

1-1 By: Holland, et al. (Senate Sponsor - Schwertner) H.B. No. 1500
1-2 (In the Senate - Received from the House April 19, 2023;
1-3 April 20, 2023, read first time and referred to Committee on
1-4 Business & Commerce; May 23, 2023, reported adversely, with
1-5 favorable Committee Substitute by the following vote: Yeas 11,
1-6 Nays 0; May 23, 2023, sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	<u>Schwertner</u>	X		
1-10	<u>King</u>	X		
1-11	<u>Birdwell</u>	X		
1-12	<u>Campbell</u>	X		
1-13	<u>Creighton</u>	X		
1-14	<u>Johnson</u>	X		
1-15	<u>Kolkhorst</u>	X		
1-16	<u>Menéndez</u>	X		
1-17	<u>Middleton</u>	X		
1-18	<u>Nichols</u>	X		
1-19	<u>Zaffirini</u>	X		

1-20 COMMITTEE SUBSTITUTE FOR H.B. No. 1500 By: Schwertner

1-21 A BILL TO BE ENTITLED
1-22 AN ACT

1-23 relating to the continuation and functions of the Public Utility
1-24 Commission of Texas and the Office of Public Utility Counsel, and
1-25 the functions of the independent organization certified for the
1-26 ERCOT power region; increasing an administrative penalty.

1-27 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-28 SECTION 1. Section 12.005, Utilities Code, is amended to
1-29 read as follows:

1-30 Sec. 12.005. APPLICATION OF SUNSET ACT. The Public Utility
1-31 Commission of Texas is subject to Chapter 325, Government Code
1-32 (Texas Sunset Act). Unless continued in existence as provided by
1-33 that chapter or by Chapter 39, the commission is abolished [~~and this~~
1-34 ~~title expires~~] September 1, 2029 [2023].

1-35 SECTION 2. Section 12.059, Utilities Code, is amended to
1-36 read as follows:

1-37 Sec. 12.059. TRAINING PROGRAM FOR COMMISSIONERS. (a) A
1-38 person who is appointed to and qualifies for office as a member of
1-39 the commission may not vote, deliberate, or be counted as a member
1-40 in attendance at a meeting of the commission until the person
1-41 completes a [Before a commissioner may assume the commissioner's
1-42 duties and before the commissioner may be confirmed by the senate,
1-43 the commissioner must complete at least one course of the] training
1-44 program that complies with [established under] this section.

1-45 (b) The [A] training program must [established under this
1-46 section shall] provide the person with information [to the
1-47 commissioner] regarding:

1-48 (1) the law governing [enabling legislation that
1-49 created the] commission operations [and its policymaking body to
1-50 which the commissioner is appointed to serve];

1-51 (2) the programs, functions, rules, and budget of
1-52 [operated by] the commission;

1-53 (3) the scope [role and functions] of and limitations
1-54 on the rulemaking authority of the commission;

1-55 (4) the results [rules] of the most recent formal
1-56 audit of the commission [with an emphasis on the rules that relate
1-57 to disciplinary and investigatory authority];

1-58 (5) the requirements of:

1-59 (A) laws relating to open meetings, public
1-60 information, administrative procedure, and disclosing conflicts of

2-1 interest; and
 2-2 (B) other laws applicable to members of a state
 2-3 policy-making body in performing their duties ~~[current budget for~~
 2-4 ~~the commission]; and~~
 2-5 ~~(6) [the results of the most recent formal audit of the~~
 2-6 ~~commission;~~
 2-7 ~~[(7) the requirements of Chapters 551, 552, and 2001,~~
 2-8 ~~Government Code;~~
 2-9 ~~[(8) the requirements of the conflict of interest laws~~
 2-10 ~~and other laws relating to public officials; and~~
 2-11 ~~[(9)] any applicable ethics policies adopted by the~~
 2-12 ~~commission or the Texas Ethics Commission.~~
 2-13 (c) A person ~~[who is]~~ appointed to the commission is
 2-14 entitled to reimbursement, as provided by the General
 2-15 Appropriations Act, for the travel expenses incurred in attending
 2-16 the training program regardless of whether the attendance at the
 2-17 program occurs before or after the person qualifies for office.
 2-18 (d) The executive director of the commission shall create a
 2-19 training manual that includes the information required by
 2-20 Subsection (b). The executive director shall distribute a copy of
 2-21 the training manual annually to each member of the commission. Each
 2-22 member of the commission shall sign and submit to the executive
 2-23 director a statement acknowledging that the member received and has
 2-24 reviewed the training manual.
 2-25 SECTION 3. Section 12.202, Utilities Code, is amended by
 2-26 adding Subsections (a-1) and (a-2) to read as follows:
 2-27 (a-1) The policies adopted under this section must require
 2-28 the agenda for each regular commission meeting to include public
 2-29 testimony as a meeting agenda item and allow members of the public
 2-30 to comment on:
 2-31 (1) each meeting agenda item unrelated to a contested
 2-32 case; and
 2-33 (2) other matters under the commission's jurisdiction.
 2-34 (a-2) The commission may prohibit public comment at a
 2-35 regular commission meeting on a meeting agenda item related to a
 2-36 contested case.
 2-37 SECTION 4. Section 12.203, Utilities Code, is amended to
 2-38 read as follows:
 2-39 Sec. 12.203. BIENNIAL REPORT. (a) Not later than January
 2-40 15 of each odd-numbered year, the commission shall prepare a
 2-41 written report that includes:
 2-42 (1) suggestions regarding modification and
 2-43 improvement of the commission's statutory authority and for the
 2-44 improvement of utility regulation in general, including the
 2-45 regulation of water and sewer service under Chapter 13, Water Code,
 2-46 that the commission considers appropriate for protecting and
 2-47 furthering the interest of the public;
 2-48 (2) a report on the scope of competition in the
 2-49 electric and telecommunications markets that includes:
 2-50 (A) an assessment of:
 2-51 (i) the effect of competition and industry
 2-52 restructuring on customers in both competitive and noncompetitive
 2-53 electric markets; and
 2-54 (ii) the effect of competition on the rates
 2-55 and availability of electric services for residential and small
 2-56 commercial customers;
 2-57 (B) an assessment of the effect of competition
 2-58 on:
 2-59 (i) customers in both competitive and
 2-60 noncompetitive telecommunications markets, with a specific focus
 2-61 on rural markets; and
 2-62 (ii) the rates and availability of
 2-63 telecommunications services for residential and business
 2-64 customers, including any effects on universal service; and
 2-65 (C) a summary of commission action over the
 2-66 preceding two years that reflects changes in the scope of
 2-67 competition in regulated electric and telecommunications markets;
 2-68 and
 2-69 (3) recommendations for legislation that the

3-1 commission determines appropriate to promote the public interest in
3-2 the context of partially competitive electric and
3-3 telecommunications markets.

