

By: Schwertner, et al.  
(Hunter)

S.B. No. 7

Substitute the following for S.B. No. 7:

By: Spiller

C.S.S.B. No. 7

A BILL TO BE ENTITLED

AN ACT

relating to the reliability of the ERCOT power grid.

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

SECTION 1. The heading to Section 39.159, Utilities Code, as added by Chapter 426 (S.B. 3), Acts of the 87th Legislature, Regular Session, 2021, is amended to read as follows:

Sec. 39.159. POWER REGION RELIABILITY AND DISPATCHABLE GENERATION.

SECTION 2. Section 39.159, Utilities Code, as added by Chapter 426 (S.B. 3), Acts of the 87th Legislature, Regular Session, 2021, is amended by adding Subsections (d), (e), and (f) to read as follows:

(d) The commission shall require the independent organization certified under Section 39.151 for the ERCOT power region to consider implementing an ancillary services program to procure dispatchable reliability reserve services on a day-ahead and real-time basis to account for market uncertainty. The program to be considered may:

(1) determine the quantity of services necessary based on historical variations in generation availability for each season based on a targeted reliability standard or goal, including intermittency of non-dispatchable generation facilities and forced outage rates, for dispatchable generation facilities;

(2) develop criteria for resource participation that

1 require a resource to:

2 (A) be capable of running for at least four hours  
3 at the resource's high sustained limit or for more than four hours  
4 as the organization determines is needed;

5 (B) be online and dispatchable not more than two  
6 hours after being called on for deployment; and

7 (C) have the dispatchable flexibility to address  
8 inter-hour operational challenges; and

9 (3) reduce the amount of reliability unit commitment  
10 by the amount of dispatchable reliability reserve services procured  
11 under this section.

12 (e) The independent organization certified under Section  
13 39.151 for the ERCOT power region may implement programs described  
14 by Subsections (d) and (f) simultaneously.

15 (f) The commission shall require the independent  
16 organization certified under Section 39.151 for the ERCOT power  
17 region to develop and implement a program to ensure minimum  
18 generation performance during times of high reliability risk due to  
19 low operating reserves. The program must:

20 (1) apply to each electric power generation resource  
21 in the ERCOT power region that enters into a signed generator  
22 interconnection agreement after January 1, 2026;

23 (2) be independently evaluated by the wholesale  
24 electric market monitor, including a historical analysis;

25 (3) allow entities, at the portfolio level, to meet  
26 the performance requirements by supplementing or contracting with  
27 on-site or off-site resources, including battery energy storage

1 resources and load resources;

2 (4) provide penalties for failing to comply with the  
3 performance requirements and financial incentives for exceeding  
4 those requirements, except that penalties may not apply to resource  
5 unavailability due to planned maintenance outages or physical  
6 transmission outages or during hours when the resource would not be  
7 expected to perform based on the resource type; and

8 (5) exempt battery energy storage resources from the  
9 generation performance requirements.

10 SECTION 3. Subchapter D, Chapter 39, Utilities Code, is  
11 amended by adding Section 39.1591 to read as follows:

12 Sec. 39.1591. REPORT ON DISPATCHABLE AND NON-DISPATCHABLE  
13 GENERATION FACILITIES. Not later than December 1 of each year, the  
14 commission shall file a report with the legislature that:

15 (1) includes:

16 (A) the estimated annual costs incurred under  
17 this subchapter by dispatchable and non-dispatchable generators to  
18 guarantee that a firm amount of electric energy will be provided for  
19 the ERCOT power grid; and

20 (B) as calculated by the independent system  
21 operator, the cumulative annual costs that have been incurred in  
22 the ERCOT market to facilitate the transmission of dispatchable and  
23 non-dispatchable electricity to load and to interconnect  
24 transmission level loads;

25 (2) documents the status of the implementation of this  
26 subchapter, including whether the rules and protocols adopted to  
27 implement this subchapter have materially improved the

1 reliability, resilience, and transparency of the electricity  
2 market; and

3 (3) includes recommendations for any additional  
4 legislative measures needed to empower the commission to implement  
5 market reforms to ensure that market signals are adequate to  
6 preserve existing dispatchable generation and incentivize the  
7 construction of new dispatchable generation sufficient to maintain  
8 reliability standards for at least five years after the date of the  
9 report.

10 SECTION 4. Subchapter D, Chapter 39, Utilities Code, is  
11 amended by adding Section 39.166 to read as follows:

12 Sec. 39.166. RELIABILITY PROGRAM. (a) The commission may  
13 not require retail customers or load-serving entities in the ERCOT  
14 power region to purchase credits designed to support a required  
15 reserve margin or other capacity or reliability requirement until:

16 (1) the independent organization certified under  
17 Section 39.151 for the ERCOT power region and the wholesale  
18 electric market monitor complete an updated assessment on the cost  
19 to and effects on the ERCOT market of the proposed reliability  
20 program; and

21 (2) the independent organization certified under  
22 Section 39.151 for the ERCOT power region begins implementing real  
23 time co-optimization of energy and ancillary services in the ERCOT  
24 wholesale market.

