

GOVERNMENT CODE
CHAPTER 2302. COGENERATION
SUBCHAPTER A. GENERAL PROVISIONS

Sec. 2302.001. DEFINITIONS. In this chapter:

(1) "Cogenerating state agency" means a state agency that has constructed or operates a state agency cogeneration facility.

(2) "Commission" means the Public Utility Commission of Texas.

(3) "Council" means the State Cogeneration Council.

(4) "Firm power" means power or power-producing capacity that, under an enforceable obligation, is available to the purchasing party according to a schedule over a specified term.

(5) "Nonfirm power" means power provided under an arrangement that does not guarantee that power will be available according to a schedule but provides instead for delivery of power as it is available.

(6) "Qualifying facility" means a qualifying small power production facility or a qualifying cogeneration facility as defined by Sections 3(17)(C) and 3(18)(B) of the Federal Power Act (16 U.S.C. Sections 796(17)(C) and 796(18)(B)).

(7) "State agency" means an office, department, commission, or board of any branch of state government or an institution of higher education as defined by Section 61.003, Education Code.

(8) "State agency cogeneration facility" means a qualifying facility constructed or operated by a state agency for the benefit of a state agency facility that is located adjacent to or on property contiguous with the site of the qualifying facility. Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2302.002. COMPOSITION OF COUNCIL. The council is composed of:

(1) one representative with knowledge of cogeneration from each of the following agencies, appointed by and serving at the pleasure of the agency's presiding officer:

(A) the commission;

(B) the Railroad Commission of Texas;

(C) the General Services Commission; and

(D) the Texas Natural Resource Conservation Commission;

(2) one representative of the office of the attorney general, appointed by the attorney general; and

(3) one representative of higher education, appointed by the governor.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2302.003. PRESIDING OFFICER. (a) The council shall elect one of its members presiding officer at the first council meeting after the appointment of a new member.

(b) The presiding officer may vote only to break a tie.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2302.004. COMPENSATION. A council member serves without compensation but is entitled to reimbursement for expenses as provided by the General Appropriations Act.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2302.005. COUNCIL EXPENSES. (a) The state agencies represented on the council shall pay the council's incidental expenses.

(b) The state agencies represented on the council may spend money to assist the council in performing its duties.

(c) The council may not require a state agency represented on the council to spend money without the agency's consent.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2302.006. EXPERTS. (a) The council may contract for the services of experts to assist in performing its duties.

(b) The expenses of an expert may be paid for by:

(1) the state agencies represented on the council;

(2) general appropriation of the legislature;

(3) a specific appropriation of oil overcharge funds received by the state; or

(4) other receipt of oil overcharge funds received by the state.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2302.007. DUTIES OF COUNCIL. The council shall:

(1) assist, inform, and advise a state agency concerning legal, technical, economic, and contractual issues

related to cogeneration;

(2) approve or disapprove, solely on economic and technical grounds, an application for a state agency cogeneration facility; and

(3) adopt rules and procedures necessary for exercising council duties.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

SUBCHAPTER B. COGENERATION

Sec. 2302.021. STATE AGENCY COGENERATION PROJECTS. (a) A state agency may not construct or operate a state agency cogeneration facility unless the council has approved the size and design of the facility.

(b) A state agency cogeneration facility's size and design is limited to the size and design that is necessary to supply economically the cogenerating state agency, considering the optimum balance of annual thermal and electrical energy requirements and any expansions anticipated in the near future.

(c) This section does not apply to a state agency cogeneration facility if, before September 1, 1987:

(1) the facility was in operation;

(2) the facility's final engineering design had been completed; or

(3) construction of the facility had begun.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2302.022. APPLICATION. (a) A state agency shall file with the council for approval an application prescribed by the council to construct or operate a state agency cogeneration facility.

(b) The council shall approve or disapprove a state agency's application to construct or operate a state agency cogeneration facility within six months of the date the application is filed.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2302.023. JOINT COGENERATION PROJECTS. Subject to this chapter, two or more state agencies may jointly construct or operate a state agency cogeneration facility.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2302.024. AUTHORITY TO SELL POWER. (a) After the council has approved the application to construct or operate a cogeneration facility, a cogenerating state agency may contract in the same manner as a qualifying facility for the sale to an electric utility of firm or nonfirm power produced by the state agency cogeneration facility that exceeds the agency's power requirements.

(b) A cogenerating state agency may consult with the council about the price or other terms of a contract entered under this section.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2302.025. MONEY FROM POWER SALES. (a) A state agency shall first apply money it collects from the sale of firm or nonfirm power to retire any outstanding debt and pay operating expenses that result from constructing and maintaining the state agency cogeneration facility.

(b) A state agency shall deposit to the credit of the general revenue fund any money it collects under this chapter that exceeds the amount needed to service the debt and pay the operating expenses of the state agency cogeneration facility.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

SUBCHAPTER C. ENFORCEMENT

Sec. 2302.041. COOPERATION WITH COGENERATING STATE AGENCIES. A political subdivision, municipality, or agency of the state that operates, maintains, or controls a facility that provides retail electric utility service:

(1) shall cooperate with a cogenerating state agency that attempts to sell firm or nonfirm power; and

(2) may not adopt rates, pricing policies, access restrictions, or other rules inconsistent with the intent of this chapter.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2302.042. PETITION FOR ENFORCEMENT. (a) A state agency may file a petition with the commission to enforce Section 2302.041.

(b) Notwithstanding any other law, if a state agency files a petition under this section, the commission may determine issues relating to rates, pricing policies, access restrictions, and other matters regarding a state agency cogeneration facility as necessary

to enforce Section 2302.041.

(c) The commission retains jurisdiction until the commission by final order resolves the issues raised in the petition.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2302.043. ORDER OR RULING. (a) A commission order or ruling entered under this chapter is considered to have been entered or adopted under the Public Utility Regulatory Act of 1995.

(b) A commission order or ruling entered under this chapter is enforced under Subtitle I, Title I, Public Utility Regulatory Act of 1995.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Amended by Acts 1995, 74th Leg., ch. 765, Sec. 2.24, eff. Sept. 1, 1995.

Sec. 2302.044. JURISDICTION. This chapter does not enlarge or modify the commission's jurisdiction over a political subdivision, municipality, or agency of the state.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.