3-4 (b) A telecommunications utility, as defined by Section
3-5 51.002, shall cooperate with the commission as necessary for the
3-6 commission to satisfy the requirements of this section.

3-7 SECTION 5. Subchapter E, Chapter 12, Utilities Code, is
3-8 amended by adding Section 12.205 to read as follows:

3-9 Sec. 12.205. STRATEGIC COMMUNICATIONS PLAN. The commission
3-10 shall:

3-11 (1) develop an agency-wide plan for:
3-12 (A) improving the effectiveness of commission
3-13 communications with the public, market participants, and other
3-14 relevant audiences; and

3-15 (B) responding to changing communications needs;
3-16 (2) include in the plan required by Subdivision (1)
3-17 goals, objectives, and metrics to assess commission efforts; and

3-18 (3) update the plan required by Subdivision (1) at
3-19 least once every two years.

3-20 SECTION 6. Section 13.002, Utilities Code, is amended to
3-21 read as follows:

3-22 Sec. 13.002. APPLICATION OF SUNSET ACT. The Office of
3-23 Public Utility Counsel is subject to Chapter 325, Government Code
3-24 (Texas Sunset Act). Unless continued in existence as provided by
3-25 that chapter, the office is abolished [~~and this chapter expires~~]
3-26 September 1, 2029 [~~2023~~].

3-27 SECTION 7. Sections 15.023(b-1) and (f), Utilities Code,
3-28 are amended to read as follows:

3-29 (b-1) Notwithstanding Subsection (b), the penalty for a
3-30 violation of a voluntary mitigation plan entered into under
3-31 Subsection (f) or of a provision of Section 35.0021 or 38.075 may be
3-32 in an amount not to exceed \$1,000,000 for a violation. Each day a
3-33 violation continues or occurs is a separate violation for purposes
3-34 of imposing a penalty.

3-35 (f) The commission and a person may develop and enter into a
3-36 voluntary mitigation plan relating to a violation of Section 39.157
3-37 or rules adopted by the commission under that section. The
3-38 commission may approve the plan only if the commission determines
3-39 that the plan is in the public interest. The voluntary mitigation
3-40 plan must be reviewed at least once every two years and not later
3-41 than the 90th day after the implementation date of a wholesale
3-42 market design change. As part of the review, the commission must
3-43 determine whether the voluntary mitigation plan remains in the
3-44 public interest. If the commission determines that the voluntary
3-45 mitigation plan is no longer in the public interest, the commission
3-46 and the person must agree to a modification of the plan or the
3-47 commission must terminate the plan. Adherence [~~If the commission~~
3-48 ~~and a person enter into a voluntary mitigation plan, adherence]~~ to
3-49 the plan may be considered in determining whether a violation
3-50 occurred and, if so, the penalty to be assessed [~~constitutes an~~
3-51 ~~absolute defense against an alleged violation with respect to~~
3-52 ~~activities covered by the plan].~~

3-53 SECTION 8. Section 39.151, Utilities Code, is amended by
3-54 amending Subsections (d), (g-1), and (g-6) and adding Subsection
3-55 (g-7) to read as follows:

3-56 (d) The commission shall adopt and enforce rules relating to
3-57 the reliability of the regional electrical network and accounting
3-58 for the production and delivery of electricity among generators and
3-59 all other market participants, or may delegate those
3-60 responsibilities to an independent organization [~~responsibilities~~
3-61 ~~for adopting or enforcing such rules. Rules adopted by an~~
3-62 ~~independent organization and enforcement actions taken by the~~
3-63 ~~organization under delegated authority from the commission are~~
3-64 ~~subject to commission oversight and review and may not take effect~~
3-65 ~~before receiving commission approval].~~ An independent organization
3-66 certified by the commission is directly responsible and accountable
3-67 to the commission. The commission has complete authority to
3-68 oversee and investigate the independent organization's finances,
3-69 budget, and operations as necessary to ensure the organization's

4-1 accountability and to ensure that the organization adequately
 4-2 performs the organization's functions and duties. The independent
 4-3 organization shall fully cooperate with the commission in the
 4-4 commission's oversight and investigatory functions. The
 4-5 commission may take appropriate action against an independent
 4-6 organization that does not adequately perform the organization's
 4-7 functions or duties or does not comply with this section, including
 4-8 decertifying the organization or assessing an administrative
 4-9 penalty against the organization. The commission by rule shall
 4-10 adopt procedures governing decertification of an independent
 4-11 organization, selecting and certifying a successor organization,
 4-12 and transferring assets to the successor organization to ensure
 4-13 continuity of operations in the region. The commission may not
 4-14 implement, by order or by rule, a requirement that is contrary to an
 4-15 applicable federal law or rule.

4-16 (g-1) The ~~[independent organization's]~~ bylaws of an
 4-17 independent organization certified for the ERCOT power region [or
 4-18 protocols] must be approved by ~~[the commission]~~ and ~~[must]~~ reflect
 4-19 the input of the commission. The bylaws must require that every
 4-20 member of the governing body be a resident of this state and must
 4-21 prohibit a legislator from serving as a member. The governing body
 4-22 must be composed of:

4-23 (1) two members ~~[the chairman]~~ of the commission as
 4-24 ~~[an]~~ ex officio nonvoting members:

4-25 (A) one of whom must be the presiding officer of
 4-26 the commission; and

4-27 (B) one of whom must be designated by the
 4-28 presiding officer of the commission to serve a one-year term on the
 4-29 governing body ~~[member];~~

4-30 (2) the counsellor as an ex officio voting member
 4-31 representing residential and small commercial consumer interests;

4-32 (3) the chief executive officer of the independent
 4-33 organization as an ex officio nonvoting member; and

4-34 (4) eight members selected by the selection committee
 4-35 under Section 39.1513 with executive-level experience in any of the
 4-36 following professions:

4-37 (A) finance;

4-38 (B) business;

4-39 (C) engineering, including electrical
 4-40 engineering;

4-41 (D) trading;

4-42 (E) risk management;

4-43 (F) law; or

4-44 (G) electric market design.

