

By: Thierry

H.B. No. 2818

A BILL TO BE ENTITLED

AN ACT

relating to use of electric energy storage facilities in the ERCOT power region.

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

SECTION 1. Section 35.151, Utilities Code, is amended to read as follows:

Sec. 35.151. ELECTRIC ENERGY STORAGE. This subchapter applies only to the ownership or operation of electric energy storage equipment or facilities in the ERCOT power region that are intended to:

(1) provide energy or ancillary services at wholesale, including electric energy storage equipment or facilities listed on a power generation company's registration with the commission or, for an exempt wholesale generator, on the generator's registration with the Federal Energy Regulatory Commission; or

(2) provide reliable delivery of electric energy to distribution customers.

SECTION 2. Subchapter E, Chapter 35, Utilities Code, is amended by adding Section 35.153 to read as follows:

Sec. 35.153. CONTRACTS FOR ELECTRIC ENERGY STORAGE FOR RELIABILITY SERVICES. (a) A transmission and distribution utility, with prior approval of the commission, may contract with a power generation company to provide electric energy from an electric energy storage facility to ensure reliable service to

1 distribution customers.

2 (b) The commission may not authorize ownership of an
3 electric energy storage facility by a transmission and distribution
4 utility.

5 (c) Before entering into a contract under Subsection (a),
6 the transmission and distribution utility must issue a request for
7 proposals for use of an electric energy storage facility to meet the
8 utility's reliability needs.

9 (d) A transmission and distribution utility may enter into a
10 contract under Subsection (a) only if use of an electric energy
11 storage facility is more cost-effective than construction or
12 modification of traditional distribution facilities.

13 (e) A transmission and distribution utility may not enter
14 into a contract under Subsection (a) that reserves an amount of
15 capacity exceeding the amount of capacity required to ensure
16 reliable service to the utility's distribution customers.

17 (f) A power generation company that owns or operates an
18 electric energy storage facility subject to a contract under
19 Subsection (a) may sell electric energy or ancillary services
20 through use of the facility only to the extent that the company
21 reserves capacity as required by the contract.

22 (g) A power generation company that owns or operates an
23 electric energy storage facility subject to a contract under
24 Subsection (a) may not discharge the facility to satisfy the
25 contract's requirements unless directed by the transmission and
26 distribution utility.

27 (h) A contract under Subsection (a) must require a power

1 generation company that owns or operates an electric energy storage
2 facility to reimburse a transmission and distribution utility for
3 the cost of an administrative penalty assessed against the utility
4 for a violation caused by the facility's failure to meet the
5 requirements of the agreement.

6 (i) In establishing the rates of a transmission and
7 distribution utility, a regulatory authority shall review a
8 contract between the utility and a power generation company under
9 Subsection (a). The utility has the burden of proof to establish
10 that the costs of the contract are reasonable and necessary. The
11 regulatory authority may authorize a transmission and distribution
12 utility to include a reasonable return on the payments required
13 under the contract only if the contract terms satisfy the relevant
14 accounting standards for a capital lease or finance lease.

15 (j) The total amount of electric energy storage capacity
16 reserved by contracts under Subsection (a) may not exceed 40
17 megawatts. The commission shall by rule establish the maximum
18 amount of electric energy storage capacity allotted to each
19 transmission and distribution utility.

20 (k) The commission shall adopt rules as necessary to
21 implement this section and establish criteria for approving
22 contracts under Subsection (a).

23 SECTION 3. The Public Utility Commission of Texas shall
24 adopt rules required by Section 35.153, Utilities Code, as added by
25 this Act, as soon as practicable after the effective date of this
26 Act.

27 SECTION 4. This Act takes effect September 1, 2021.