows:

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

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

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

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

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

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

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

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

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

(B) enable the commission to determine information relating to market power as provided by Section 39.155; and

(8) to evaluate and monitor the cybersecurity preparedness of a municipally owned utility described by Section 39.1516(a)(3) or (4).

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

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