

By: Harrison

H.B. No. 185

A BILL TO BE ENTITLED

1 AN ACT
2 relating to allocating the cost of ancillary and reliability
3 services procured in the ERCOT power region.

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

5 SECTION 1. The legislature finds that:

6 (1) the welfare of the residents and the economic
7 security of the state depend on the reliability and resilience of
8 the electric power supply;

9 (2) the increased deployment of non-dispatchable wind
10 and solar electricity generation has exposed the bulk power system
11 to significant weather dependence and will continue to erode the
12 reliability and resilience of the grid unless reforms are
13 instituted to more adequately value reliability and resilience;

14 (3) the current system of grid operation and
15 regulatory oversight has failed to ensure the reliability and
16 resilience of the grid for a number of reasons, including:

17 (A) market rules developed by the Electric
18 Reliability Council of Texas and overseen by the Public Utility
19 Commission of Texas have so far failed to adequately value
20 reliability and resilience of the grid; and

21 (B) direct and indirect subsidies for wind and
22 solar electricity generation have led to overinvestment in those
23 forms of electricity generation and undervaluation of
24 dispatchable, reliable, and resilient power plants, which has

1 resulted in the retirement of several such plants, inhibited the
2 addition of such plants, and inhibited weatherization expenditures
3 to increase the reliability and resilience of the grid;

4 (5) several recent federal policy announcements
5 mandating and incentivizing further deployment of significant
6 non-dispatchable electricity sources such as wind and solar without
7 providing sufficient resilient backup power will impose
8 reliability and resilience penalties on the bulk power system
9 relied on by the residents and industries of the state; and

10 (6) it is essential that the legislature immediately
11 provide further direction to the Public Utility Commission of Texas
12 regrading reliability standards for the ERCOT market and new
13 mechanisms to address the reliability and resilience shortcomings
14 of the grid.

15 SECTION 2. Chapter 39, Utilities Code, is amended by adding
16 Subchapter M to read as follows:

17 SUBCHAPTER M. RELIABILITY STANDARD FOR NON-DISPATCHABLE
18 GENERATORS

19 Sec. 39.601. DEFINITIONS. In this subchapter:

20 (1) "Dispatchable generator" means a source of
21 electricity that:

22 (A) is available for use on demand;

23 (B) may be dispatched on the request of a power
24 grid operator;

25 (C) may have its power output adjusted, according
26 to market need; and

27 (D) does not derive its power output primarily

1 from sources that inherently change from minute to minute, such as
2 those dependent on local weather conditions to be present.

3 (2) "Expected availability factor" means the average
4 generation of a non-dispatchable generator, divided by its
5 installed capacity, during the highest 100 net load hours each year
6 in an average of two or more immediately preceding calendar years,
7 as determined by the commission.

8 (3) "Firming requirement" is a requirement for a
9 non-dispatchable generator to ensure that its hourly availability
10 factor during at least 95 hours of the highest 100 net load hours
11 equals or exceeds its expected availability factor by continuing to
12 operate, constructing, or acquiring through a power purchase
13 agreement or other means sufficient resources that are eligible to
14 act as ancillary service reserves according to ERCOT protocols.

15 (4) "Hourly availability factor" means the hourly
16 average generation of a non-dispatchable generator, divided by its
17 installed capacity.

18 (5) "Non-dispatchable generator" means a source of
19 electricity that does not meet the definition of a dispatchable
20 generator in Paragraph (1).

21 Sec. 39.602. FIRMING REQUIREMENT FOR NON-DISPATCHABLE
22 GENERATORS.

23 (a) Each non-dispatchable generator in the market shall, on
24 an annual basis, acquire the necessary resources to meet its
25 firming requirement.

26 (b) Beginning on December 1, 2024 and not later than
27 December 1 of every year thereafter, each non-dispatchable

1 generator in the market shall demonstrate to the commission, in a
2 manner provided by the commission, that the non-dispatchable
3 generator has secured sufficient firming capacity for the upcoming
4 calendar year.

5 (c) The commission shall adopt any rules necessary to
6 implement this section, including rules that establish an ancillary
7 service market or a separate reliability service to implement this
8 section.

9 SECTION 3. Chapter 39, Utilities Code, is amended by adding
10 Subchapter M to read as follows:

11 Sec. 39.603. TRANSPARENCY REQUIRED FOR THE COST OF FIRING
12 AND TRANSMISSION ASSOCIATED WITH NON-DISPATCHABLE GENERATORS.

13 (a) The commission shall prepare a report by December 1,
14 2024 and thereafter on an annual basis, that includes the estimated
15 annual firming costs required to be incurred under this subchapter
16 by non-dispatchable generators, as well as the cumulative annual
17 transmission costs that have been incurred in order to facilitate
18 the transmission of non-dispatchable electricity to load.

19 (b) No later than December 1, 2024, and annually thereafter,
20 the Public Utility Commission shall prepare a report to the
21 Legislature that documents the status of implementation of this
22 subchapter, whether the rules and protocols put in place to
23 implement this Act have materially improved the reliability,
24 resilience, and transparency of the electricity market, and whether
25 any additional measures need to be taken by the legislature to
26 empower the Commission to implement additional market reforms to
27 ensure that market signals are adequate to preserve existing

1 dispatchable generation and incent the construction of new
2 dispatchable generation sufficient to maintain the reliability
3 standard for at least 5 years from the date of the report.

4 SECTION 4. This Act takes effect immediately if it receives
5 a vote of two-thirds of all the members elected to each house, as
6 provided by Section 39, Article III, Texas Constitution. If this
7 Act does not receive the vote necessary for immediate effect, this
8 Act takes effect on the 91st day after the last day of the
9 legislative session.