

BILL ANALYSIS

Senate Research Center
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C.S.H.B. 1500
By: Holland et al. (Schwertner)
Business & Commerce
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Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The Public Utility Commission of Texas (PUC) oversees the state's electric, water and wastewater, and telecommunications utilities, and has complete authority to oversee the Electric Reliability Council of Texas (ERCOT). Following Winter Storm Uri in 2021, the legislature made numerous changes to the electric industry and moved up the sunset dates for PUC, ERCOT, and the Office of Public Utility Counsel (OPUC) to keep a close watch on changes. Overall, the Sunset Advisory Commission found PUC was ill-prepared to become a more active overseer of ERCOT and market participants following Winter Storm Uri, and is under-resourced given its critical responsibilities and the work that still lies ahead. Beyond additional resources, the Sunset Commission found PUC needs more formalized structures and processes when giving ERCOT direction and recommends changes to enhance the transparency of the agency's decision making. Other recommendations seek to improve PUC's water and wastewater regulation, public communications, and data management. H.B. 1500 seeks to continue the PUC and OPUC until 2029, which, in turn, sets the next sunset review of ERCOT for the 2028–2029 review cycle. H.B. 1500 also seeks to revise the provisions governing these entities to implement certain of the sunset commission's recommendations.

(Original Author's/Sponsor's Statement of Intent)

C.S.H.B. 1500 amends current law relating to the continuation and functions of the Public Utility Commission of Texas and the Office of Public Utility Counsel, and the functions of the independent organization certified for the ERCOT power region, and increases an administrative penalty.

RULEMAKING AUTHORITY

Rulemaking authority previously granted to the Public Utility Commission of Texas is modified in SECTIONS 8 (Section 39.151, Utilities Code) and 9 (Section 39.1511, Utilities Code) of this bill.

Rulemaking authority is expressly granted to the Public Utility Commission of Texas in SECTIONS 10 (Section 39.1514, Utilities Code), 16 (Section 39.1592, Utilities Code), 17 (Section 39.168, Utilities Code), and 18 (Section 39.168, Utilities Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 12.005, Utilities Code, as follows:

Sec. 12.005. APPLICATION OF SUNSET ACT. Provides that the Public Utility Commission of Texas (PUC), unless continued in existence as provided by certain chapters, is abolished September 1, 2029, rather than is abolished and Title 2 (Public Utilities Regulatory Act) expires September 1, 2023.

SECTION 2. Amends Section 12.059, Utilities Code, as follows:

Sec. 12.059. TRAINING PROGRAM FOR COMMISSIONERS. (a) Prohibits a person who is appointed to and qualifies for office as a member of the PUC from voting, deliberating, or being counted as a member in attendance at a meeting of the PUC until

the person completes a training program that complies with this section. Deletes existing text requiring a member of the PUC (commissioner), before the commissioner is authorized to assume the commissioner's duties and before the commissioner is authorized to be confirmed by the senate, to complete at least one course of the training program established under this section.

(b) Requires that the training program, rather than a training program established under this section, provide the person with information, rather than provide information to the commissioner, regarding:

(1) the law governing PUC operations, rather than the enabling legislation that created the PUC and its policymaking body to which the commissioner is appointed to serve;

(2) the programs, functions, rules, and budget of the PUC, rather than the programs operated by the PUC;

(3) the scope of and limitations on the rulemaking authority of the PUC, rather than the role and functions of the PUC;

(4) the results of the most recent formal audit of the PUC, rather than the rules of the PUC with an emphasis on the rules that relate to disciplinary and investigatory authority;

(5) the requirements of:

(A) laws relating to open meetings, public information, administrative procedure, and disclosing conflicts of interest; and

(B) other laws applicable to members of a state policy-making body in performing their duties; and

(6) redesignates existing Subdivision (9) as Subdivision (6).

Deletes existing text requiring that the training program provide the person with the current budget for the PUC, the results of the most recent formal audit of the PUC, the requirements of certain chapters of the Government Code, and the requirements of the conflict of interest laws and other laws relating to public officials.

(c) Makes a nonsubstantive change to this subsection.

(d) Requires the executive director of the PUC (executive director) to create a training manual that includes the information required by Subsection (b). Requires the executive director to distribute a copy of the training manual annually to each member of the PUC. Requires each member of the PUC to sign and submit to the executive director a statement acknowledging that the member received and has reviewed the training manual.

SECTION 3. Amends Section 12.202, Utilities Code, by adding Subsections (a-1) and (a-2), as follows:

(a-1) Requires that the policies adopted under Section 12.202 (Public Participation) require the agenda for each regular PUC meeting to include public testimony as a meeting agenda item and allow members of the public to comment on each meeting agenda item unrelated to a contested case and on other matters under the PUC's jurisdiction.

