By:  Holland, et al. (Senate Sponsor - Schwertner) H.B. No. 1500

(In the Senate - Received from the House April 19, 2023; April 20, 2023, read first time and referred to Committee on Business & Commerce; May 23, 2023, reported adversely, with favorable Committee Substitute by the following vote: Yeas 11, Nays 0; May 23, 2023, sent to printer.)

COMMITTEE VOTE

                    Yea Nay Absent  PNV

Schwertner           X

King                 X

Birdwell             X

Campbell             X

Creighton            X

Johnson              X

Kolkhorst            X

Menéndez             X

Middleton            X

Nichols              X

Zaffirini            X

COMMITTEE SUBSTITUTE FOR H.B. No. 1500 By:  Schwertner

A BILL TO BE ENTITLED

AN ACT

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; increasing an administrative penalty.

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

SECTION 1.  Section 12.005, Utilities Code, is amended to read as follows:

Sec. 12.005.  APPLICATION OF SUNSET ACT. The Public Utility Commission of Texas is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter or by Chapter 39, the commission is abolished [~~and this title expires~~] September 1, 2029 [~~2023~~].

SECTION 2.  Section 12.059, Utilities Code, is amended to read as follows:

Sec. 12.059.  TRAINING PROGRAM FOR COMMISSIONERS. (a) A person who is appointed to and qualifies for office as a member of the commission may not vote, deliberate, or be counted as a member in attendance at a meeting of the commission until the person completes a [~~Before a commissioner may assume the commissioner's duties and before the commissioner may be confirmed by the senate, the commissioner must complete at least one course of the~~] training program that complies with [~~established under~~] this section.

(b)  The [~~A~~] training program must [~~established under this section shall~~] provide the person with information [~~to the commissioner~~] regarding:

(1)  the law governing [~~enabling legislation that created the~~] commission operations [~~and its policymaking body to which the commissioner is appointed to serve~~];

(2)  the programs, functions, rules, and budget of [~~operated by~~] the commission;

(3)  the scope [~~role and functions~~] of and limitations on the rulemaking authority of the commission;

(4)  the results [~~rules~~] of the most recent formal audit of the commission [~~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 [~~current budget for the commission~~]; and

(6)  [~~the results of the most recent formal audit of the commission;~~

[~~(7)  the requirements of Chapters 551, 552, and 2001, Government Code;~~

[~~(8)  the requirements of the conflict of interest laws and other laws relating to public officials; and~~

[~~(9)~~]  any applicable ethics policies adopted by the commission or the Texas Ethics Commission.

(c)  A person [~~who is~~] appointed to the commission is entitled to reimbursement, as provided by the General Appropriations Act, for the travel expenses incurred in attending the training program regardless of whether the attendance at the program occurs before or after the person qualifies for office.

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

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

(a-1)  The policies adopted under this section must require the agenda for each regular commission meeting to include public testimony as a meeting agenda item and allow members of the public to comment on:

(1)  each meeting agenda item unrelated to a contested case; and

(2)  other matters under the commission's jurisdiction.

(a-2)  The commission may prohibit public comment at a regular commission meeting on a meeting agenda item related to a contested case.

SECTION 4.  Section 12.203, Utilities Code, is amended to read as follows:

Sec. 12.203.  BIENNIAL REPORT. (a) Not later than January 15 of each odd-numbered year, the commission shall prepare a written report that includes:

(1)  suggestions regarding modification and improvement of the commission's statutory authority and for the improvement of utility regulation in general, including the regulation of water and sewer service under Chapter 13, Water Code, that the commission 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 commission 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 commission determines appropriate to promote the public interest in the context of partially competitive electric and telecommunications markets.

(b)  A telecommunications utility, as defined by Section 51.002, shall cooperate with the commission as necessary for the commission to satisfy the requirements of this section.

