

By: Schwertner, King

S.B. No. 2012

A BILL TO BE ENTITLED

AN ACT

relating to electricity services; increasing an administrative penalty.

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

SECTION 1. Sections 15.023(b-1) and (f), Utilities Code, are amended to read as follows:

(b-1) Notwithstanding Subsection (b), the penalty for a violation of Subtitle B [~~a provision of Section 35.0021 or 38.075~~] may be in an amount not to exceed \$1,000,000 for a violation. Each day a violation continues or occurs is a separate violation for purposes of imposing a penalty.

(f) The commission and a person may develop and enter into a voluntary mitigation plan relating to a violation of Section 39.157 or rules adopted by the commission under that section. The voluntary mitigation plan must be updated at least once every two years. Adherence [~~If the commission and a person enter into a voluntary mitigation plan, adherence~~] to the plan may be considered in determining whether a violation occurred and, if so, the penalty to be assessed [~~constitutes an absolute defense against an alleged violation with respect to activities covered by the plan~~].

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

(b) The commission shall ensure that the independent

1 organization certified under Section 39.151 for the ERCOT power
2 region:

3 (1) establishes requirements to meet the reliability
4 needs of the power region;

5 (2) seasonally [~~periodically, but at least annually,~~]
6 determines the quantity and characteristics of ancillary or
7 reliability services necessary to ensure appropriate reliability
8 during extreme heat and extreme cold weather conditions and during
9 times of low non-dispatchable power production in the power region;

10 (3) seasonally procures ancillary or reliability
11 services on a competitive basis to ensure appropriate reliability
12 during extreme heat and extreme cold weather conditions and during
13 times of low non-dispatchable power production in the power region;

14 (4) develops appropriate qualification and
15 performance requirements for providing services under Subdivision
16 (3), including appropriate penalties for failure to provide the
17 services; and

18 (5) sizes the services procured under Subdivision (3)
19 to prevent prolonged rotating outages due to net load variability
20 in high demand and low supply scenarios.

21 SECTION 3. Subchapter D, Chapter 39, Utilities Code, is
22 amended by adding Sections 39.1595 and 39.1596 to read as follows:

23 Sec. 39.1595. RELIABILITY PROGRAM. The commission may not
24 adopt a reliability program for the ERCOT power region that
25 requires the purchase of credits earned by generators based on
26 generator availability during times of high demand and low supply
27 at a centrally determined clearing price unless the commission

1 ensures that:

2 (1) the net cost to the ERCOT market of the program
3 does not exceed \$500 million;

4 (2) credits are available only for dispatchable
5 generation;

6 (3) the cost of credits is assigned to generation
7 facilities on a cost-causation basis rather than to load serving
8 entities;

9 (4) the program includes appropriate penalties for a
10 failure to provide a required program service;

11 (5) the independent organization certified under
12 Section 39.151 for the ERCOT power region implements real time
13 co-optimization of energy and ancillary services in the ERCOT
14 wholesale market before the credit program is implemented; and

15 (6) the entire program is initiated on a single
16 starting date.

17 Sec. 39.1596. GRID RELIABILITY LEGISLATIVE OVERSIGHT
18 COMMITTEE. (a) In this section, "committee" means the Grid
19 Reliability Legislative Oversight Committee established under this
20 section.

21 (b) The Grid Reliability Legislative Oversight Committee is
22 created to oversee the commission's implementation of Section
23 35.004, Section 39.159, as added by Chapter 426 (S.B. 3), Acts of
24 the 87th Legislature, Regular Session, 2021, and Section 39.1595.

25 (c) The committee is composed of eight members as follows:

26 (1) three members of the senate, appointed by the
27 lieutenant governor;

1 (2) three members of the house of representatives,
2 appointed by the speaker of the house of representatives;

3 (3) the chair of the committee of the senate having
4 primary jurisdiction over matters relating to the generation of
5 electricity; and

6 (4) the chair of the committee of the house having
7 primary jurisdiction over matters relating to the generation of
8 electricity.

9 (d) An appointed member of the committee serves at the
10 pleasure of the appointing official.

11 (e) The committee members described by Subsections (c)(3)
12 and (4) serve as presiding co-chairs.

13 (f) A member of the committee may not receive compensation
14 for serving on the committee but is entitled to reimbursement for
15 travel expenses incurred by the member while conducting the
16 business of the committee as provided by the General Appropriations
17 Act.

18 (g) The committee shall meet at least twice each year at the
19 call of either co-chair and shall meet at other times at the call of
20 either co-chair, as that officer determines appropriate.

21 (h) Chapter 551, Government Code, applies to the committee.

22 (i) The committee shall submit a report to the governor,
23 lieutenant governor, speaker of the house of representatives, and
24 legislature not later than December 1 of each even-numbered year.
25 The report must include an update on the progress of and issues
26 related to the commission's implementation of the laws under the
27 committee's oversight as provided by Subsection (b).

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

3 Sec. 39.166. LIMITATION OF MARKET SHARE SERVED BY RETAIL
4 ELECTRIC PROVIDER. (a) A retail electric provider and a corporate
5 parent of the retail electric provider may not, considered
6 together, provide retail market service to more than 20 percent of
7 the customers in the competitive retail market in a power region.

8 (b) Each retail electric provider that offers electricity
9 for sale shall report to the commission its annual retail sales in
10 this state, the annual retail sales in this state by the provider's
11 corporate parent, and any other information the commission requires
12 to assess compliance with Subsection (a). The commission by rule
13 shall prescribe the nature and detail of the reporting
14 requirements. The commission shall administer the reporting
15 requirements in a manner that ensures the confidentiality of
16 competitively sensitive information.

17 (c) The commission shall require a retail electric provider
18 that the commission finds is violating Subsection (a) to submit to
19 the commission a plan for reducing the provider's market share. The
20 plan must be in a form prescribed by the commission and provide
21 information the commission finds reasonably necessary to evaluate
22 the plan.

23 (d) The commission shall approve, modify, or reject a plan
24 submitted under Subsection (c) not later than the 180th day after
25 the date the plan is filed with the commission. In evaluating a
26 plan for approval, modification, or rejection, the commission shall
27 consider:

1 (b) Costs incurred by a transmission and distribution
2 utility under this section are recoverable in the utility's rates.

3 (c) A transmission and distribution utility that installs
4 dispatchable generation capacity under this section shall register
5 as a power generation company. The commission shall waive the
6 requirements of Section 39.154 for a facility installed under this
7 section.

8 SECTION 6. The changes in law made by this Act to Chapter
9 15, Utilities Code, apply only to a violation committed on or after
10 the effective date of this Act. A violation committed before the
11 effective date of this Act is governed by the law in effect when the
12 violation was committed, and the former law is continued in effect
13 for that purpose.

14 SECTION 7. This Act takes effect September 1, 2023.