(a-2) Authorizes the PUC to prohibit public comment at a regular PUC meeting on a meeting agenda item related to a contested case.

SECTION 4. Amends Section 12.203, Utilities Code, as follows:

Sec. 12.203. BIENNIAL REPORT. (a) Creates this subsection from existing text. Requires the PUC, not later than January 15 of each odd-numbered year, to prepare a written report that includes:

(1) suggestions regarding modification and improvement of the PUC's statutory authority and for the improvement of utility regulation in general, including the regulation of water and sewer service under Chapter 13 (Water Rates and Services), Water Code, that the PUC considers appropriate for protecting and furthering the interest of the public;

(2) a report on the scope of competition in the electric and telecommunications markets that includes:

(A) an assessment of:

(i) the effect of competition and industry restructuring on customers in both competitive and noncompetitive electric markets; and

(ii) the effect of competition on the rates and availability of electric services for residential and small commercial customers;

(B) an assessment of the effect of competition on:

(i) customers in both competitive and noncompetitive telecommunications markets, with a specific focus on rural markets; and

(ii) the rates and availability of telecommunications services for residential and business customers, including any effects on universal service; and

(C) a summary of PUC action over the preceding two years that reflects changes in the scope of competition in regulated electric and telecommunications markets; and

(3) recommendations for legislation that the PUC determines appropriate to promote the public interest in the context of partially competitive electric and telecommunications markets.

(b) Requires a telecommunications utility, as defined by Section 51.002 (Definitions), to cooperate with the PUC as necessary for the PUC to satisfy the requirements of this section.

SECTION 5. Amends Subchapter E, Chapter 12, Utilities Code, by adding Section 12.205, as follows:

Sec. 12.205. STRATEGIC COMMUNICATIONS PLAN. Requires the PUC to:

(1) develop an agency-wide plan for:

(A) improving the effectiveness of PUC communications with the public, market participants, and other relevant audiences; and

(B) responding to changing communications needs;

(2) include in the plan required by Subdivision (1) goals, objectives, and metrics to assess PUC efforts; and

(3) update the plan required by Subdivision (1) at least once every two years.

SECTION 6. Amends Section 13.002, Utilities Code, as follows:

Sec. 13.002. APPLICATION OF SUNSET ACT. Provides that the Office of Public Utility Counsel, unless continued in existence as provided by Chapter 325 (Sunset Law), Government Code, is abolished September 1, 2029, rather than is abolished and Chapter 13 (Office of Public Utility Counsel) expires September 1, 2023.

SECTION 7. Amends Sections 15.023(b-1) and (f), Utilities Code, as follows:

(b-1) Authorizes the penalty for a violation of a voluntary mitigation plan entered into under Subsection (f) or of a provision of Section 35.0021 (Weather Emergency Preparedness) or 38.075 (Weather Emergency Preparedness), notwithstanding Subsection (b) (relating to authorizing the penalty for a violation to be in an amount not to exceed \$25,000), to be in an amount not to exceed \$1,000,000 for a violation.

(f) Authorizes the PUC and a person to develop and enter into a voluntary mitigation plan relating to a violation of Section 39.157 (Commission Authority to Address Market Power) or rules adopted by the PUC under that section. Authorizes the PUC to approve the plan only if the PUC determines that the plan is in the public interest. Requires that the voluntary mitigation plan be reviewed at least once every two years and not later than the 90th day after the implementation date of a wholesale market design change. Requires the PUC, as part of the review, to determine whether the voluntary mitigation plan remains in the public interest. Requires the PUC and the person, if the PUC determines that the voluntary mitigation plan is no longer in the public interest, to agree to a modification of the plan or the PUC is required to terminate the plan. Authorizes adherence to the plan to be considered in determining whether a violation occurred and, if so, the penalty to be assessed. Deletes existing text providing that adherence to the plan, if the PUC and a person enter into a voluntary mitigation plan, constitutes an absolute defense against an alleged violation with respect to activities covered by the plan.

SECTION 8. Amends Section 39.151, Utilities Code, by amending Subsections (d), (g-1), and (g-6) and adding Subsection (g-7), as follows:

(d) Provides that the PUC is required to adopt and enforce rules relating to the reliability of the regional electrical network and accounting for the production and delivery of electricity among generators and all other market participants, or is authorized to delegate those responsibilities to an independent organization, rather than delegate to an independent organization responsibilities for adopting or enforcing such rules. Provides that the PUC has complete authority to oversee and investigate the independent organization's, rather than the organization's, finances, budget, and operations as necessary to ensure the organization's accountability and to ensure that the organization adequately performs the organization's functions and duties. Deletes existing text providing that rules adopted by an independent organization and enforcement actions taken by the organization under delegated authority from the PUC are subject to PUC oversight and review and are prohibited from taking effect before receiving PUC approval. Makes conforming changes.