SECTION 5.  Subchapter E, Chapter 12, Utilities Code, is amended by adding Section 12.205 to read as follows:

Sec. 12.205.  STRATEGIC COMMUNICATIONS PLAN. The commission shall:

(1)  develop an agency-wide plan for:

(A)  improving the effectiveness of commission 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 commission efforts; and

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

SECTION 6.  Section 13.002, Utilities Code, is amended to read as follows:

Sec. 13.002.  APPLICATION OF SUNSET ACT. The Office of Public Utility Counsel is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the office is abolished [~~and this chapter expires~~] September 1, 2029 [~~2023~~].

SECTION 7.  Sections 15.023(b-1) and (f), Utilities Code, are amended to read as follows:

(b-1)  Notwithstanding Subsection (b), the penalty for a violation of a voluntary mitigation plan entered into under Subsection (f) or of a provision of Section 35.0021 or 38.075 may be in an amount not to exceed $1,000,000 for a violation. Each day a violation continues or occurs is a separate violation for purposes of imposing a penalty.

(f)  The commission and a person may develop and enter into a voluntary mitigation plan relating to a violation of Section 39.157 or rules adopted by the commission under that section. The commission may approve the plan only if the commission determines that the plan is in the public interest. The voluntary mitigation plan must 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. As part of the review, the commission must determine whether the voluntary mitigation plan remains in the public interest. If the commission determines that the voluntary mitigation plan is no longer in the public interest, the commission and the person must agree to a modification of the plan or the commission must terminate the plan. Adherence [~~If the commission and a person enter into a voluntary mitigation plan, adherence~~] to the plan may be considered in determining whether a violation occurred and, if so, the penalty to be assessed [~~constitutes an absolute defense against an alleged violation with respect to activities covered by the plan~~].

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

(d)  The commission shall 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 may delegate those responsibilities to an independent organization [~~responsibilities for adopting or enforcing such rules. Rules adopted by an independent organization and enforcement actions taken by the organization under delegated authority from the commission are subject to commission oversight and review and may not take effect before receiving commission approval~~]. An independent organization certified by the commission is directly responsible and accountable to the commission. The commission has complete authority to oversee and investigate the independent 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. The independent organization shall fully cooperate with the commission in the commission's oversight and investigatory functions. The commission may take appropriate action against an independent organization that does not adequately perform the organization's functions or duties or does not comply with this section, including decertifying the organization or assessing an administrative penalty against the organization. The commission by rule shall adopt procedures governing decertification of an independent organization, selecting and certifying a successor organization, and transferring assets to the successor organization to ensure continuity of operations in the region. The commission may not implement, by order or by rule, a requirement that is contrary to an applicable federal law or rule.

(g-1)  The [~~independent organization's~~] bylaws of an independent organization certified for the ERCOT power region [~~or protocols~~] must be approved by [~~the commission~~] and [~~must~~] reflect the input of the commission. The bylaws must require that every member of the governing body be a resident of this state and must prohibit a legislator from serving as a member. The governing body must be composed of:

(1)  two members [~~the chairman~~] of the commission as [~~an~~] ex officio nonvoting members:

(A)  one of whom must be the presiding officer of the commission; and

(B)  one of whom must be designated by the presiding officer of the commission to serve a one-year term on the governing body [~~member~~];

(2)  the counsellor as an ex officio voting member representing residential and small commercial consumer interests;

(3)  the chief executive officer of the independent organization as an ex officio nonvoting member; and

(4)  eight members selected by the selection committee under Section 39.1513 with executive-level experience in any of the following professions:

(A)  finance;

(B)  business;

(C)  engineering, including electrical engineering;

(D)  trading;

(E)  risk management;

(F)  law; or

(G)  electric market design.

(g-6)  In this subsection, a reference to a protocol includes a rule. Protocols adopted by an independent organization and enforcement actions taken by the organization under delegated authority from the commission are subject to commission oversight and review and may not take effect before receiving commission approval. To maintain certification as an independent organization under this section, the organization's governing body must establish and implement a formal process for adopting new protocols or revisions to existing protocols. The process must require that new or revised protocols may not take effect until the commission approves a market impact statement describing the new or revised protocols. The commission may approve, reject, or remand with suggested modifications to the independent organization's governing body protocols adopted by the organization.