4-45 (g-6) In this subsection, a reference to a protocol includes
 4-46 a rule. Protocols adopted by an independent organization and
 4-47 enforcement actions taken by the organization under delegated
 4-48 authority from the commission are subject to commission oversight
 4-49 and review and may not take effect before receiving commission
 4-50 approval. To maintain certification as an independent organization
 4-51 under this section, the organization's governing body must
 4-52 establish and implement a formal process for adopting new protocols
 4-53 or revisions to existing protocols. The process must require that
 4-54 new or revised protocols may not take effect until the commission
 4-55 approves a market impact statement describing the new or revised
 4-56 protocols. The commission may approve, reject, or remand with
 4-57 suggested modifications to the independent organization's
 4-58 governing body protocols adopted by the organization.

4-59 (g-7) The presiding officer of the commission shall
 4-60 designate commissioners to serve terms on the independent
 4-61 organization's governing body under Subsection (g-1)(1)(B) in the
 4-62 order in which the commissioners were first appointed to the
 4-63 commission. A commissioner may not serve an additional term until
 4-64 each commissioner has served a term.

4-65 SECTION 9. Section 39.1511, Utilities Code, is amended by
 4-66 amending Subsection (a) and adding Subsection (a-1) to read as
 4-67 follows:

4-68 (a) Meetings of the governing body of an independent
 4-69 organization certified under Section 39.151 and meetings of a

5-1 subcommittee that includes a member of the governing body must be
 5-2 open to the public. The bylaws of the independent organization and
 5-3 the rules of the commission may provide for the governing body or
 5-4 subcommittee to enter into executive session closed to the public
 5-5 only to address a matter that the independent organization would be
 5-6 authorized to consider in a closed meeting if the independent
 5-7 organization were governed under Chapter 551, Government Code
 5-8 [sensitive matters such as confidential personnel information,
 5-9 contracts, lawsuits, competitively sensitive information, or other
 5-10 information related to the security of the regional electrical
 5-11 network].

5-12 (a-1) An independent organization's governing body or a
 5-13 subcommittee may adopt a policy allowing the governing body or
 5-14 subcommittee to enter into an executive session closed to the
 5-15 public and commissioners, including the commissioners serving as ex
 5-16 officio nonvoting members, only to address a contested case, as
 5-17 defined by Section 2001.003, Government Code, or a personnel matter
 5-18 that is unrelated to members of the governing body.

5-19 SECTION 10. Subchapter D, Chapter 39, Utilities Code, is
 5-20 amended by adding Section 39.1514 to read as follows:

5-21 Sec. 39.1514. COMMISSION DIRECTIVES TO INDEPENDENT
 5-22 ORGANIZATION. (a) The commission may not use a verbal directive
 5-23 to direct an independent organization certified under Section
 5-24 39.151 to take an official action. The commission may direct the
 5-25 organization to take an official action only through:

- 5-26 (1) a contested case;
 5-27 (2) rulemaking;
 5-28 (3) a memorandum; or
 5-29 (4) a written order.

5-30 (b) The commission by rule shall:

5-31 (1) specify the types of directives the commission may
 5-32 issue through a contested case, rulemaking, memorandum, or written
 5-33 order;

5-34 (2) establish the conditions under which a commission
 5-35 vote is required before issuing a directive;

5-36 (3) require that proposed commission directives be
 5-37 included as an item on a commission meeting agenda and require the
 5-38 commission to allow members of the public an opportunity to comment
 5-39 on the agenda item; and

5-40 (4) establish a reasonable timeline for the release
 5-41 before a commission meeting of discussion materials relevant to
 5-42 any proposed commission directives included as agenda items for
 5-43 that meeting.

5-44 (c) Notwithstanding another provision of this section, the
 5-45 commission may use a verbal directive to direct an independent
 5-46 organization to take an official action in an urgent or emergency
 5-47 situation that poses an imminent threat to public health, public
 5-48 safety, or the reliability of the power grid. If the commission
 5-49 uses a verbal directive, the commission shall provide written
 5-50 documentation of the directive to the independent organization not
 5-51 later than 72 hours after the urgent or emergency situation ends.
 5-52 The commission by rule shall establish criteria for determining
 5-53 whether a situation is urgent or an emergency under this subsection
 5-54 and establish a process by which the commission will issue
 5-55 directives to the independent organization under this subsection.

5-56 SECTION 11. Section 39.1515, Utilities Code, is amended by
 5-57 amending Subsection (f) and adding Subsection (i) to read as
 5-58 follows:

5-59 (f) The market monitor immediately shall report in writing
 5-60 directly to the commission and commission staff all [any] potential
 5-61 market manipulations and all [any] discovered or potential
 5-62 violations of commission rules or rules of the independent
 5-63 organization.

5-64 (i) Not later than December 1 of each year, the commission
 5-65 shall submit a report to the legislature that describes for the
 5-66 12-month period preceding the report's submission:

- 5-67 (1) the number of instances in which the market
 5-68 monitor reported potential market manipulation to the commission or
 5-69 commission staff;

6-1 (2) the statutes, commission rules, and rules of the
 6-2 independent organization alleged to have been violated by the
 6-3 reported entities; and

6-4 (3) the number of instances reported under Subdivision
 6-5 (1) for which the commission instituted a formal investigation on
 6-6 its own motion or commission staff initiated an enforcement action.

