

By: Harrison

H.B. No. 4577

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. Section 39.1591, Utilities Code, is amended to read as follows:

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

(1) includes:

(A) the estimated annual costs incurred by load-serving entities and generation facilities under this subchapter associated with backing up dispatchable and non-dispatchable electric generation facilities to guarantee that a firm amount of electric energy will be available to the ERCOT power grid; and

(B) as calculated by the independent system operator, the cumulative annual costs that have been incurred in the ERCOT market to facilitate the transmission of dispatchable and non-dispatchable electricity to load and to interconnect transmission level loads, including a statement of the total cumulative annual costs and of the cumulative annual costs incurred for each type of activity described by this paragraph; ~~and~~

(2) documents the status of the implementation of this subchapter, including whether the rules and protocols adopted to

1 implement this subchapter have materially improved the
2 reliability, resilience, and transparency of the electricity
3 market; and

4 (3) recommends any additional legislative measures
5 necessary to ensure that market signals are adequate to preserve
6 existing dispatchable generation and incentivize the construction
7 of new dispatchable generation capacity sufficient to meet the
8 reliability requirements adopted under Section 39.159 for at least
9 five years from the date of the report.

10 SECTION 2. Section 39.1592, Utilities Code, is amended to
11 read as follows:

12 Sec. 39.1592. GENERATION RELIABILITY REQUIREMENTS. (a)
13 This section applies only to an electric generation facility in the
14 ERCOT power region that is subject to ~~[for which]~~ a standard
15 generator interconnection agreement, ~~[is signed on or after~~
16 ~~January 1, 2027, that]~~ has been in operation for at least one year,
17 and ~~[that]~~ is not a self-generator.

18 (a-1) For the purposes of this section, a generation
19 facility is considered to be non-dispatchable if the facility's
20 output is controlled primarily by forces outside of human control.

21 (b) Not later than December 1 of each year, an owner or
22 operator of a non-dispatchable ~~[an electric]~~ generation facility ~~[~~
23 ~~other than a battery energy storage resource,~~
24 the commission the ability of the facility to ensure that during at
25 least 95 hours of the highest 100 net load hours to occur in the next
26 calendar year the facility's hourly availability factor, as
27 determined under Subsection (b-1), will equal or exceed the

1 facility's expected availability factor, as determined under
2 Subsection (b-2).

3 (b-1) The commission shall determine a non-dispatchable
4 generation facility's hourly availability factor by dividing the
5 facility's hourly average generation by the facility's installed
6 capacity.

7 (b-2) The commission shall determine a non-dispatchable
8 generation facility's expected availability factor by calculating
9 the average generation of the facility, divided by the facility's
10 installed capacity, during the highest 100 net load hours each
11 calendar year in an average of two or more immediately preceding
12 calendar years, [owner or operator's portfolio to operate or be
13 available to operate when called on for dispatch at or above the
14 seasonal average generation capability during the times of highest
15 reliability risk, as determined by the commission, due to low
16 operation reserves,] as determined by the commission.

17 (b-3) The owner or operator may [must be allowed to] meet
18 the performance requirements described by this section
19 [subsection] only by operating, constructing, or acquiring
20 resources that are eligible to act as ancillary service reserves
21 according to the protocols of the independent organization
22 certified for the ERCOT power region under Section [39.151](#)
23 [supplementing or contracting with on-site or off-site resources,
24 including battery energy storage resources. The commission shall
25 determine the average generation capability based on expected
26 resource availability and seasonal-rated capacity on a standalone
27 basis].

1 (c) The commission shall require the independent
2 organization certified under Section 39.151 for the ERCOT power
3 region to:

4 (1) enforce the requirements of this section
5 ~~[Subsection (b)]~~ by imposing financial penalties, as determined by
6 the commission, for failing to comply with the performance
7 requirements described by this section ~~[that subsection]~~; and

8 (2) provide financial incentives, as determined by the
9 commission, for exceeding the performance requirements described
10 by this section ~~[that subsection]~~.

11 (d) The independent organization certified under Section
12 39.151 for the ERCOT power region may not impose penalties under
13 Subsection (c):

14 (1) for resource unavailability due to planned
15 maintenance outages or transmission outages; or

16 (2) on resources that are already subject to
17 performance obligations ~~[during the highest reliability risk~~
18 ~~hours]~~ under the day-ahead market rules or other ancillary or
19 reliability services established by the commission or the
20 independent organization~~[, or~~

21 ~~[(3) during hours outside a baseline established by~~
22 ~~the commission that includes morning and evening ramping periods]~~.

23 (e) The commission by rule may establish an ancillary
24 service market or a separate reliability service to implement this
25 section.

26 SECTION 3. The owner or operator of a generation facility to
27 which Section 39.1592(b), Utilities Code, as amended by this Act,

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1 applies shall make the first demonstration required by that section
2 not later than December 1, 2026.

3 SECTION 4. This Act takes effect September 1, 2025.