(g-1) Requires that the bylaws of an independent organization certified for the ERCOT power region, rather than the independent organization's bylaws or protocols, be approved by and reflect the input of the PUC. Requires that the governing body be composed of:

(1) two members of the PUC as ex officio nonvoting members, rather than the chairman of the PUC as an ex officio nonvoting member:

(A) one of whom is required to be the presiding officer of the PUC; and

(B) one of whom is required to be designated by the presiding officer of the PUC to serve a one-year term on the governing body; and

(2)-(4) makes no changes to these subdivisions.

Makes nonsubstantive changes.

(g-6) Provides that, in this subsection, a reference to a protocol includes a rule. Provides that protocols adopted by an independent organization and enforcement actions taken by the organization under delegated authority from the PUC are subject to PUC oversight and review and are prohibited from taking effect before receiving PUC approval. Authorizes the PUC to approve, reject, or remand with suggested modifications to the independent organization's governing body protocols adopted by the organization.

(g-7) Requires the presiding officer of the PUC to designate commissioners to serve terms on the independent organization's governing body under Subsection (g-1)(1)(B) in the order in which the commissioners were first appointed to the PUC. Prohibits a commissioner from serving an additional term until each commissioner has served a term.

SECTION 9. Amends Section 39.1511, Utilities Code, by amending Subsection (a) and adding Subsection (a-1), as follows:

(a) Authorizes the bylaws of the independent organization and the rules of the PUC to provide for the governing body or subcommittee to enter into executive session closed to the public only to address a matter that the independent organization would be authorized to consider in a closed meeting if the independent organization were governed under Chapter 551 (Open Meetings), Government Code, rather than sensitive matters such as confidential personnel information, contracts, lawsuits, competitively sensitive information, or other information related to the security of the regional electric network.

(a-1) Authorizes an independent organization's governing body or a subcommittee to adopt a policy allowing the governing body or subcommittee to enter into an executive session closed to the public and commissioners, including the commissioners serving as ex officio nonvoting members, only to address a contested case, as defined by Section 2001.003 (Definitions), Government Code, or a personnel matter that is unrelated to members of the governing body.

SECTION 10. Amends Subchapter D, Chapter 39, Utilities Code, by adding Section 39.1514, as follows:

Sec. 39.1514. COMMISSION DIRECTIVES TO INDEPENDENT ORGANIZATION.

(a) Prohibits the PUC from using a verbal directive to direct an independent organization certified under Section 39.151 (Essential Organizations) to take an official action. Authorizes the PUC to direct the organization to take an official action only through a contested case, rulemaking, a memorandum, or a written order.

(b) Requires the PUC by rule to:

(1) specify the types of directives the PUC is authorized to issue through a contested case, rulemaking, memorandum, or written order;

(2) establish the conditions under which a PUC vote is required before issuing a directive;

(3) require that proposed PUC directives be included as an item on a PUC meeting agenda and require the PUC to allow members of the public an opportunity to comment on the agenda item; and

(4) establish a reasonable timeline for the release before a PUC meeting of discussion materials relevant to any proposed PUC directives included as agenda items for that meeting.

(c) Authorizes the PUC, notwithstanding another provision of this section, to use a verbal directive to direct an independent organization to take an official action in an urgent or emergency situation that poses an imminent threat to public health, public safety, or the reliability of the power grid. Requires the PUC, if the PUC uses a verbal directive, to provide written documentation of the directive to the independent organization not later than 72 hours after the urgent or emergency situation ends. Requires the PUC by rule to establish criteria for determining whether a situation is urgent or an emergency under this subsection and establish a process by which the PUC will issue directives to the independent organization under this subsection.

SECTION 11. Amends Section 39.1515, Utilities Code, by amending Subsection (f) and adding Subsection (i), as follows:

(f) Requires the market monitor immediately to report in writing directly to the PUC and PUC staff all potential market manipulations, rather than any potential market manipulations, and all discovered or potential violations, rather than any discovered or potential violations, of PUC rules or rules of the independent organization.

(i) Requires the PUC, not later than December 1 of each year, to submit a report to the legislature that describes for the 12-month period preceding the report's submission:

(1) the number of instances in which the market monitor reported potential market manipulation to the PUC or PUC staff;

(2) the statutes, PUC rules, and rules of the independent organization alleged to have been violated by the reported entities; and

(3) the number of instances reported under Subdivision (1) for which the PUC instituted a formal investigation on its own motion or PUC staff initiated an enforcement action.

SECTION 12. Amends Section 39.155(d), Utilities Code, to make a conforming change.

SECTION 13. Amends Section 39.157(f), Utilities Code, to make a conforming change.

