

1-1 By: Schwertner, King, Kolkhorst S.B. No. 7
 1-2 (In the Senate - Filed March 9, 2023; March 9, 2023, read
 1-3 first time and referred to Committee on Business & Commerce;
 1-4 April 3, 2023, reported adversely, with favorable Committee
 1-5 Substitute by the following vote: Yeas 11, Nays 0; April 3, 2023,
 1-6 sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8 Schwertner	X			
1-9 King	X			
1-10 Birdwell	X			
1-11 Campbell	X			
1-12 Creighton	X			
1-13 Johnson	X			
1-14 Kolkhorst	X			
1-15 Menéndez	X			
1-16 Middleton	X			
1-17 Nichols	X			
1-18 Zaffirini	X			

1-20 COMMITTEE SUBSTITUTE FOR S.B. No. 7 By: Schwertner

1-21 A BILL TO BE ENTITLED
 1-22 AN ACT

1-23 relating to the reliability of the ERCOT power grid.
 1-24 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:
 1-25 SECTION 1. The heading to Section 39.159, Utilities Code,
 1-26 as added by Chapter 426 (S.B. 3), Acts of the 87th Legislature,
 1-27 Regular Session, 2021, is amended to read as follows:
 1-28 Sec. 39.159. POWER REGION RELIABILITY AND DISPATCHABLE
 1-29 GENERATION.
 1-30 SECTION 2. Section 39.159, Utilities Code, as added by
 1-31 Chapter 426 (S.B. 3), Acts of the 87th Legislature, Regular
 1-32 Session, 2021, is amended by amending Subsection (b) and adding
 1-33 Subsections (b-1), (b-2), (d), and (e) to read as follows:
 1-34 (b) The commission shall ensure that the independent
 1-35 organization certified under Section 39.151 for the ERCOT power
 1-36 region:
 1-37 (1) establishes requirements to meet the reliability
 1-38 needs of the power region;
 1-39 (2) periodically, but at least annually, determines
 1-40 the quantity and characteristics of ancillary or reliability
 1-41 services necessary to ensure appropriate reliability during
 1-42 extreme heat and extreme cold weather conditions and during times
 1-43 of low non-dispatchable power production in the power region;
 1-44 (3) procures ancillary or reliability services on a
 1-45 competitive basis to ensure appropriate reliability during extreme
 1-46 heat and extreme cold weather conditions and during times of low
 1-47 non-dispatchable power production in the power region;
 1-48 (4) develops appropriate qualification and
 1-49 performance requirements for providing services under Subdivision
 1-50 (3), including appropriate penalties for failure to provide the
 1-51 services; ~~and~~
 1-52 (5) sizes the services procured under Subdivision (3)
 1-53 to prevent prolonged rotating outages due to net load variability
 1-54 in high demand and low supply scenarios; and
 1-55 (6) allocates the cost of providing ancillary services
 1-56 and reliability services procured under this section on a
 1-57 semiannual basis among dispatchable generation facilities,
 1-58 non-dispatchable generation facilities, and load serving entities
 1-59 in proportion to their contribution to unreliability during the
 1-60 highest net load hours in the preceding six months, as determined by

2-1 the commission based on a number of hours adopted by the commission
 2-2 for that six-month period, as follows:

2-3 (A) for each dispatchable generation facility,
 2-4 the difference between the forced outage rate of the facility and
 2-5 the forced outage rate of the facility during the corresponding
 2-6 season for the three years prior to the current season, multiplied
 2-7 by the installed capacity of the facility;

2-8 (B) for non-dispatchable generation facilities,
 2-9 the difference between the mean of the lowest quartile generation
 2-10 for each non-dispatchable generation facility and the mean
 2-11 generation of the facility; and

2-12 (C) for load serving entities, the difference
 2-13 between the mean of the highest quartile of total load and the mean
 2-14 of total load in the ERCOT power region, allocated to each load
 2-15 serving entity on a load ratio share basis.

