

**CHAPTER 25. SUBSTANTIVE RULES APPLICABLE TO ELECTRIC SERVICE PROVIDERS.**

**Subchapter H. ELECTRICAL PLANNING.**

**DIVISION 1: RENEWABLE ENERGY RESOURCES AND USE OF NATURAL GAS.**

**§25.172. Goal for Natural Gas.**

- (a) **Applicability.** This section applies to a power generation company, municipally owned utility, or electric cooperative that installs new generation capacity in this state after January 1, 2000. The provisions of subsection (g) of this section shall apply to a municipally owned utility or an electric cooperative only if it has adopted customer choice pursuant to the Public Utility Regulatory Act (PURA) §40.051(a) or §41.051(a) respectively. This section does not apply to an electric utility not subject to PURA Chapter 39, pursuant to §39.102(c), until the expiration of its freeze period.
- (b) **Purpose.** The purpose of this section is to encourage, to the extent permitted by law, owners of new generating capacity, other than capacity from renewable energy technologies, to use natural gas as their primary fuel source. The commission shall institute a natural gas energy credits trading program to ensure that 50% of all new generating capacity except, capacity from renewable energy technologies, installed in this state after January 1, 2000, uses natural gas as its primary fuel.
- (c) **Definitions.**
- (1) **New generating capacity** — Nameplate generating capacity of a facility installed in this state after January 1, 2000, except capacity based on a renewable energy technology. This definition of new generating capacity does not include modifications to previously installed generating facilities that merely increase the efficiency of, or reduce emissions from, such facilities. For the purposes of this section the phrase "new generating capacity purchased" refers to the purchase of all or part of an installed unit, and not to the purchase of capacity or energy from an installed unit.
  - (2) **Natural gas energy credit (NGEC)** — A NGEC shall be granted for each megawatt of new generating capacity fueled by natural gas. The commission shall issue NGECs to each power generation company, municipally owned utility, or electric cooperative that installs new, gas-fired generating capacity. Each credit shall be issued once and shall be valid so long as the plant meets reasonable performance standards; if a plant no longer meets reasonable performance standards or is retired, its associated NGECs shall be revoked.
  - (3) **Reasonable performance standards** — Those standards which, when applied to new natural gas-fired capacity, would reasonably be expected to maximize energy output consistent with industry standards widely accepted at the time of installation and for the technology employed.
- (d) **Natural gas energy credit requirement.** Upon activation of the NGEC trading program the number of NGECs required to be owned or held by each power generation company, municipally owned utility, and electric cooperative in this state shall not be less than its new non-gas-fired generating capacity in megawatts. Upon retirement of new non-gas-fired generating capacity, the NGEC requirement shall be reduced by the capacity of the facility that is retired.
- (1) The requirements of this section may be satisfied by owning new generating capacity fired primarily by natural gas, for which NGECs have not been sold to a third party, or by holding NGECs acquired from third parties, either in connection with purchasing capacity or on a stand-alone basis, or by any combination thereof.
  - (2) A power generation company, municipally owned utility, or electric cooperative that does not own new generation capacity shall not be required to obtain any natural gas credits.

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- (e) **Program activation.** The commission shall activate the natural gas energy credits trading program if it determines that within three years from the date of the evaluation, new generating capacity in Texas that is fueled primarily by natural gas may fall below 55% of all new generating capacity. However, the commission may accelerate or delay implementation of individual NGEN requirements in the event the commission determines that such action is in the public interest. This analysis shall be based on the annual reports filed pursuant to subsection (h) of this section. If the commission activates the program, it shall:
- (1) require power generators, municipally owned utilities, and electric cooperatives to demonstrate that for each megawatt of new non-gas fired generating capacity it owns or holds natural gas energy credits equal to that amount of capacity; and
  - (2) Within 240 days, adopt rules that will determine the conditions for compliance and penalties for noncompliance with this section for each power generator, municipally owned utility, and electric cooperative.
- (f) **Natural gas energy credit trading.** The commission shall be responsible for issuing, tracking and assigning serial numbers to NGENs in accordance with this section. The total number of NGENs at any time shall equal the amount of new gas-fired generating capacity (MW) that uses natural gas as its primary fuel source, less any NGENs revoked to reflect plant retirements or poor performance relative to the standards referred to in subsection (c)(4) of this section. NGENs may be traded among power generators, municipally owned utilities, electric cooperatives, and other interested parties.
- (g) **Environmental benefits and "green" electricity.** Each retail electric provider, municipally owned utility, or electric cooperative that has adopted customer choice:
- (1) may emphasize that natural gas produced in this state is the cleanest burning fossil fuel;
  - (2) may market electricity generated using natural gas produced in this state as environmentally beneficial and may label such generation as "green" electricity under this section if such electricity is generated exclusively from generating capacity based on natural gas technologies that use natural gas produced in this state. The use of fuel oil in a generating facility that otherwise relies on natural gas as its sole fuel shall not preclude labeling output from the facility as "green" if the fuel oil is used for:
    - (A) emergency backup;
    - (B) periodic testing; or
    - (C) a lubricant in *de minimus* amounts; and
  - (3) shall provide sufficient proof, upon request, that any marketing representation that it makes that its electricity is "green" are consistent with this section.
- (h) **Annual reports.**
- (1) Beginning in 2001, no later than February 14th of each year, each registered power generation company, municipally owned utility, and electric cooperative shall file with the commission on a form prescribed by the commission, the following information regarding new generating facilities it owns or operates in Texas:
    - (A) For each unit of new generating capacity:
      - (i) plant location and name;
      - (ii) nameplate capacity (in megawatts) of each unit;
      - (iii) ownership share of each unit;
      - (iv) primary fuel type of new generating capacity;

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**§25.172(h)(1)(A) continued**

- (v) Texas Natural Resource Conservation Commission turbine or boiler permit number and date; and
      - (vi) date that commercial operation began.
    - (B) Forecasted generation additions by fuel type for the next three calendar years (for the next five calendar years if the fuel type is coal, lignite, or nuclear):
      - (i) plant location and name;
      - (ii) nameplate capacity (MW) of each unit;
      - (iii) ownership share of each unit;
      - (iv) primary fuel type of new generating capacity;
      - (v) Texas Natural Resource Conservation Commission turbine or boiler permit number and date; and
      - (vi) date that commercial operation will begin.
    - (C) Data on holdings of natural energy gas credits:
      - (i) current holdings of credits by serial number; and
      - (ii) any purchase or sale of credits by serial number during the previous calendar year.
  - (2) Based on the annual reports, not later than April 15th of each year, the commission shall award NGENs for new-gas fired capacity installed in the previous year.
  - (3) Beginning in 2001, and no later than May 15th of each year, the commission shall publish, in aggregate form only, the information submitted in compliance with this rule, including calculations that show whether the prior year's generating capacity in Texas is in compliance with this section and whether capacity for the following three years is likely to be in compliance with the natural gas usage goals, based on the forecast information submitted.
- (i) **Texas natural gas – market conditions.** The commission shall consult with the Railroad Commission of Texas, which shall monitor the Texas natural gas industry and conduct appropriate market studies to determine whether an adequate supply of Texas natural gas for power generation exists. If necessary, the commission shall develop additional safeguards to ensure that natural gas produced in this state remains the preferred fuel for power generation.