SECTION 14. Amends the heading to Section 39.159, Utilities Code, as added by Chapter 426 (S.B. 3), Acts of the 87th Legislature, Regular Session, 2021, to read as follows:

Sec. 39.159. POWER REGION RELIABILITY AND DISPATCHABLE GENERATION.

SECTION 15. Amends Section 39.159, Utilities Code, as added by Chapter 426 (S.B. 3), Acts of the 87th Legislature, Regular Session, 2021, by adding Subsections (d) and (e), as follows:

(d) Requires the PUC to require the independent organization certified under Section 39.151 for the ERCOT power region to develop and implement an ancillary services program to procure dispatchable reliability reserve services on a day-ahead and real-time basis to account for market uncertainty. Requires the independent organization, under the required program, to:

(1) determine the quantity of services necessary based on historical variations in generation availability for each season based on a targeted reliability standard or goal, including intermittency of non-dispatchable generation facilities and forced outage rates, for dispatchable generation facilities;

- (2) develop criteria for resource participation that require a resource to:
 - (A) be capable of running for at least four hours at the resource's high sustained limit;
 - (B) be online and dispatchable not more than two hours after being called on for deployment; and
 - (C) have the dispatchable flexibility to address inter-hour operational challenges; and
- (3) reduce the amount of reliability unit commitment by the amount of dispatchable reliability reserve services procured under Section 39.159 (Dispatchable Generation).

(e) Authorizes the independent organization certified under Section 39.151 for the ERCOT power region, notwithstanding Subsection (d)(2)(A), to require a resource to be capable of running for more than four hours as the organization determines is needed.

SECTION 16. Amends Subchapter D, Chapter 39, Utilities Code, by adding Sections 39.1591, 39.1592, 39.1593, 39.1594, and 39.1595, as follows:

Sec. 39.1591. REPORT ON DISPATCHABLE AND NON-DISPATCHABLE GENERATION FACILITIES. Requires the PUC, not later than December 1 of each year, to file a report with the legislature that:

- (1) includes:
 - (A) the estimated annual costs incurred under Subchapter D (Market Structure) by dispatchable and non-dispatchable generators to guarantee that a firm amount of electric energy will be provided for 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;
- (2) documents the status of the implementation of this subchapter, including whether the rules and protocols adopted to implement this subchapter have materially improved the reliability, resilience, and transparency of the electricity market; and
- (3) includes recommendations for any additional legislative measures needed to empower the PUC to implement market reforms to ensure that market signals are adequate to preserve existing dispatchable generation and incentivize the construction of new dispatchable generation sufficient to maintain reliability standards for at least five years after the date of the report.

Sec. 39.1592. GENERATION RELIABILITY REQUIREMENTS FOR CERTAIN FACILITIES. (a) Provides that this section applies only to an electric generation facility that is interconnected in the ERCOT power region on or after December 1, 2026, and has been in operation for at least one year.

- (b) Requires the owner or operator of each electric generation facility in the ERCOT power region, not later than December 1 each year, to demonstrate to the PUC the ability of the facility to comply in the following calendar year with the requirements of Subsection (c).

(c) Requires the PUC to require:

- (1) each electric generation facility operating in the ERCOT power region to generate power when called upon for dispatch for at least 15 hours during the highest net load hours during each six-month period designated by the PUC;
- (2) each dispatchable generation facility operating in the ERCOT power region to be capable of operating during at least 90 percent of the highest net load hours each year, excluding planned outage hours; and
- (3) each non-dispatchable generation facility to provide during the highest net load hours each year at least 90 percent of the facility's average generation, as measured without the use of energy storage or dispatchable generation for firming.

(d) Authorizes the owner or operator of an electric generation facility to comply with Subsection (c) by owning or acquiring through a power purchase agreement or other means resources that are capable of providing energy continuously at maximum capability for at least:

- (1) six hours; or
- (2) a number of hours that is more than six adopted by the PUC by rule.

(e) Authorizes the PUC to establish an ancillary service market or a separate reliability service to implement this section.

Sec. 39.1593. COST ALLOCATION OF RELIABILITY SERVICES. (a) Requires the PUC to hold hearings and perform an evaluation to determine whether allocating costs under the methodology described by Subsection (c) would result in a net savings to consumers in the ERCOT power region compared to allocating all costs of ancillary and reliability services to load. Requires the PUC to make the determination required by this subsection not later than December 1, 2027.

(b) Requires the PUC to implement Subsection (c) only if the PUC determines under Subsection (a) that the cost allocation method described by Subsection (c) would result in a net savings to consumers in the ERCOT power region compared to allocating all costs of ancillary and reliability services to load. Requires the PUC, if the PUC makes that determination, to implement Subsection (c) as soon as possible after making the determination.