2-16 (b-1) Subsection (b)(6) applies only to a generation
 2-17 facility or load serving entity that has participated in the ERCOT
 2-18 market for at least one year, including a load serving entity whose
 2-19 parent company or affiliate has participated in the ERCOT market
 2-20 for at least one year.

2-21 (b-2) Subsection (b)(6) does not apply to electric energy
 2-22 storage.

2-23 (d) The commission shall require the independent
 2-24 organization certified under Section 39.151 for the ERCOT power
 2-25 region to develop and implement an ancillary services program to
 2-26 procure dispatchable reliability reserve services on a day-ahead
 2-27 and real-time basis to account for market uncertainty. Under the
 2-28 required program, the independent organization shall:

2-29 (1) determine the quantity of services necessary based
 2-30 on historical variations in generation availability for each season
 2-31 based on a targeted reliability standard or goal, including
 2-32 intermittency of non-dispatchable generation facilities and forced
 2-33 outage rates, for dispatchable generation facilities;

2-34 (2) develop criteria for resource participation that
 2-35 require a resource to:

2-36 (A) be capable of running for at least 10 hours at
 2-37 the resource's high sustained limit;

2-38 (B) be online and dispatchable not more than two
 2-39 hours after being called on for deployment; and

2-40 (C) have the dispatchable flexibility to address
 2-41 inter-hour operational challenges; and

2-42 (3) reduce the amount of reliability unit commitment
 2-43 by the amount of dispatchable reliability reserve services procured
 2-44 under this section.

2-45 (e) If the commission determines that the program adopted
 2-46 under Subsection (d) or other market programs or features are
 2-47 sufficient to meet the reliability needs of the power region, the
 2-48 commission is not required to adopt additional programs under
 2-49 Subsection (b) for that purpose.

2-50 SECTION 3. Subchapter D, Chapter 39, Utilities Code, is
 2-51 amended by adding Section 39.1591 to read as follows:

2-52 Sec. 39.1591. REPORT ON DISPATCHABLE AND NON-DISPATCHABLE
 2-53 GENERATION FACILITIES. Not later than December 1 of each year, the
 2-54 commission shall file a report with the legislature that:

2-55 (1) includes:

2-56 (A) the estimated annual costs incurred under
 2-57 this subchapter by dispatchable and non-dispatchable generators to
 2-58 guarantee that a firm amount of electric energy will be provided for
 2-59 the ERCOT power grid; and

2-60 (B) as calculated by the independent system
 2-61 operator, the cumulative annual costs that have been incurred in
 2-62 the ERCOT market to facilitate the transmission of non-dispatchable
 2-63 and dispatchable electricity to load and to interconnect
 2-64 transmission level loads;

2-65 (2) documents the status of the implementation of this
 2-66 subchapter, including whether the rules and protocols adopted to
 2-67 implement this subchapter have materially improved the
 2-68 reliability, resilience, and transparency of the electricity
 2-69 market; and

3-1 (3) includes recommendations for any additional
 3-2 legislative measures needed to empower the commission to implement
 3-3 market reforms to ensure that market signals are adequate to
 3-4 preserve existing dispatchable generation and incentivize the
 3-5 construction of new dispatchable generation sufficient to maintain
 3-6 reliability standards for at least five years after the date of the
 3-7 report.

3-8 SECTION 4. Subchapter D, Chapter 39, Utilities Code, is
 3-9 amended by adding Section 39.1595 to read as follows:

3-10 Sec. 39.1595. RELIABILITY PROGRAM. (a) Under Section
 3-11 39.159(b), as added by Chapter 426 (S.B. 3), Acts of the 87th
 3-12 Legislature, Regular Session, 2021, or other law, the commission
 3-13 may not adopt a reliability program for the ERCOT power region that
 3-14 requires the purchase of capacity credits earned by generators to
 3-15 support a reserve margin mandate unless the commission ensures
 3-16 that:

