88R31129 CXP-D

By:  Schwertner, et al. S.B. No. 7

(Hunter)

Substitute the following for S.B. No. 7:

By:  Spiller C.S.S.B. No. 7

A BILL TO BE ENTITLED

AN ACT

relating to the reliability of the ERCOT power grid.

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

SECTION 1.  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 2.  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), (e), and (f) to read as follows:

(d)  The commission shall require the independent organization certified under Section 39.151 for the ERCOT power region to consider implementing an ancillary services program to procure dispatchable reliability reserve services on a day-ahead and real-time basis to account for market uncertainty. The program to be considered may:

(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 or for more than four hours as the organization determines is needed;

(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)  The independent organization certified under Section 39.151 for the ERCOT power region may implement programs described by Subsections (d) and (f) simultaneously.

(f)  The commission shall require the independent organization certified under Section 39.151 for the ERCOT power region to develop and implement a program to ensure minimum generation performance during times of high reliability risk due to low operating reserves. The program must:

(1)  apply to each electric power generation resource in the ERCOT power region that enters into a signed generator interconnection agreement after January 1, 2026;

(2)  be independently evaluated by the wholesale electric market monitor, including a historical analysis;

(3)  allow entities, at the portfolio level, to meet the performance requirements by supplementing or contracting with on-site or off-site resources, including battery energy storage resources and load resources;

(4)  provide penalties for failing to comply with the performance requirements and financial incentives for exceeding those requirements, except that penalties may not apply to resource unavailability due to planned maintenance outages or physical transmission outages or during hours when the resource would not be expected to perform based on the resource type; and

(5)  exempt battery energy storage resources from the generation performance requirements.

SECTION 3.  Subchapter D, Chapter 39, Utilities Code, is amended by adding Section 39.1591 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.

SECTION 4.  Subchapter D, Chapter 39, Utilities Code, is amended by adding Section 39.166 to read as follows:

Sec. 39.166.  RELIABILITY PROGRAM. (a) 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 until:

(1)  the independent organization certified under Section 39.151 for the ERCOT power region and the wholesale electric market monitor complete an updated assessment on the cost to and effects on the ERCOT market of the proposed reliability program; and

(2)  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.

(b)  The assessment required under Subsection (a) 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.

(c)  The commission may not implement a reliability program described by Subsection (a) unless the commission by rule establishes the essential features of the program, including requirements to meet the reliability needs of the power region, and the program:

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

(2)  limits participation in the program to dispatchable resources with the specific attributes necessary to meet operational needs of the ERCOT power region;

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

(4)  ensures that 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;

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

(6)  provides the wholesale electric market monitor with the authority and resources necessary to investigate potential instances of market manipulation by any means, including by financial or physical actions;

(7)  ensures that 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)  establishes a single ERCOT-wide clearing price for the program and does not differentiate payments or credit values based on locational constraints;

(9)  does 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;

(10)  requires sufficient secured collateral so that other market participants do not bear the risk of non-performance or non-payment;

(11)  ensures that the cost of all credits paid to dispatchable resources is allocated to loads based on an hourly load ratio share; and

(12)  removes any market changes implemented as a bridge solution for the program not later than the first anniversary of the date the program was implemented.

(d)  The commission and the independent organization certified under Section 39.151 for the ERCOT power region may not adopt a market rule for the ERCOT power region associated with the implementation of a reliability program described by Subsection (a) that provides a cost advantage to load-serving entities who own, or whose affiliates own, generation facilities.

(e)  The commission and the independent organization certified under Section 39.151 for the ERCOT power region shall ensure that the net cost imposed on the ERCOT market for the credits does not exceed $1 billion annually, less the cost of any interim or bridge solutions that are lawfully implemented, except that the commission may adjust the limit:

(1)  proportionally according to the highest net peak demand year-over-year with a base year of 2026; and

(2)  for inflation with a base year of 2026.

(f)  The wholesale electric market monitor biennially shall:

(1)  evaluate the incremental reliability benefits of the program for consumers compared to the costs to consumers of the program and the costs in the energy and ancillary services markets; and

(2)  report the results of each evaluation to the legislature.

SECTION 5.  (a)  Not later than September 1, 2024, the Public Utility Commission of Texas shall implement the changes in law made by Section 39.159(f), Utilities Code, as added by this Act.

(b)  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.

(c)  The Public Utility Commission of Texas is required 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.

(d)  Not later than December 31, 2024, the wholesale electric market monitor described by Section 39.1515, Utilities Code, shall submit to the legislature recommendations regarding the implementation of the program required by Section 39.159(f), Utilities Code, as added by this Act.

SECTION 6.  This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2023.