(c) Requires that the cost of all ancillary services and reliability services procured under Section 39.159, as added by Chapter 426 (S.B. 3), Acts of the 87th Legislature, Regular Session, 2021, be allocated on a semiannual basis among dispatchable generation facilities, non-dispatchable generation facilities, and load-serving entities in proportion to their contribution to unreliability during the highest net load hours in the preceding six months, as determined by the PUC based on a number of hours adopted by the PUC for that six-month period, as follows:

- (1) for each dispatchable generation facility, the difference between the forced outage rate of the facility and the forced outage rate of the facility during the corresponding season for the three years prior to the current season, multiplied by the installed capacity of the facility;
- (2) for non-dispatchable generation facilities, the difference between the mean of the lowest quartile generation for each non-dispatchable generation facility and the mean generation of the facility; and

(3) for each load-serving entity, the difference between the mean of the highest quartile of total ERCOT load and the mean of total ERCOT load, multiplied by the load ratio share of each load-serving entity.

(d) Provides that Subsection (c) applies only to a generation facility or load-serving entity that has participated in the ERCOT market for at least one year, including a load-serving entity whose parent company or affiliate has participated in the ERCOT market for at least one year.

(e) Provides that Subsection (c) does not apply to electric energy storage.

Sec. 39.1594. RELIABILITY PROGRAM. (a) Prohibits the PUC, under Section 39.159(b), as added by Chapter 426 (S.B. 3), Acts of the 87th Legislature, Regular Session, 2021, or other law, from requiring retail customers or load-serving entities in the ERCOT power region to purchase credits designed to support a required reserve margin or other capacity or reliability requirement unless the PUC ensures that:

(1) the cost to the ERCOT market of the credits does not exceed \$1 billion annually;

(2) credits are available only for dispatchable generation, excluding load resources and electric energy storage;

(3) the independent organization certified under Section 39.151 for the ERCOT power region is required to procure the credits centrally in a manner designed to prevent market manipulation by affiliated generation and retail companies;

(4) a generator cannot receive credits that exceed the amount of generation bid into the forward market by that generator;

(5) an electric generating unit can receive a credit only for being available to perform in real time during the tightest intervals of low supply and high demand on the grid, as defined by the PUC on a seasonal basis;

(6) a penalty structure is established, resulting in a net benefit to load, for generators that bid into the forward market but do not meet the full obligation;

(7) any program reliability standard reasonably balances the incremental reliability benefits to customers against the incremental costs of the program based on an evaluation by the wholesale electric market monitor;

(8) a single ERCOT-wide clearing price is established for the program and does not differentiate payments or credit values based on locational constraints;

(9) any market changes implemented as a bridge solution for the program are removed not later than the first anniversary of the date the program was implemented;

(10) the independent organization certified under Section 39.151 for the ERCOT power region begins implementing real time co-optimization of energy and ancillary services in the ERCOT wholesale market before the program is implemented;

(11) all elements of the program are initially implemented on a single starting date;

(12) the terms of the program and any associated market rules do not assign costs, credit, or collateral for the program in a manner that provides a cost advantage to load-serving entities who own, or whose affiliates own, generation facilities;

(13) secured financial credit and collateral requirements are adopted for the program to ensure that other market participants do not bear the risk of nonperformance or nonpayment; and

(14) the wholesale electric market monitor has the authority and necessary resources to investigate potential instances of market manipulation by program participants, including financial and physical actions, and recommend penalties to the PUC.

(b) Provides that this section does not require the PUC to adopt a reliability program that requires an entity to purchase capacity credits.

(c) Requires the PUC and the independent organization certified under Section 39.151 for the ERCOT power region to consider comments and recommendations from a technical advisory committee established under the bylaws of the independent organization that includes market participants when adopting and implementing a program described by Subsection (a), if any.

(d) Requires the PUC, if the PUC adopts a program described by Subsection (a), not later than January 1, 2029, to require the independent organization certified under Section 39.151 for the ERCOT power region and the wholesale electric market monitor to complete an updated assessment on the cost to and effects on the ERCOT market of the proposed reliability program and submit to the PUC and the legislature a report on the costs and benefits of continuing the program. Requires that the assessment include:

(1) an evaluation of the cost of new entry and the effects of the proposed reliability program on consumer costs and the competitive retail market;

(2) a compilation of detailed information regarding cost offsets realized through a reduction in costs in the energy and ancillary services markets and use of reliability unit commitments;

(3) a set of metrics to measure the effects of the proposed reliability program on system reliability;

(4) an evaluation of the cost to retain existing dispatchable resources in the ERCOT power region;

(5) an evaluation of the planned timeline for implementation of real time co-optimization for energy and ancillary services in the ERCOT power region; and

(6) anticipated market and reliability effects of new and updated ancillary service products.

Sec. 39.1595. GRID RELIABILITY LEGISLATIVE OVERSIGHT COMMITTEE. (a) Defines "committee."