6-7 SECTION 12. Section 39.155(d), Utilities Code, is amended
 6-8 to read as follows:

6-9 (d) In a qualifying power region, the report [~~reports~~]
 6-10 required by Subsection (c) [~~Subsections (b) and (c)~~] shall be
 6-11 submitted by the independent organization or organizations having
 6-12 authority over the power region or discrete areas thereof.

6-13 SECTION 13. Section 39.157(f), Utilities Code, is amended
 6-14 to read as follows:

6-15 (f) Following review of the annual report [~~reports~~]
 6-16 submitted to it under Section 39.155(c) [~~Sections 39.155(b) and~~
 6-17 ~~(c)~~], the commission shall determine whether specific transmission
 6-18 or distribution constraints or bottlenecks within this state give
 6-19 rise to market power in specific geographic markets in the state.
 6-20 The commission, on a finding that specific transmission or
 6-21 distribution constraints or bottlenecks within this state give rise
 6-22 to market power, may order reasonable mitigation of that potential
 6-23 market power by ordering, under Section 39.203(e), one or more
 6-24 electric utilities or transmission and distribution utilities to
 6-25 construct additional transmission or distribution capacity, or
 6-26 both, subject to the certification provisions of this title.

6-27 SECTION 14. The heading to Section 39.159, Utilities Code,
 6-28 as added by Chapter 426 (S.B. 3), Acts of the 87th Legislature,
 6-29 Regular Session, 2021, is amended to read as follows:

6-30 Sec. 39.159. POWER REGION RELIABILITY AND DISPATCHABLE
 6-31 GENERATION.

6-32 SECTION 15. Section 39.159, Utilities Code, as added by
 6-33 Chapter 426 (S.B. 3), Acts of the 87th Legislature, Regular
 6-34 Session, 2021, is amended by adding Subsections (d) and (e) to read
 6-35 as follows:

6-36 (d) The commission shall require the independent
 6-37 organization certified under Section 39.151 for the ERCOT power
 6-38 region to develop and implement an ancillary services program to
 6-39 procure dispatchable reliability reserve services on a day-ahead
 6-40 and real-time basis to account for market uncertainty. Under the
 6-41 required program, the independent organization shall:

6-42 (1) determine the quantity of services necessary based
 6-43 on historical variations in generation availability for each season
 6-44 based on a targeted reliability standard or goal, including
 6-45 intermittency of non-dispatchable generation facilities and forced
 6-46 outage rates, for dispatchable generation facilities;

6-47 (2) develop criteria for resource participation that
 6-48 require a resource to:

6-49 (A) be capable of running for at least four hours
 6-50 at the resource's high sustained limit;

6-51 (B) be online and dispatchable not more than two
 6-52 hours after being called on for deployment; and

6-53 (C) have the dispatchable flexibility to address
 6-54 inter-hour operational challenges; and

6-55 (3) reduce the amount of reliability unit commitment
 6-56 by the amount of dispatchable reliability reserve services procured
 6-57 under this section.

6-58 (e) Notwithstanding Subsection (d)(2)(A), the independent
 6-59 organization certified under Section 39.151 for the ERCOT power
 6-60 region may require a resource to be capable of running for more than
 6-61 four hours as the organization determines is needed.

6-62 SECTION 16. Subchapter D, Chapter 39, Utilities Code, is
 6-63 amended by adding Sections 39.1591, 39.1592, 39.1593, 39.1594, and
 6-64 39.1595 to read as follows:

6-65 Sec. 39.1591. REPORT ON DISPATCHABLE AND NON-DISPATCHABLE
 6-66 GENERATION FACILITIES. Not later than December 1 of each year, the
 6-67 commission shall file a report with the legislature that:

6-68 (1) includes:

6-69 (A) the estimated annual costs incurred under

7-1 this subchapter by dispatchable and non-dispatchable generators to
7-2 guarantee that a firm amount of electric energy will be provided for
7-3 the ERCOT power grid; and
7-4 (B) as calculated by the independent system
7-5 operator, the cumulative annual costs that have been incurred in
7-6 the ERCOT market to facilitate the transmission of dispatchable and
7-7 non-dispatchable electricity to load and to interconnect
7-8 transmission level loads;
7-9 (2) documents the status of the implementation of this
7-10 subchapter, including whether the rules and protocols adopted to
7-11 implement this subchapter have materially improved the
7-12 reliability, resilience, and transparency of the electricity
7-13 market; and
7-14 (3) includes recommendations for any additional
7-15 legislative measures needed to empower the commission to implement
7-16 market reforms to ensure that market signals are adequate to
7-17 preserve existing dispatchable generation and incentivize the
7-18 construction of new dispatchable generation sufficient to maintain
7-19 reliability standards for at least five years after the date of the
7-20 report.
7-21 Sec. 39.1592. GENERATION RELIABILITY REQUIREMENTS FOR
7-22 CERTAIN FACILITIES. (a) This section applies only to an electric
7-23 generation facility that is interconnected in the ERCOT power
7-24 region on or after December 1, 2026, and has been in operation for
7-25 at least one year.
7-26 (b) Not later than December 1 each year, the owner or
7-27 operator of each electric generation facility in the ERCOT power
7-28 region shall demonstrate to the commission the ability of the
7-29 facility to comply in the following calendar year with the
7-30 requirements of Subsection (c).
7-31 (c) The commission shall require:
7-32 (1) each electric generation facility operating in the
7-33 ERCOT power region to generate power when called upon for dispatch
7-34 for at least 15 hours during the highest net load hours during each
7-35 six-month period designated by the commission;
7-36 (2) each dispatchable generation facility operating
7-37 in the ERCOT power region to be capable of operating during at least
7-38 90 percent of the highest net load hours each year, excluding
7-39 planned outage hours; and
7-40 (3) each non-dispatchable generation facility to
7-41 provide during the highest net load hours each year at least 90
7-42 percent of the facility's average generation, as measured without
7-43 the use of energy storage or dispatchable generation for firming.
7-44 (d) The owner or operator of an electric generation facility
7-45 may comply with Subsection (c) by owning or acquiring through a
7-46 power purchase agreement or other means resources that are capable
7-47 of providing energy continuously at maximum capability for at
7-48 least:
7-49 (1) six hours; or
7-50 (2) a number of hours that is more than six adopted by
7-51 the commission by rule.
7-52 (e) The commission may establish an ancillary service
7-53 market or a separate reliability service to implement this section.
7-54 Sec. 39.1593. COST ALLOCATION OF RELIABILITY SERVICES. (a)
7-55 The commission shall hold hearings and perform an evaluation to
7-56 determine whether allocating costs under the methodology described
7-57 by Subsection (c) would result in a net savings to consumers in the
7-58 ERCOT power region compared to allocating all costs of ancillary
7-59 and reliability services to load. The commission shall make the
7-60 determination required by this subsection not later than December
7-61 1, 2027.
7-62 (b) The commission shall implement Subsection (c) only if
7-63 the commission determines under Subsection (a) that the cost
7-64 allocation method described by Subsection (c) would result in a net
7-65 savings to consumers in the ERCOT power region compared to
7-66 allocating all costs of ancillary and reliability services to load.
7-67 If the commission makes that determination, the commission shall
7-68 implement Subsection (c) as soon as possible after making the
7-69 determination.

