

AN ACT

relating to use of electric energy storage facilities in the ERCOT power region.

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

SECTION 1. 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 2. 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

1 distribution customers.

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

5 (c) Before entering into a contract under Subsection (a),  
6 the transmission and distribution utility must issue a request for  
7 proposals for use of an electric energy storage facility to meet the  
8 utility's reliability needs.

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

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

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

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

27 (h) A contract under Subsection (a) must require a power

1 generation company that owns or operates an electric energy storage  
2 facility to reimburse a transmission and distribution utility for  
3 the cost of an administrative penalty assessed against the utility  
4 for a violation caused by the facility's failure to meet the  
5 requirements of the agreement.

6 (i) In establishing the rates of a transmission and  
7 distribution utility, a regulatory authority shall review a  
8 contract between the utility and a power generation company under  
9 Subsection (a). The utility has the burden of proof to establish  
10 that the costs of the contract are reasonable and necessary. The  
11 regulatory authority may authorize a transmission and distribution  
12 utility to include a reasonable return on the payments required  
13 under the contract only if the contract terms satisfy the relevant  
14 accounting standards for a capital lease or finance lease.

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

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

23 SECTION 3. The Public Utility Commission of Texas shall  
24 adopt rules required by Section 35.153, Utilities Code, as added by  
25 this Act, as soon as practicable after the effective date of this  
26 Act.

27 SECTION 4. This Act takes effect September 1, 2021.

S.B. No. 415

\_\_\_\_\_  
President of the Senate

\_\_\_\_\_  
Speaker of the House

I hereby certify that S.B. No. 415 passed the Senate on April 9, 2021, by the following vote: Yeas 31, Nays 0.

\_\_\_\_\_  
Secretary of the Senate

I hereby certify that S.B. No. 415 passed the House on May 26, 2021, by the following vote: Yeas 131, Nays 17, one present not voting.

\_\_\_\_\_  
Chief Clerk of the House

Approved:

\_\_\_\_\_  
Date

\_\_\_\_\_  
Governor