(b) Provides that the Grid Reliability Legislative Oversight Committee (committee) is created to oversee the PUC's implementation of legislation related to the regulation of the electricity market in this state enacted by the 87th and 88th Legislatures.

(c) Provides that the committee is composed of eight members as follows:

- (1) three members of the senate, appointed by the lieutenant governor;
- (2) three members of the house of representatives, appointed by the speaker of the house of representatives;
- (3) the chair of the committee of the senate having primary jurisdiction over matters relating to the generation of electricity; and
- (4) the chair of the committee of the house having primary jurisdiction over matters relating to the generation of electricity.

(d) Provides that an appointed member of the committee serves at the pleasure of the appointing official.

(e) Provides that the committee members described by Subsections (c)(3) and (4) serve as presiding co-chairs.

(f) Prohibits a member of the committee from receiving compensation for serving on the committee but is entitled to reimbursement for travel expenses incurred by the member while conducting the business of the committee as provided by the General Appropriations Act.

(g) Requires the committee to meet at least twice each year at the call of either co-chair and to meet at other times at the call of either co-chair, as that officer determines appropriate.

(h) Provides that Chapter 551, Government Code, applies to the committee.

SECTION 17. (a) Provides that this section takes effect only if the Act of the 88th Legislature, Regular Session, 2023, relating to nonsubstantive additions to and corrections in enacted codes becomes law.

(b) Amends Subchapter D, Chapter 39, Utilities Code, by adding Sections 39.166, 39.167, and 39.168, as follows:

Sec. 39.166. ELECTRIC INDUSTRY REPORT. (a) Requires the PUC, not later than January 15 of each odd-numbered year, in consultation with the independent organization certified under Section 39.151 for the ERCOT power region, to prepare and submit to the legislature an electric industry report.

(b) Requires that each electric industry report submitted under this section:

(1) identify existing and potential transmission and distribution constraints and system needs within the ERCOT power region, alternatives for meeting system needs, and recommendations for meeting system needs;

(2) summarize key findings from:

(A) the grid reliability assessment conducted under Section 39.165; and

(B) the report required by Section 39.904(k) (relating to requiring the PUC and the independent organization certified for ERCOT to study the need for increased transmission and generation capacity and report to the legislature the findings by a certain date);

(3) outline basic information regarding the electric grid and market in this state, including generation capacity, customer demand, and transmission capacity currently installed on the grid and projected in the future; and

(4) be presented in plain language that is readily understandable by a person with limited knowledge of the electric industry.

Sec. 39.167. CONFLICTS OF INTEREST REPORT. Requires the PUC and the independent organization certified under Section 39.151 for the ERCOT power region annually to review statutes, rules, protocols, and bylaws that apply to conflicts of interest for commissioners and for members of the governing body of the independent organization and submit to the legislature a report on the effects the statutes, rules, protocols, and bylaws have on the ability of the PUC and the independent organization to fulfill their duties.

Sec. 39.168. RETAIL SALES REPORT. (a) Requires each retail electric provider that offers electricity for sale to report to the PUC:

(1) its annual retail sales in this state;

(2) the annual retail sales of its affiliates by number of customers, kilowatts per hour sold, and revenue from kilowatts per hour sold by customer class; and

(3) any other information the PUC requires relating to affiliations between retail electric providers.

(b) Requires the PUC by rule to prescribe the nature and detail of the reporting requirements. Authorizes the PUC to accept information reported under other law to satisfy the requirements of this section. Provides that information reported under this section is confidential and not subject to disclosure if the information is competitively sensitive information. Requires the PUC to administer the reporting requirements in a manner that ensures the confidentiality of competitively sensitive information.

SECTION 18. (a) Provides that this section takes effect only if the Act of the 88th Legislature, Regular Session, 2023, relating to nonsubstantive additions to and corrections in enacted codes does not become law.

(b) Amends Subchapter D, Chapter 39, Utilities Code, by adding Sections 39.166, 39.167, and 39.168, as follows:

Sec. 39.166. ELECTRIC INDUSTRY REPORT. (a) Requires the PUC, not later than January 15 of each odd-numbered year, in consultation with the independent organization certified under Section 39.151 for the ERCOT power region, to prepare and submit to the legislature an electric industry report.

(b) Requires that each electric industry report submitted under this section:

(1) identify existing and potential transmission and distribution constraints and system needs within the ERCOT power region, alternatives for meeting system needs, and recommendations for meeting system needs;

(2) summarize key findings from:

(A) the grid reliability assessment conducted under Section 39.159, as added by Chapter 876 (S.B. 1281), Acts of the 87th Legislature, Regular Session, 2021; and

(B) the report required by Section 39.904(k);

(3) outline basic information regarding the electric grid and market in this state, including generation capacity, customer demand, and transmission capacity currently installed on the grid and projected in the future; and

(4) be presented in plain language that is readily understandable by a person with limited knowledge of the electric industry.

