| **House Bill 2483**  Senate Amendments  Section-by-Section Analysis | | |
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| HOUSE VERSION | SENATE VERSION (IE)  Unless otherwise indicated, all SECTIONS below are from FA1. | CONFERENCE |
| SECTION 1. Subchapter Z, Chapter 39, Utilities Code, is amended by adding Section 39.918 to read as follows:  Sec. 39.918. UTILITY FACILITIES FOR POWER RESTORATION AFTER WIDESPREAD POWER OUTAGE. (a) In this section, "widespread power outage" means an event that results in:  (1) a loss of electric power that:  (A) affects a significant number of distribution customers of a transmission and distribution utility; and  (B) has lasted or is expected to last for at least eight hours; and  (2) a risk to public safety.  (b) Notwithstanding any other provision of this subtitle, a transmission and distribution utility may:  (1) lease and operate facilities that provide temporary emergency electric energy to aid in restoring power to the utility's distribution customers during a widespread power outage in which:  (A) the independent system operator has ordered the utility to shed load; or  (B) the utility's distribution facilities are not being fully served by the bulk power system under normal operations; and  (2) procure, own, and operate, or enter into a cooperative agreement with other transmission and distribution utilities to procure, own, and operate jointly, transmission and distribution facilities that have a lead time of at least six months and would aid in restoring power to the utility's distribution customers following a widespread power outage. In this section, long lead time facilities may not be electric energy storage equipment or facilities under Chapter 35, Utilities Code.  (c) A transmission and distribution utility that leases and operates facilities under Subsection (b)(1) may not sell electric energy or ancillary services from those facilities.  (d) Facilities described by Subsection (b)(1):  (1) must be operated in isolation from the bulk power system; and  (2) may not be included in independent system operator:  (A) locational marginal pricing calculations;  (B) pricing; or  (C) reliability models.  (e) A transmission and distribution utility that leases and operates facilities under Subsection (b)(1) shall ensure, to the extent reasonably practicable, that retail customer usage during operation of those facilities is adjusted out of the usage reported for billing purposes by the retail customer's retail electric provider.  (f) A transmission and distribution utility shall, when reasonably practicable, use a competitive bidding process to lease facilities under Subsection (b)(1).  (g) A transmission and distribution utility that leases and operates facilities under Subsection (b)(1) or that procures, owns, and operates facilities under Subsection (b)(2) shall include in the utility's emergency operations plan filed with the commission, as described by Section 186.007, a detailed plan on the utility's use of those facilities.  (h) The commission shall permit:  (1) a transmission and distribution utility that leases and operates facilities under Subsection (b)(1) to recover the reasonable and necessary costs of leasing and operating the facilities, including the present value of future payments required under the lease, using the rate of return on investment established in the commission's final order in the utility's most recent base rate proceeding; and  (2) a transmission and distribution utility that procures, owns, and operates facilities under Subsection (b)(2) to recover the reasonable and necessary costs of procuring, owning, and operating the facilities, using the rate of return on investment established in the commission's final order in the utility's most recent base rate proceeding.  (i) The commission shall authorize a transmission and distribution utility to defer for recovery in a future ratemaking proceeding the incremental operations and maintenance expenses and the return, not otherwise recovered in a rate proceeding, associated with the leasing or procurement, ownership, and operation of the facilities.  (j) A transmission and distribution utility may request recovery of the reasonable and necessary costs of leasing or procuring, owning, and operating facilities under this section, including any deferred expenses, through a proceeding under Section 36.210 or in another ratemaking proceeding. A lease under Subsection (b)(1) must be treated as a capital lease or finance lease for ratemaking purposes.  (k) This section expires September 1, 2029. | No equivalent provision. |  |
| SECTION 2. Not later than January 1, 2029, the Public Utility Commission of Texas shall:  (1) analyze the effects of authorizing transmission and distribution utilities to lease, operate, procure, or own the facilities described by Section 39.918(b), Utilities Code, as added by this Act; and  (2) submit a report to the legislature that includes the analysis produced under Subdivision (1) of this section and a recommendation of whether the legislature should allow Section 39.918, Utilities Code, as added by this Act, to expire. | No equivalent provision. |  |
| No equivalent provision. | 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. |  |
| No equivalent provision. | 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 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). |  |
| No equivalent provision. | SECTION 3. The Public Utility Commission of Texas shall adopt rules required by Section 35.153, Utilities Code, as added by this Act, as soon as practicable after the effective date of this Act. |  |
| SECTION 3. This Act takes effect September 1, 2021. | SECTION 4. Same as House version. |  |