25 (b) The assessment required under Subsection (a) must  
26 include:

27 (1) an evaluation of the cost of new entry and the

1 effects of the proposed reliability program on consumer costs and  
2 the competitive retail market;

3 (2) a compilation of detailed information regarding  
4 cost offsets realized through a reduction in costs in the energy and  
5 ancillary services markets and use of reliability unit commitments;

6 (3) a set of metrics to measure the effects of the  
7 proposed reliability program on system reliability;

8 (4) an evaluation of the cost to retain existing  
9 dispatchable resources in the ERCOT power region;

10 (5) an evaluation of the planned timeline for  
11 implementation of real time co-optimization for energy and  
12 ancillary services in the ERCOT power region; and

13 (6) anticipated market and reliability effects of new  
14 and updated ancillary service products.

15 (c) The commission may not implement a reliability program  
16 described by Subsection (a) unless the commission by rule  
17 establishes the essential features of the program, including  
18 requirements to meet the reliability needs of the power region, and  
19 the program:

20 (1) requires the independent organization certified  
21 under Section 39.151 for the ERCOT power region to procure the  
22 credits centrally in a manner designed to prevent market  
23 manipulation by affiliated generation and retail companies;

24 (2) limits participation in the program to  
25 dispatchable resources with the specific attributes necessary to  
26 meet operational needs of the ERCOT power region;

27 (3) ensures that a generator cannot receive credits

1 that exceed the amount of generation bid into the forward market by  
2 that generator;

3 (4) ensures that an electric generating unit can  
4 receive a credit only for being available to perform in real time  
5 during the tightest intervals of low supply and high demand on the  
6 grid, as defined by the commission on a seasonal basis;

7 (5) establishes a penalty structure, resulting in a  
8 net benefit to load, for generators that bid into the forward market  
9 but do not meet the full obligation;

10 (6) provides the wholesale electric market monitor  
11 with the authority and resources necessary to investigate potential  
12 instances of market manipulation by any means, including by  
13 financial or physical actions;

14 (7) ensures that any program reliability standard  
15 reasonably balances the incremental reliability benefits to  
16 customers against the incremental costs of the program based on an  
17 evaluation by the wholesale electric market monitor;

18 (8) establishes a single ERCOT-wide clearing price for  
19 the program and does not differentiate payments or credit values  
20 based on locational constraints;

21 (9) does not assign costs, credit, or collateral for  
22 the program in a manner that provides a cost advantage to  
23 load-serving entities who own, or whose affiliates own, generation  
24 facilities;

25 (10) requires sufficient secured collateral so that  
26 other market participants do not bear the risk of non-performance  
27 or non-payment;

1           (11) ensures that the cost of all credits paid to  
2 dispatchable resources is allocated to loads based on an hourly  
3 load ratio share; and

4           (12) removes any market changes implemented as a  
5 bridge solution for the program not later than the first  
6 anniversary of the date the program was implemented.

7           (d) The commission and the independent organization  
8 certified under Section 39.151 for the ERCOT power region may not  
9 adopt a market rule for the ERCOT power region associated with the  
10 implementation of a reliability program described by Subsection (a)  
11 that provides a cost advantage to load-serving entities who own, or  
12 whose affiliates own, generation facilities.

13           (e) The commission and the independent organization  
14 certified under Section 39.151 for the ERCOT power region shall  
15 ensure that the net cost imposed on the ERCOT market for the credits  
16 does not exceed \$1 billion annually, less the cost of any interim or  
17 bridge solutions that are lawfully implemented, except that the  
18 commission may adjust the limit:

19           (1) proportionally according to the highest net peak  
20 demand year-over-year with a base year of 2026; and

21           (2) for inflation with a base year of 2026.

22           (f) The wholesale electric market monitor biennially shall:

23           (1) evaluate the incremental reliability benefits of  
24 the program for consumers compared to the costs to consumers of the  
25 program and the costs in the energy and ancillary services markets;  
26 and

27           (2) report the results of each evaluation to the

1 legislature.

2 SECTION 5. (a) Not later than September 1, 2024, the  
3 Public Utility Commission of Texas shall implement the changes in  
4 law made by Section 39.159(f), Utilities Code, as added by this Act.

5 (b) The Public Utility Commission of Texas shall require the  
6 independent organization certified under Section 39.151, Utilities  
7 Code, for the ERCOT power region to implement the program required  
8 by Section 39.159(d), Utilities Code, as added by this Act, not  
9 later than December 1, 2024.

10 (c) The Public Utility Commission of Texas is required to  
11 prepare the portions of the report required by Sections 39.1591(2)  
12 and (3), Utilities Code, as added by this Act, only for reports due  
13 on or after December 1, 2024.

14 (d) Not later than December 31, 2024, the wholesale electric  
15 market monitor described by Section 39.1515, Utilities Code, shall  
16 submit to the legislature recommendations regarding the  
17 implementation of the program required by Section 39.159(f),  
18 Utilities Code, as added by this Act.

19 SECTION 6. This Act takes effect immediately if it receives  
20 a vote of two-thirds of all the members elected to each house, as  
21 provided by Section 39, Article III, Texas Constitution. If this  
22 Act does not receive the vote necessary for immediate effect, this  
23 Act takes effect September 1, 2023.