Sec. 39.167. CONFLICTS OF INTEREST REPORT. Requires the PUC and the independent organization certified under Section 39.151 for the ERCOT power region annually to review statutes, rules, protocols, and bylaws that apply to conflicts of interest for commissioners and for members of the governing body of the independent organization and submit to the legislature a report on the effects the statutes, rules, protocols, and bylaws have on the ability of the PUC and the independent organization to fulfill their duties.

Sec. 39.168. RETAIL SALES REPORT. (a) Requires that each retail electric provider that offers electricity for sale to report to the PUC:

(1) its annual retail sales in this state;

(2) the annual retail sales of its affiliates by number of customers, kilowatts per hour sold, and revenue from kilowatts per hour sold by customer class; and

(3) any other information the PUC requires relating to affiliations between retail electric providers.

(b) Requires the PUC by rule to prescribe the nature and detail of the reporting requirements. Authorizes the PUC to accept information reported under other law to satisfy the requirements of this section. Provides that information reported under this section is confidential and not subject to disclosure if the information is competitively sensitive information. Requires the PUC to administer the reporting requirements in a manner that ensures the confidentiality of competitively sensitive information.

SECTION 19. Amends Section 39.203(i), Utilities Code, to require the PUC, if the PUC determines that statutory changes are needed to ensure that adequate infrastructure is developed for projects of that kind, to include recommendations in the report required by Section 12.203 (Biennial Report), rather than 31.003 (Report on Scope of Competition).

SECTION 20. Amends Section 39.206(q), Utilities Code, as follows:

(q) Deletes existing text requiring the PUC to file legislative recommendations regarding any changes in law that may be necessary to carry out the purposes of this subsection prior to January 15, 2009, which are authorized to be combined with the report required by Section 31.003.

SECTION 21. Amends Section 39.408(g), Utilities Code, to provide that Section 39.408 (Hiring Assistance for Federal Proceedings) expires September 1, 2029, rather than 2023.

SECTION 22. Amends Section 39.4525(g), Utilities Code, to make a conforming change.

SECTION 23. Amends Section 39.504(g), Utilities Code, to make a conforming change.

SECTION 24. Amend Section 39.904(k), Utilities Code, as follows:

(k) Requires the PUC and the independent organization certified under Section 39.151 for the ERCOT power region, rather than certified for ERCOT, to study the need for increased transmission and generation capacity throughout this state and report to the legislature the results of the study and any recommendations for legislation. Requires that the report be filed with the legislature not later than December 31 of each even-numbered year. Deletes existing text authorizing the report to be filed as a part of the report required under Subsection (j) (relating to requiring the PUC, after consultation with each appropriate independent organization, electric reliability council, or regional transmission organization, to file a report with the legislature by a certain date of every even-numbered year regarding certain topics relating to competitive renewable energy zones).

SECTION 25. Amends Section 39.9055, Utilities Code, as follows:

Sec. 39.9055. EXAMINATION OF DEMAND RESPONSE POTENTIAL OF SEAWATER DESALINATION PROJECTS. Requires the PUC to include the results of the study in the report required by Section 12.203, rather than 31.003.

SECTION 26. Amends Section 39.908, Utilities Code, as follows:

Sec. 39.908. EFFECT OF SUNSET PROVISION. Requires that if the PUC is abolished under Section 12.005 (Application of Sunset Act) or other law, the authorities, duties, and functions of the PUC under Chapter 39 (Restructuring of Electric Utility Industry) be performed and carried out by a successor agency to be designated by the legislature before abolishment of the PUC or, if the legislature does not designate the successor, by the secretary of state. Deletes existing text providing that Subchapter Z (Miscellaneous Provisions), including the provisions of this title referred to in this subchapter, if the PUC is abolished and the provisions of this title expire as provided by Chapter 325 (Sunset Law), Government Code, continues in full force and effect and does not expire.

SECTION 27. Amends Section 52.060, Utilities Code, as follows:

Sec. 52.060. ADMINISTRATIVE FEE OR ASSESSMENT. Authorizes the PUC to prescribe and collect a fee or assessment from local exchange companies necessary to recover the cost to the PUC and to the office of activities carried out and services provided under Subchapter B (Incumbent Local Exchange Companies) and Section 12.203, rather than 52.006 (Commission to Report to Legislature).