8-1 (c) The cost of all ancillary services and reliability
 8-2 services procured under Section 39.159, as added by Chapter 426
 8-3 (S.B. 3), Acts of the 87th Legislature, Regular Session, 2021,
 8-4 shall be allocated on a semiannual basis among dispatchable
 8-5 generation facilities, non-dispatchable generation facilities, and
 8-6 load-serving entities in proportion to their contribution to
 8-7 unreliability during the highest net load hours in the preceding
 8-8 six months, as determined by the commission based on a number of
 8-9 hours adopted by the commission for that six-month period, as
 8-10 follows:

8-11 (1) for each dispatchable generation facility, the
 8-12 difference between the forced outage rate of the facility and the
 8-13 forced outage rate of the facility during the corresponding season
 8-14 for the three years prior to the current season, multiplied by the
 8-15 installed capacity of the facility;

8-16 (2) for non-dispatchable generation facilities, the
 8-17 difference between the mean of the lowest quartile generation for
 8-18 each non-dispatchable generation facility and the mean generation
 8-19 of the facility; and

8-20 (3) for each load-serving entity, the difference
 8-21 between the mean of the highest quartile of total ERCOT load and the
 8-22 mean of total ERCOT load, multiplied by the load ratio share of each
 8-23 load-serving entity.

8-24 (d) Subsection (c) applies only to a generation facility or
 8-25 load-serving entity that has participated in the ERCOT market for
 8-26 at least one year, including a load-serving entity whose parent
 8-27 company or affiliate has participated in the ERCOT market for at
 8-28 least one year.

8-29 (e) Subsection (c) does not apply to electric energy
 8-30 storage.

8-31 Sec. 39.1594. RELIABILITY PROGRAM. (a) Under Section
 8-32 39.159(b), as added by Chapter 426 (S.B. 3), Acts of the 87th
 8-33 Legislature, Regular Session, 2021, or other law, the commission
 8-34 may not require retail customers or load-serving entities in the
 8-35 ERCOT power region to purchase credits designed to support a
 8-36 required reserve margin or other capacity or reliability
 8-37 requirement unless the commission ensures that:

8-38 (1) the cost to the ERCOT market of the credits does
 8-39 not exceed \$1 billion annually;

8-40 (2) credits are available only for dispatchable
 8-41 generation, excluding load resources and electric energy storage;

8-42 (3) the independent organization certified under
 8-43 Section 39.151 for the ERCOT power region is required to procure the
 8-44 credits centrally in a manner designed to prevent market
 8-45 manipulation by affiliated generation and retail companies;

8-46 (4) a generator cannot receive credits that exceed the
 8-47 amount of generation bid into the forward market by that generator;

8-48 (5) an electric generating unit can receive a credit
 8-49 only for being available to perform in real time during the tightest
 8-50 intervals of low supply and high demand on the grid, as defined by
 8-51 the commission on a seasonal basis;

8-52 (6) a penalty structure is established, resulting in a
 8-53 net benefit to load, for generators that bid into the forward market
 8-54 but do not meet the full obligation;

8-55 (7) any program reliability standard reasonably
 8-56 balances the incremental reliability benefits to customers against
 8-57 the incremental costs of the program based on an evaluation by the
 8-58 wholesale electric market monitor;

8-59 (8) a single ERCOT-wide clearing price is established
 8-60 for the program and does not differentiate payments or credit
 8-61 values based on locational constraints;

8-62 (9) any market changes implemented as a bridge
 8-63 solution for the program are removed not later than the first
 8-64 anniversary of the date the program was implemented;

8-65 (10) the independent organization certified under
 8-66 Section 39.151 for the ERCOT power region begins implementing real
 8-67 time co-optimization of energy and ancillary services in the ERCOT
 8-68 wholesale market before the program is implemented;

8-69 (11) all elements of the program are initially

9-1 implemented on a single starting date;

9-2 (12) the terms of the program and any associated
 9-3 market rules do not assign costs, credit, or collateral for the
 9-4 program in a manner that provides a cost advantage to load-serving
 9-5 entities who own, or whose affiliates own, generation facilities;

9-6 (13) secured financial credit and collateral
 9-7 requirements are adopted for the program to ensure that other
 9-8 market participants do not bear the risk of nonperformance or
 9-9 nonpayment; and

9-10 (14) the wholesale electric market monitor has the
 9-11 authority and necessary resources to investigate potential
 9-12 instances of market manipulation by program participants,
 9-13 including financial and physical actions, and recommend penalties
 9-14 to the commission.

9-15 (b) This section does not require the commission to adopt a
 9-16 reliability program that requires an entity to purchase capacity
 9-17 credits.

9-18 (c) The commission and the independent organization
 9-19 certified under Section 39.151 for the ERCOT power region shall
 9-20 consider comments and recommendations from a technical advisory
 9-21 committee established under the bylaws of the independent
 9-22 organization that includes market participants when adopting and
 9-23 implementing a program described by Subsection (a), if any.

