

AN ACT

relating to utility facilities for restoring electric service after a widespread power outage.

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

SECTION 1. Subchapter 2, Chapter 39, Utilities Code, is amended by adding Section 39.918 to read as follows:

Sec. 39.918. UTILITY FACILITIES FOR POWER RESTORATION AFTER WIDESPREAD POWER OUTAGE. (a) In this section, "widespread power outage" means an event that results in:

(1) a loss of electric power that:

(A) affects a significant number of distribution customers of a transmission and distribution utility; and

(B) has lasted or is expected to last for at least eight hours; and

(2) a risk to public safety.

(b) Notwithstanding any other provision of this subtitle, a transmission and distribution utility may:

(1) lease and operate facilities that provide temporary emergency electric energy to aid in restoring power to the utility's distribution customers during a widespread power outage in which:

(A) the independent system operator has ordered the utility to shed load; or

(B) the utility's distribution facilities are

1 not being fully served by the bulk power system under normal
2 operations; and

3 (2) procure, own, and operate, or enter into a
4 cooperative agreement with other transmission and distribution
5 utilities to procure, own, and operate jointly, transmission and
6 distribution facilities that have a lead time of at least six months
7 and would aid in restoring power to the utility's distribution
8 customers following a widespread power outage. In this section,
9 long lead time facilities may not be electric energy storage
10 equipment or facilities under Chapter 35, Utilities Code.

11 (c) A transmission and distribution utility that leases and
12 operates facilities under Subsection (b)(1) may not sell electric
13 energy or ancillary services from those facilities.

14 (d) Facilities described by Subsection (b)(1):

15 (1) must be operated in isolation from the bulk power
16 system; and

17 (2) may not be included in independent system
18 operator:

19 (A) locational marginal pricing calculations;

20 (B) pricing; or

21 (C) reliability models.

22 (e) A transmission and distribution utility that leases and
23 operates facilities under Subsection (b)(1) shall ensure, to the
24 extent reasonably practicable, that retail customer usage during
25 operation of those facilities is adjusted out of the usage reported
26 for billing purposes by the retail customer's retail electric
27 provider.

1 (f) A transmission and distribution utility shall, when
2 reasonably practicable, use a competitive bidding process to lease
3 facilities under Subsection (b)(1).

4 (g) A transmission and distribution utility that leases and
5 operates facilities under Subsection (b)(1) or that procures, owns,
6 and operates facilities under Subsection (b)(2) shall include in
7 the utility's emergency operations plan filed with the commission,
8 as described by Section 186.007, a detailed plan on the utility's
9 use of those facilities.

10 (h) The commission shall permit:

11 (1) a transmission and distribution utility that
12 leases and operates facilities under Subsection (b)(1) to recover
13 the reasonable and necessary costs of leasing and operating the
14 facilities, including the present value of future payments required
15 under the lease, using the rate of return on investment established
16 in the commission's final order in the utility's most recent base
17 rate proceeding; and

18 (2) a transmission and distribution utility that
19 procures, owns, and operates facilities under Subsection (b)(2) to
20 recover the reasonable and necessary costs of procuring, owning,
21 and operating the facilities, using the rate of return on
22 investment established in the commission's final order in the
23 utility's most recent base rate proceeding.

24 (i) The commission shall authorize a transmission and
25 distribution utility to defer for recovery in a future ratemaking
26 proceeding the incremental operations and maintenance expenses and
27 the return, not otherwise recovered in a rate proceeding,

1 associated with the leasing or procurement, ownership, and
2 operation of the facilities.

3 (j) A transmission and distribution utility may request
4 recovery of the reasonable and necessary costs of leasing or
5 procuring, owning, and operating facilities under this section,
6 including any deferred expenses, through a proceeding under Section
7 36.210 or in another ratemaking proceeding. A lease under
8 Subsection (b)(1) must be treated as a capital lease or finance
9 lease for ratemaking purposes.

10 (k) This section expires September 1, 2029.

11 SECTION 2. Not later than January 1, 2029, the Public
12 Utility Commission of Texas shall:

13 (1) analyze the effects of authorizing transmission
14 and distribution utilities to lease, operate, procure, or own the
15 facilities described by Section 39.918(b), Utilities Code, as added
16 by this Act; and

17 (2) submit a report to the legislature that includes
18 the analysis produced under Subdivision (1) of this section and a
19 recommendation of whether the legislature should allow Section
20 39.918, Utilities Code, as added by this Act, to expire.

21 SECTION 3. This Act takes effect September 1, 2021.

President of the Senate

Speaker of the House

I certify that H.B. No. 2483 was passed by the House on April 21, 2021, by the following vote: Yeas 145, Nays 1, 1 present, not voting; that the House refused to concur in Senate amendments to H.B. No. 2483 on May 27, 2021, and requested the appointment of a conference committee to consider the differences between the two houses; and that the House adopted the conference committee report on H.B. No. 2483 on May 30, 2021, by the following vote: Yeas 143, Nays 0, 1 present, not voting.

Chief Clerk of the House

H.B. No. 2483

I certify that H.B. No. 2483 was passed by the Senate, with amendments, on May 22, 2021, by the following vote: Yeas 30, Nays 0; at the request of the House, the Senate appointed a conference committee to consider the differences between the two houses; and that the Senate adopted the conference committee report on H.B. No. 2483 on May 29, 2021, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

APPROVED: _____

Date

Governor