SECTION 28. Amends Section 13.4132, Water Code, by adding Subsection (b-1), as follows:

(b-1) Prohibits the term of an emergency order issued under Section 13.4132 (Operation of Utility That Discontinues Operation or is Referred for Appointment of Receiver) by the PUC or the Texas Commission on Environmental Quality from exceeding 360 days, notwithstanding Section 5.505 (Term of Order). Authorizes the emergency order to be renewed:

(1) once for a period not to exceed 360 days; or

(2) if the utility is undergoing a sale, transfer, merger, consolidation, or acquisition required to be reported to the PUC under Section 13.301 (Report of Sale, Merger, Etc.; Investigation; Disallowance of Transaction), for a reasonable time until the sale, transfer, merger, consolidation, or acquisition is complete.

SECTION 29. (a) Repealer: Section 304.201 (Report By Commission), Business and Commerce Code.

Repealer: Section 31.003 (Report on Scope of Competition), Utilities Code.

Repealer: Section 39.155(b) (relating to requiring the ERCOT independent system operator to submit an annual report to the PUC identifying existing and potential transmission and distribution constraints and system needs within ERCOT, alternatives for meeting system needs, and recommendations for meeting system needs), Utilities Code.

Repealer: Section 39.904(j) (relating to requiring the PUC, after consultation with each appropriate independent organization, electric reliability council, or regional transmission organization, to file a report with the legislature by a certain date of every even-numbered year regarding certain topics relating to competitive renewable energy zones), Utilities Code.

Repealer: Section 52.006 (Commission to Report to Legislature), Utilities Code.

(b) Repealer: Section 34, Chapter 426 (S.B. 3), Acts of the 87th Legislature, Regular Session, 2021.

SECTION 30. (a) Requires the presiding officer of the PUC to designate a commissioner to serve a term on the governing body of the independent organization certified under Section 39.151, Utilities Code, for the ERCOT power region that begins January 1, 2024, to comply with Section 39.151(g-1) (relating to the bylaws and protocols of the independent organization and requiring that they be approved by the PUC), Utilities Code, as amended by this Act.

(b) Provides that Section 12.059, Utilities Code, as amended by this Act, applies to a member of the PUC appointed before, on, or after the effective date of this Act, except as provided by Subsection (c) of this section,.

(c) Provides that a member of the PUC who, before the effective date of this Act, completed the training program required by Section 12.059, Utilities Code, as that law existed before the effective date of this Act, is only required to complete additional training on the subjects added by this Act to the training program required by Section 12.059, Utilities Code. Prohibits a commission member described by this subsection from voting, deliberating, or being counted as a member in attendance at a meeting of the PUC held on or after December 1, 2023, until the member completes the additional training.

SECTION 31. Requires the PUC to require the independent organization certified under Section 39.151, Utilities Code, for the ERCOT power region to implement the program required by Section 39.159(d), Utilities Code, as added by this Act, not later than December 1, 2024.

SECTION 32. (a) Requires the PUC to prepare the portions of the report required by Sections 39.1591(2) and (3), Utilities Code, as added by this Act, only for reports due on or after December 1, 2024.

(b) Requires the PUC to implement Section 39.1592, Utilities Code, as added by this Act, not later than December 1, 2027.

(c) Requires an owner or operator of an electric generation facility to which Section 39.1592(b), Utilities Code, as added by this Act, applies to make the first demonstration required by that subsection not later than December 1, 2027.

(d) Requires the PUC and the independent organization certified under Section 39.151, Utilities Code, for the ERCOT power region to conduct a study to assess the total cost to consumers of different methods of cost allocation of reliability and ancillary services procured under Section 39.159, Utilities Code, as added by Chapter 426 (S.B. 3), Acts of the 87th Legislature, Regular Session, 2021, including the method of cost allocation provided by Section 39.1593(c), Utilities Code, as added by this Act. Requires that the study include an assessment of cost allocation methods for the ERCOT Contingency

Reserve Service. Requires the PUC to report the results of the study to the legislature not later than December 1, 2024.

(e) Requires the PUC and the independent organization certified under Section 39.151, Utilities Code, for the ERCOT power region to:

(1) conduct a study on whether implementing an alternative to the single market clearing price for energy, ancillary services, and other products would reduce costs to residential and small commercial customers or their load-serving entities, such as paying generators the price bid and not the additional amounts up to the highest cost generator needed to clear the market;

(2) analyze:

(A) whether cost savings can be achieved for consumers, or load-serving entities serving residential and small commercial consumers, by:

(i) limiting generators that have received state or federal subsidies to receiving the price bid by that type of generator; or

(ii) limiting a generator to receiving the price bid by that generator; and

(B) if a pay as bid mechanism is used or a single market clearing price mechanism is retained, whether non-dispatchable and dispatchable generation facilities should bid into separate markets for ERCOT power region products such that the generation facilities are directly competing against technologies with similar attributes; and

(3) report the results of the study and analysis conducted under this subsection to the legislature not later than December 1, 2025.

SECTION 33. Makes application of Section 15.023, Utilities Code, as amended by this Act, prospective.

SECTION 34. Effective date: September 1, 2023.