(g-7)  The presiding officer of the commission shall 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 commission. A commissioner may not serve an additional term until each commissioner has served a term.

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

(a)  Meetings of the governing body of an independent organization certified under Section 39.151 and meetings of a subcommittee that includes a member of the governing body must be open to the public. The bylaws of the independent organization and the rules of the commission may 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, Government Code [~~sensitive matters such as confidential personnel information, contracts, lawsuits, competitively sensitive information, or other information related to the security of the regional electrical network~~].

(a-1)  An independent organization's governing body or a subcommittee may 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, Government Code, or a personnel matter that is unrelated to members of the governing body.

SECTION 10.  Subchapter D, Chapter 39, Utilities Code, is amended by adding Section 39.1514 to read as follows:

Sec. 39.1514.  COMMISSION DIRECTIVES TO INDEPENDENT ORGANIZATION. (a) The commission may not use a verbal directive to direct an independent organization certified under Section 39.151 to take an official action. The commission may direct the organization to take an official action only through:

(1)  a contested case;

(2)  rulemaking;

(3)  a memorandum; or

(4)  a written order.

(b)  The commission by rule shall:

(1)  specify the types of directives the commission may issue through a contested case, rulemaking, memorandum, or written order;

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

(3)  require that proposed commission directives be included as an item on a commission meeting agenda and require the commission 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 commission meeting of discussion materials relevant to any proposed commission directives included as agenda items for that meeting.

(c)  Notwithstanding another provision of this section, the commission may 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. If the commission uses a verbal directive, the commission shall provide written documentation of the directive to the independent organization not later than 72 hours after the urgent or emergency situation ends. The commission by rule shall establish criteria for determining whether a situation is urgent or an emergency under this subsection and establish a process by which the commission will issue directives to the independent organization under this subsection.

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

(f)  The market monitor immediately shall report in writing directly to the commission and commission staff all [~~any~~] potential market manipulations and all [~~any~~] discovered or potential violations of commission rules or rules of the independent organization.

(i)  Not later than December 1 of each year, the commission shall 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 commission or commission staff;

(2)  the statutes, commission 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 commission instituted a formal investigation on its own motion or commission staff initiated an enforcement action.

SECTION 12.  Section 39.155(d), Utilities Code, is amended to read as follows:

(d)  In a qualifying power region, the report [~~reports~~] required by Subsection (c) [~~Subsections (b) and (c)~~] shall be submitted by the independent organization or organizations having authority over the power region or discrete areas thereof.

SECTION 13.  Section 39.157(f), Utilities Code, is amended to read as follows:

(f)  Following review of the annual report [~~reports~~] submitted to it under Section 39.155(c) [~~Sections 39.155(b) and (c)~~], the commission shall determine whether specific transmission or distribution constraints or bottlenecks within this state give rise to market power in specific geographic markets in the state. The commission, on a finding that specific transmission or distribution constraints or bottlenecks within this state give rise to market power, may order reasonable mitigation of that potential market power by ordering, under Section 39.203(e), one or more electric utilities or transmission and distribution utilities to construct additional transmission or distribution capacity, or both, subject to the certification provisions of this title.

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

Sec. 39.159.  POWER REGION RELIABILITY AND DISPATCHABLE GENERATION.

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

(d)  The commission shall 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. Under the required program, the independent organization shall:

(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 this section.

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

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

Sec. 39.1591.  REPORT ON DISPATCHABLE AND NON-DISPATCHABLE GENERATION FACILITIES. Not later than December 1 of each year, the commission shall file a report with the legislature that:

(1)  includes:

(A)  the estimated annual costs incurred under this subchapter 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 commission 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) 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)  Not later than December 1 each year, the owner or operator of each electric generation facility in the ERCOT power region shall demonstrate to the commission the ability of the facility to comply in the following calendar year with the requirements of Subsection (c).

(c)  The commission shall 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 commission;

(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)  The owner or operator of an electric generation facility may 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 commission by rule.

(e)  The commission may establish an ancillary service market or a separate reliability service to implement this section.

