871445

FLOOR AMENDMENT NO._____ BY: Holland

Amend C.S.S.B. No. 3 (house committee printing) by adding the following appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION ___. 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 ___. 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 distribution customers.

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

(c) Before entering into a contract under Subsection (a), the transmission and distribution utility must issue a request for

proposals for use of an electric energy storage facility to meet the utility's reliability needs.

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

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

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

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

(h) A contract under Subsection (a) must require a power generation company that owns or operates an electric energy storage facility to reimburse a transmission and distribution utility for the cost of an administrative penalty assessed against the utility for a violation caused by the facility's failure to meet the requirements of the agreement.

(i) In establishing the rates of a transmission and distribution utility, a regulatory authority shall review a contract between the utility and a power generation company under Subsection (a). The utility has the burden of proof to establish that the costs of the contract are reasonable and necessary. The

regulatory authority may authorize a transmission and distribution utility to include a reasonable return on the payments required under the contract only if the contract terms satisfy the relevant accounting standards for a capital lease or finance lease.

(j) The total amount of electric energy storage capacity reserved by contracts under Subsection (a) may not exceed 100 megawatts. The commission shall by rule establish the maximum amount of electric energy storage capacity allotted to each transmission and distribution utility.

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