9-24 (d) If the commission adopts a program described by
 9-25 Subsection (a), not later than January 1, 2029, the commission
 9-26 shall require the independent organization certified under Section
 9-27 39.151 for the ERCOT power region and the wholesale electric market
 9-28 monitor to complete an updated assessment on the cost to and effects
 9-29 on the ERCOT market of the proposed reliability program and submit
 9-30 to the commission and the legislature a report on the costs and
 9-31 benefits of continuing the program. The assessment must include:

9-32 (1) an evaluation of the cost of new entry and the
 9-33 effects of the proposed reliability program on consumer costs and
 9-34 the competitive retail market;

9-35 (2) a compilation of detailed information regarding
 9-36 cost offsets realized through a reduction in costs in the energy and
 9-37 ancillary services markets and use of reliability unit commitments;

9-38 (3) a set of metrics to measure the effects of the
 9-39 proposed reliability program on system reliability;

9-40 (4) an evaluation of the cost to retain existing
 9-41 dispatchable resources in the ERCOT power region;

9-42 (5) an evaluation of the planned timeline for
 9-43 implementation of real time co-optimization for energy and
 9-44 ancillary services in the ERCOT power region; and

9-45 (6) anticipated market and reliability effects of new
 9-46 and updated ancillary service products.

9-47 Sec. 39.1595. GRID RELIABILITY LEGISLATIVE OVERSIGHT
 9-48 COMMITTEE. (a) In this section, "committee" means the Grid
 9-49 Reliability Legislative Oversight Committee established under this
 9-50 section.

9-51 (b) The Grid Reliability Legislative Oversight Committee is
 9-52 created to oversee the commission's implementation of legislation
 9-53 related to the regulation of the electricity market in this state
 9-54 enacted by the 87th and 88th Legislatures.

9-55 (c) The committee is composed of eight members as follows:

9-56 (1) three members of the senate, appointed by the
 9-57 lieutenant governor;

9-58 (2) three members of the house of representatives,
 9-59 appointed by the speaker of the house of representatives;

9-60 (3) the chair of the committee of the senate having
 9-61 primary jurisdiction over matters relating to the generation of
 9-62 electricity; and

9-63 (4) the chair of the committee of the house having
 9-64 primary jurisdiction over matters relating to the generation of
 9-65 electricity.

9-66 (d) An appointed member of the committee serves at the
 9-67 pleasure of the appointing official.

9-68 (e) The committee members described by Subsections (c)(3)
 9-69 and (4) serve as presiding co-chairs.

10-1 (f) A member of the committee may not receive compensation
 10-2 for serving on the committee but is entitled to reimbursement for
 10-3 travel expenses incurred by the member while conducting the
 10-4 business of the committee as provided by the General Appropriations
 10-5 Act.

10-6 (g) The committee shall meet at least twice each year at the
 10-7 call of either co-chair and shall meet at other times at the call of
 10-8 either co-chair, as that officer determines appropriate.

10-9 (h) Chapter 551, Government Code, applies to the committee.

10-10 SECTION 17. (a) This section takes effect only if the Act
 10-11 of the 88th Legislature, Regular Session, 2023, relating to
 10-12 nonsubstantive additions to and corrections in enacted codes
 10-13 becomes law.

10-14 (b) Subchapter D, Chapter 39, Utilities Code, is amended by
 10-15 adding Sections 39.166, 39.167, and 39.168 to read as follows:

10-16 Sec. 39.166. ELECTRIC INDUSTRY REPORT. (a) Not later than
 10-17 January 15 of each odd-numbered year, the commission, in
 10-18 consultation with the independent organization certified under
 10-19 Section 39.151 for the ERCOT power region, shall prepare and submit
 10-20 to the legislature an electric industry report.

10-21 (b) Each electric industry report submitted under this
 10-22 section must:

10-23 (1) identify existing and potential transmission and
 10-24 distribution constraints and system needs within the ERCOT power
 10-25 region, alternatives for meeting system needs, and recommendations
 10-26 for meeting system needs;

10-27 (2) summarize key findings from:

10-28 (A) the grid reliability assessment conducted
 10-29 under Section 39.165; and

10-30 (B) the report required by Section 39.904(k);

10-31 (3) outline basic information regarding the electric
 10-32 grid and market in this state, including generation capacity,
 10-33 customer demand, and transmission capacity currently installed on
 10-34 the grid and projected in the future; and

10-35 (4) be presented in plain language that is readily
 10-36 understandable by a person with limited knowledge of the electric
 10-37 industry.

10-38 Sec. 39.167. CONFLICTS OF INTEREST REPORT. The commission
 10-39 and the independent organization certified under Section 39.151 for
 10-40 the ERCOT power region annually shall review statutes, rules,
 10-41 protocols, and bylaws that apply to conflicts of interest for
 10-42 commissioners and for members of the governing body of the
 10-43 independent organization and submit to the legislature a report on
 10-44 the effects the statutes, rules, protocols, and bylaws have on the
 10-45 ability of the commission and the independent organization to
 10-46 fulfill their duties.

10-47 Sec. 39.168. RETAIL SALES REPORT. (a) Each retail electric
 10-48 provider that offers electricity for sale shall report to the
 10-49 commission:

10-50 (1) its annual retail sales in this state;

10-51 (2) the annual retail sales of its affiliates by
 10-52 number of customers, kilowatts per hour sold, and revenue from
 10-53 kilowatts per hour sold by customer class; and

10-54 (3) any other information the commission requires
 10-55 relating to affiliations between retail electric providers.

10-56 (b) The commission by rule shall prescribe the nature and
 10-57 detail of the reporting requirements. The commission may accept
 10-58 information reported under other law to satisfy the requirements of
 10-59 this section. Information reported under this section is
 10-60 confidential and not subject to disclosure if the information is
 10-61 competitively sensitive information. The commission shall
 10-62 administer the reporting requirements in a manner that ensures the
 10-63 confidentiality of competitively sensitive information.

10-64 SECTION 18. (a) This section takes effect only if the Act of
 10-65 the 88th Legislature, Regular Session, 2023, relating to
 10-66 nonsubstantive additions to and corrections in enacted codes does
 10-67 not become law.