Sec. 39.1593.  COST ALLOCATION OF RELIABILITY SERVICES. (a) The commission shall 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. The commission shall make the determination required by this subsection not later than December 1, 2027.

(b)  The commission shall implement Subsection (c) only if the commission 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. If the commission makes that determination, the commission shall implement Subsection (c) as soon as possible after making the determination.

(c)  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, shall 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 commission based on a number of hours adopted by the commission 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)  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)  Subsection (c) does not apply to electric energy storage.

Sec. 39.1594.  RELIABILITY PROGRAM. (a) Under Section 39.159(b), as added by Chapter 426 (S.B. 3), Acts of the 87th Legislature, Regular Session, 2021, or other law, the commission may not require 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 commission 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 commission 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 commission.

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

(c)  The commission and the independent organization certified under Section 39.151 for the ERCOT power region shall 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)  If the commission adopts a program described by Subsection (a), not later than January 1, 2029, the commission shall 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 commission and the legislature a report on the costs and benefits of continuing the program. The assessment must 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) In this section, "committee" means the Grid Reliability Legislative Oversight Committee established under this section.

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

(c)  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)  An appointed member of the committee serves at the pleasure of the appointing official.

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

(f)  A member of the committee may not receive 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)  The committee shall meet at least twice each year at the call of either co-chair and shall meet at other times at the call of either co-chair, as that officer determines appropriate.

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

SECTION 17.  (a) 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)  Subchapter D, Chapter 39, Utilities Code, is amended by adding Sections 39.166, 39.167, and 39.168 to read as follows:

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

(b)  Each electric industry report submitted under this section must:

(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);

(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. The commission and the independent organization certified under Section 39.151 for the ERCOT power region annually shall 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 commission and the independent organization to fulfill their duties.

Sec. 39.168.  RETAIL SALES REPORT. (a) Each retail electric provider that offers electricity for sale shall report to the commission:

(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 commission requires relating to affiliations between retail electric providers.

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

SECTION 18.  (a) 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)  Subchapter D, Chapter 39, Utilities Code, is amended by adding Sections 39.166, 39.167, and 39.168 to read as follows:

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

(b)  Each electric industry report submitted under this section must:

(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. The commission and the independent organization certified under Section 39.151 for the ERCOT power region annually shall 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 commission and the independent organization to fulfill their duties.

Sec. 39.168.  RETAIL SALES REPORT. (a) Each retail electric provider that offers electricity for sale shall report to the commission:

(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 commission requires relating to affiliations between retail electric providers.

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

SECTION 19.  Section 39.203(i), Utilities Code, is amended to read as follows:

(i)  The commission, in cooperation with transmission and distribution utilities and the ERCOT independent system operator, shall study whether existing transmission and distribution planning processes are sufficient to provide adequate infrastructure for seawater desalination projects. If the commission determines that statutory changes are needed to ensure that adequate infrastructure is developed for projects of that kind, the commission shall include recommendations in the report required by Section 12.203 [~~31.003~~].

SECTION 20.  Section 39.206(q), Utilities Code, is amended to read as follows:

(q)  The commission shall, in conjunction with the Nuclear Regulatory Commission, investigate the development of a mechanism whereby the State of Texas could ensure that funds for decommissioning will be obtained when necessary in the same manner as if the State of Texas were the licensee under federal law. [~~The commission shall 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 may be combined with the report required by Section 31.003.~~]

SECTION 21.  Section 39.408(g), Utilities Code, is amended to read as follows:

(g)  This section expires September 1, 2029 [~~2023~~].

SECTION 22.  Section 39.4525(g), Utilities Code, is amended to read as follows:

(g)  This section expires September 1, 2029 [~~2023~~].

SECTION 23.  Section 39.504(g), Utilities Code, is amended to read as follows:

(g)  This section expires September 1, 2029 [~~2023~~].

SECTION 24.  Section 39.904(k), Utilities Code, is amended to read as follows:

(k)  The commission and the independent organization certified under Section 39.151 for the ERCOT power region [~~for ERCOT~~] shall 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. The report must be filed with the legislature not later than December 31 of each even-numbered year [~~and may be filed as a part of the report required by Subsection (j)~~].

