

**SALES AND USE TAX REVIEW COMMISSION  
RECOMMENDATION PURSUANT TO P.L. 1999, C. 416**

**BILL NUMBER:**

A-3339

**DATE OF INTRODUCTION:**

October 23, 2008

**SPONSOR:**

Assemblyman Chivukula

**DATE OF RECOMMENDATION:**

March 11, 2009

**IDENTICAL BILL:**

S-2557

**COMMITTEE:**

Assembly Telecommunications and Utilities Committee

12/8/2008- Reported as an Assembly Committee Substitute (for A3339 and A3439) and Referred to Assembly Appropriations

**DESCRIPTION:**

This bill expands the current exemption on charges for electricity and natural gas provided under N.J.S.A.54:32B-8.46 by adding language at the end of the exemption to further explain what is deemed to be "contiguous" for purposes of the exemption. The current exemption does not define contiguous so the common usage of the term has been determinative to date. The bill states that "an end use customer's property shall be deemed contiguous to the property on which the on-site generation facility serving that customer is located if the customer is purchasing thermal energy services produced by the facility, for use for heating, air conditioning, or both, regardless of any intervening property, public thoroughfare, transportation, or utility-owned right-of-way."

Currently, there is a provision in the law that exempts the purchase or use of natural gas and utility service that is used for cogeneration at any site at which a cogeneration facility was in operation on or before March 10, 1997, or for which an operating permit or a construction permit and certificate of operation has been filed with the Department of Environmental Protection on or before March 10, 1997, to produce electricity for use on that site.

Any facilities that were not in operation on or before March 10, 1997 are entitled to an exemption for purchases of natural gas and utility service that is used to generate electricity that is either 1) sold for resale, or 2) sold to an end user other than the end user upon whose property is located the cogeneration facility or self-generation unit that generated the electricity, or upon the property purchased or leased from the end user by the person owning the cogeneration facility or self-generation unit if such property is contiguous to the user's property and is the property upon which is located the cogeneration facility or self-generation unit that generated the electricity.

The amendments proposed would expand the exemption currently available to facilities in operation after March 10, 1997.

**ANALYSIS:**

The Commission heard testimony from Joe Sullivan, Business Ombudsman, Board of Public Utilities and Fred DeSanti, MC2 Public Affairs, L.L.C. in support of the bill.

The Commission recognizes that there is a disparity in the current available exemptions to cogeneration facilities that were in operation on or before March 10, 1997 and those that were in operation after that date. Enactment of this legislation would put cogeneration facilities on a more equal “playing field”.

The Commission also is aware of the Governor Corzine’s Energy Master Plan for New Jersey and understands that this bill is a significant component of the effort.

**RECOMMENDATION:**

The Commission recommends enactment of this legislation.

**COMMISSION MEMBERS FOR PROPOSAL: 8**

**COMMISSION MEMBERS AGAINST PROPOSAL: 0**

**COMMISSION MEMBERS ABSTAINING: 0**