10-68 (b) Subchapter D, Chapter 39, Utilities Code, is amended by
 10-69 adding Sections 39.166, 39.167, and 39.168 to read as follows:

11-1 Sec. 39.166. ELECTRIC INDUSTRY REPORT. (a) Not later than
 11-2 January 15 of each odd-numbered year, the commission, in
 11-3 consultation with the independent organization certified under
 11-4 Section 39.151 for the ERCOT power region, shall prepare and submit
 11-5 to the legislature an electric industry report.

11-6 (b) Each electric industry report submitted under this
 11-7 section must:

11-8 (1) identify existing and potential transmission and
 11-9 distribution constraints and system needs within the ERCOT power
 11-10 region, alternatives for meeting system needs, and recommendations
 11-11 for meeting system needs;

11-12 (2) summarize key findings from:

11-13 (A) the grid reliability assessment conducted
 11-14 under Section 39.159, as added by Chapter 876 (S.B. 1281), Acts of
 11-15 the 87th Legislature, Regular Session, 2021; and

11-16 (B) the report required by Section 39.904(k);

11-17 (3) outline basic information regarding the electric
 11-18 grid and market in this state, including generation capacity,
 11-19 customer demand, and transmission capacity currently installed on
 11-20 the grid and projected in the future; and

11-21 (4) be presented in plain language that is readily
 11-22 understandable by a person with limited knowledge of the electric
 11-23 industry.

11-24 Sec. 39.167. CONFLICTS OF INTEREST REPORT. The commission
 11-25 and the independent organization certified under Section 39.151 for
 11-26 the ERCOT power region annually shall review statutes, rules,
 11-27 protocols, and bylaws that apply to conflicts of interest for
 11-28 commissioners and for members of the governing body of the
 11-29 independent organization and submit to the legislature a report on
 11-30 the effects the statutes, rules, protocols, and bylaws have on the
 11-31 ability of the commission and the independent organization to
 11-32 fulfill their duties.

11-33 Sec. 39.168. RETAIL SALES REPORT. (a) Each retail electric
 11-34 provider that offers electricity for sale shall report to the
 11-35 commission:

11-36 (1) its annual retail sales in this state;

11-37 (2) the annual retail sales of its affiliates by
 11-38 number of customers, kilowatts per hour sold, and revenue from
 11-39 kilowatts per hour sold by customer class; and

11-40 (3) any other information the commission requires
 11-41 relating to affiliations between retail electric providers.

11-42 (b) The commission by rule shall prescribe the nature and
 11-43 detail of the reporting requirements. The commission may accept
 11-44 information reported under other law to satisfy the requirements of
 11-45 this section. Information reported under this section is
 11-46 confidential and not subject to disclosure if the information is
 11-47 competitively sensitive information. The commission shall
 11-48 administer the reporting requirements in a manner that ensures the
 11-49 confidentiality of competitively sensitive information.

11-50 SECTION 19. Section 39.203(i), Utilities Code, is amended
 11-51 to read as follows:

11-52 (i) The commission, in cooperation with transmission and
 11-53 distribution utilities and the ERCOT independent system operator,
 11-54 shall study whether existing transmission and distribution
 11-55 planning processes are sufficient to provide adequate
 11-56 infrastructure for seawater desalination projects. If the
 11-57 commission determines that statutory changes are needed to ensure
 11-58 that adequate infrastructure is developed for projects of that
 11-59 kind, the commission shall include recommendations in the report
 11-60 required by Section 12.203 [31.003].

11-61 SECTION 20. Section 39.206(q), Utilities Code, is amended
 11-62 to read as follows:

11-63 (q) The commission shall, in conjunction with the Nuclear
 11-64 Regulatory Commission, investigate the development of a mechanism
 11-65 whereby the State of Texas could ensure that funds for
 11-66 decommissioning will be obtained when necessary in the same manner
 11-67 as if the State of Texas were the licensee under federal law. [The
 11-68 commission shall file legislative recommendations regarding any
 11-69 changes in law that may be necessary to carry out the purposes of

12-1 ~~this subsection prior to January 15, 2009, which may be combined~~
12-2 ~~with the report required by Section 31.003.]~~

12-3 SECTION 21. Section 39.408(g), Utilities Code, is amended
12-4 to read as follows:

12-5 (g) This section expires September 1, 2029 [~~2023~~].

12-6 SECTION 22. Section 39.4525(g), Utilities Code, is amended
12-7 to read as follows:

12-8 (g) This section expires September 1, 2029 [~~2023~~].

12-9 SECTION 23. Section 39.504(g), Utilities Code, is amended
12-10 to read as follows:

12-11 (g) This section expires September 1, 2029 [~~2023~~].

12-12 SECTION 24. Section 39.904(k), Utilities Code, is amended
12-13 to read as follows:

12-14 (k) The commission and the independent organization
12-15 certified under Section 39.151 for the ERCOT power region [~~for~~
12-16 ~~ERCOT~~] shall study the need for increased transmission and
12-17 generation capacity throughout this state and report to the
12-18 legislature the results of the study and any recommendations for
12-19 legislation. The report must be filed with the legislature not
12-20 later than December 31 of each even-numbered year [~~and may be filed~~
12-21 ~~as a part of the report required by Subsection (j)~~].

12-22 SECTION 25. Section 39.9055, Utilities Code, is amended to
12-23 read as follows:

12-24 Sec. 39.9055. EXAMINATION OF DEMAND RESPONSE POTENTIAL OF
12-25 SEAWATER DESALINATION PROJECTS. The commission and the ERCOT
12-26 independent system operator shall study the potential for seawater
12-27 desalination projects to participate in existing demand response
12-28 opportunities in the ERCOT market. To the extent feasible, the
12-29 study shall determine whether the operational characteristics of
12-30 seawater desalination projects enable projects of that kind to
12-31 participate in ERCOT-operated ancillary services markets or other
12-32 competitively supplied demand response opportunities. The study
12-33 shall also determine the potential economic benefit to a seawater
12-34 desalination project if the project is able to reduce its demand
12-35 during peak pricing periods. The commission shall include the
12-36 results of the study in the report required by Section 12.203
12-37 [~~31.003~~].