SECTION 25.  Section 39.9055, Utilities Code, is amended to read as follows:

Sec. 39.9055.  EXAMINATION OF DEMAND RESPONSE POTENTIAL OF SEAWATER DESALINATION PROJECTS. The commission and the ERCOT independent system operator shall study the potential for seawater desalination projects to participate in existing demand response opportunities in the ERCOT market. To the extent feasible, the study shall determine whether the operational characteristics of seawater desalination projects enable projects of that kind to participate in ERCOT-operated ancillary services markets or other competitively supplied demand response opportunities. The study shall also determine the potential economic benefit to a seawater desalination project if the project is able to reduce its demand during peak pricing periods. The commission shall include the results of the study in the report required by Section 12.203 [~~31.003~~].

SECTION 26.  Section 39.908, Utilities Code, is amended to read as follows:

Sec. 39.908.  EFFECT OF SUNSET PROVISION. [~~(a)~~] If the commission is abolished under Section 12.005 or other law, the [~~and the other provisions of this title expire as provided by Chapter 325, Government Code (Texas Sunset Act), this subchapter, including the provisions of this title referred to in this subchapter, continues in full force and effect and does not expire.~~

[~~(b)  The~~] authorities, duties, and functions of the commission under this chapter shall be performed and carried out by a successor agency to be designated by the legislature before abolishment of the commission or, if the legislature does not designate the successor, by the secretary of state.

SECTION 27.  Section 52.060, Utilities Code, is amended to read as follows:

Sec. 52.060.  ADMINISTRATIVE FEE OR ASSESSMENT. The commission may prescribe and collect a fee or assessment from local exchange companies necessary to recover the cost to the commission and to the office of activities carried out and services provided under this subchapter and Section 12.203 [~~52.006~~].

SECTION 28.  Section 13.4132, Water Code, is amended by adding Subsection (b-1) to read as follows:

(b-1)  Notwithstanding Section 5.505, the term of an emergency order issued under this section by the utility commission or the commission may not exceed 360 days. The emergency order may 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 utility commission under Section 13.301, for a reasonable time until the sale, transfer, merger, consolidation, or acquisition is complete.

SECTION 29.  (a) The following provisions are repealed:

(1)  Section 304.201, Business & Commerce Code;

(2)  Section 31.003, Utilities Code;

(3)  Section 39.155(b), Utilities Code;

(4)  Section 39.904(j), Utilities Code; and

(5)  Section 52.006, Utilities Code.

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

SECTION 30.  (a) The presiding officer of the Public Utility Commission of Texas shall 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), Utilities Code, as amended by this Act.

(b)   Except as provided by Subsection (c) of this section, Section 12.059, Utilities Code, as amended by this Act, applies to a member of the Public Utility Commission of Texas appointed before, on, or after the effective date of this Act.

(c)  A member of the Public Utility Commission of Texas 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. A commission member described by this subsection may not vote, deliberate, or be counted as a member in attendance at a meeting of the commission held on or after December 1, 2023, until the member completes the additional training.

SECTION 31.  The Public Utility Commission of Texas shall 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)  The Public Utility Commission of Texas shall 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)  The Public Utility Commission of Texas shall implement Section 39.1592, Utilities Code, as added by this Act, not later than December 1, 2027.

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

(d)  The Public Utility Commission of Texas and the independent organization certified under Section 39.151, Utilities Code, for the ERCOT power region shall 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. The study must include an assessment of cost allocation methods for the ERCOT Contingency Reserve Service. The Public Utility Commission of Texas shall report the results of the study to the legislature not later than December 1, 2024.

(e)  The Public Utility Commission of Texas and the independent organization certified under Section 39.151, Utilities Code, for the ERCOT power region shall:

(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.  The changes in law made by this Act to Section 15.023, Utilities Code, apply only to a violation committed on or after the effective date of this Act. A violation committed before the effective date of this Act is governed by the law in effect when the violation was committed, and the former law is continued in effect for that purpose.

SECTION 34.  This Act takes effect September 1, 2023.

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