3-17 (1) the cost to the ERCOT market of the credits does
 3-18 not exceed \$500 million annually;

3-19 (2) credits are available only for dispatchable
 3-20 generation, excluding load resources and electric energy storage;

3-21 (3) the cost of credits is assigned to generation
 3-22 facilities and load serving entities according to Section
 3-23 39.159(b)(6), as added by Chapter 426 (S.B. 3), Acts of the 87th
 3-24 Legislature, Regular Session, 2021;

3-25 (4) the program includes appropriate penalties for a
 3-26 failure to perform during a reliability event caused by factors
 3-27 within the reasonable control of the generator, including a
 3-28 requirement for a generator to buy back credits that the generator
 3-29 sold but for which the generator did not provide the required
 3-30 capacity;

3-31 (5) the independent organization certified under
 3-32 Section 39.151 for the ERCOT power region begins implementing real
 3-33 time co-optimization of energy and ancillary services in the ERCOT
 3-34 wholesale market before the program is implemented;

3-35 (6) all elements of the program are initially
 3-36 implemented on a single starting date;

3-37 (7) the terms of the program and any associated market
 3-38 rules do not assign costs, credit, or collateral for the program in
 3-39 a manner that provides a cost advantage to load serving entities who
 3-40 own, or whose affiliates own, generation facilities;

3-41 (8) generators who receive credits may not
 3-42 self-arrange credit exchanges with any affiliated competitive
 3-43 retail electric providers;

3-44 (9) secured financial credit and collateral
 3-45 requirements are adopted for the program to ensure that other
 3-46 market participants do not bear the risk of nonperformance or
 3-47 nonpayment;

3-48 (10) qualifying generators do not receive credits that
 3-49 exceed the amount of generation bid into the forward market on an
 3-50 individual resource basis; and

3-51 (11) the wholesale electric market monitor has the
 3-52 authority and necessary resources to investigate potential
 3-53 instances of market manipulation by program participants,
 3-54 including financial and physical actions, and recommend penalties
 3-55 to the commission.

3-56 (b) This section does not require the commission to adopt a
 3-57 reliability program that requires an entity to purchase capacity
 3-58 credits.

3-59 (c) The commission and the independent organization
 3-60 certified under Section 39.151 for the ERCOT power region shall
 3-61 consider comments and recommendations from a technical advisory
 3-62 committee established under the bylaws of the independent
 3-63 organization that includes market participants when adopting and
 3-64 implementing a program described by Subsection (a), if any.

3-65 (d) If the commission adopts a program described by
 3-66 Subsection (a), not later than January 1, 2029, the commission
 3-67 shall require the wholesale electric market monitor to submit to
 3-68 the commission and the legislature a report on the costs and
 3-69 benefits of continuing the program. This subsection expires

4-1 September 1, 2029.

4-2 SECTION 5. (a) Not later than September 1, 2024, the
4-3 Public Utility Commission of Texas shall implement the changes in
4-4 law made by this Act to Section 39.159(b), Utilities Code, as added
4-5 by Chapter 426 (S.B. 3), Acts of the 87th Legislature, Regular
4-6 Session, 2021.

4-7 (b) The Public Utility Commission of Texas shall require the
4-8 independent organization certified under Section 39.151, Utilities
4-9 Code, for the ERCOT power region to implement the program required
4-10 by Section 39.159(d), Utilities Code, as added by this Act, not
4-11 later than December 1, 2024.

4-12 (c) The Public Utility Commission of Texas is required to
4-13 prepare the portions of the report required by Sections 39.1591(2)
4-14 and (3), Utilities Code, as added by this Act, only for reports due
4-15 on or after December 1, 2024.

4-16 SECTION 6. This Act takes effect immediately if it receives
4-17 a vote of two-thirds of all the members elected to each house, as
4-18 provided by Section 39, Article III, Texas Constitution. If this
4-19 Act does not receive the vote necessary for immediate effect, this
4-20 Act takes effect September 1, 2023.

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