12-38 SECTION 26. Section 39.908, Utilities Code, is amended to
12-39 read as follows:

12-40 Sec. 39.908. EFFECT OF SUNSET PROVISION. [~~(a)~~] If the
12-41 commission is abolished under Section 12.005 or other law, the [~~and~~
12-42 ~~the other provisions of this title expire as provided by Chapter~~
12-43 ~~325, Government Code (Texas Sunset Act), this subchapter, including~~
12-44 ~~the provisions of this title referred to in this subchapter,~~
12-45 ~~continues in full force and effect and does not expire.~~

12-46 [(~~b~~)~~The~~] authorities, duties, and functions of the
12-47 commission under this chapter shall be performed and carried out by
12-48 a successor agency to be designated by the legislature before
12-49 abolishment of the commission or, if the legislature does not
12-50 designate the successor, by the secretary of state.

12-51 SECTION 27. Section 52.060, Utilities Code, is amended to
12-52 read as follows:

12-53 Sec. 52.060. ADMINISTRATIVE FEE OR ASSESSMENT. The
12-54 commission may prescribe and collect a fee or assessment from local
12-55 exchange companies necessary to recover the cost to the commission
12-56 and to the office of activities carried out and services provided
12-57 under this subchapter and Section 12.203 [~~52.006~~].

12-58 SECTION 28. Section 13.4132, Water Code, is amended by
12-59 adding Subsection (b-1) to read as follows:

12-60 (b-1) Notwithstanding Section 5.505, the term of an
12-61 emergency order issued under this section by the utility commission
12-62 or the commission may not exceed 360 days. The emergency order may
12-63 be renewed:

- 12-64 (1) once for a period not to exceed 360 days; or
- 12-65 (2) if the utility is undergoing a sale, transfer,
12-66 merger, consolidation, or acquisition required to be reported to
12-67 the utility commission under Section 13.301, for a reasonable time
12-68 until the sale, transfer, merger, consolidation, or acquisition is
12-69 complete.

13-1 SECTION 29. (a) The following provisions are repealed:

13-2 (1) Section 304.201, Business & Commerce Code;

13-3 (2) Section 31.003, Utilities Code;

13-4 (3) Section 39.155(b), Utilities Code;

13-5 (4) Section 39.904(j), Utilities Code; and

13-6 (5) Section 52.006, Utilities Code.

13-7 (b) Section 34, Chapter 426 (S.B. 3), Acts of the 87th
13-8 Legislature, Regular Session, 2021, is repealed.

13-9 SECTION 30. (a) The presiding officer of the Public Utility
13-10 Commission of Texas shall designate a commissioner to serve a term
13-11 on the governing body of the independent organization certified
13-12 under Section 39.151, Utilities Code, for the ERCOT power region
13-13 that begins January 1, 2024, to comply with Section 39.151(g-1),
13-14 Utilities Code, as amended by this Act.

13-15 (b) Except as provided by Subsection (c) of this section,
13-16 Section 12.059, Utilities Code, as amended by this Act, applies to a
13-17 member of the Public Utility Commission of Texas appointed before,
13-18 on, or after the effective date of this Act.

13-19 (c) A member of the Public Utility Commission of Texas who,
13-20 before the effective date of this Act, completed the training
13-21 program required by Section 12.059, Utilities Code, as that law
13-22 existed before the effective date of this Act, is only required to
13-23 complete additional training on the subjects added by this Act to
13-24 the training program required by Section 12.059, Utilities Code. A
13-25 commission member described by this subsection may not vote,
13-26 deliberate, or be counted as a member in attendance at a meeting of
13-27 the commission held on or after December 1, 2023, until the member
13-28 completes the additional training.

13-29 SECTION 31. The Public Utility Commission of Texas shall
13-30 require the independent organization certified under Section
13-31 39.151, Utilities Code, for the ERCOT power region to implement the
13-32 program required by Section 39.159(d), Utilities Code, as added by
13-33 this Act, not later than December 1, 2024.

13-34 SECTION 32. (a) The Public Utility Commission of Texas
13-35 shall prepare the portions of the report required by Sections
13-36 39.1591(2) and (3), Utilities Code, as added by this Act, only for
13-37 reports due on or after December 1, 2024.

13-38 (b) The Public Utility Commission of Texas shall implement
13-39 Section 39.1592, Utilities Code, as added by this Act, not later
13-40 than December 1, 2027.

13-41 (c) An owner or operator of an electric generation facility
13-42 to which Section 39.1592(b), Utilities Code, as added by this Act,
13-43 applies shall make the first demonstration required by that
13-44 subsection not later than December 1, 2027.

13-45 (d) The Public Utility Commission of Texas and the
13-46 independent organization certified under Section 39.151, Utilities
13-47 Code, for the ERCOT power region shall conduct a study to assess the
13-48 total cost to consumers of different methods of cost allocation of
13-49 reliability and ancillary services procured under Section 39.159,
13-50 Utilities Code, as added by Chapter 426 (S.B. 3), Acts of the 87th
13-51 Legislature, Regular Session, 2021, including the method of cost
13-52 allocation provided by Section 39.1593(c), Utilities Code, as added
13-53 by this Act. The study must include an assessment of cost
13-54 allocation methods for the ERCOT Contingency Reserve Service. The
13-55 Public Utility Commission of Texas shall report the results of the
13-56 study to the legislature not later than December 1, 2024.

13-57 (e) The Public Utility Commission of Texas and the
13-58 independent organization certified under Section 39.151, Utilities
13-59 Code, for the ERCOT power region shall:

13-60 (1) conduct a study on whether implementing an
13-61 alternative to the single market clearing price for energy,
13-62 ancillary services, and other products would reduce costs to
13-63 residential and small commercial customers or their load-serving
13-64 entities, such as paying generators the price bid and not the
13-65 additional amounts up to the highest cost generator needed to clear
13-66 the market;

13-67 (2) analyze:

13-68 (A) whether cost savings can be achieved for
13-69 consumers, or load-serving entities serving residential and small

14-1 commercial consumers, by:
 14-2 (i) limiting generators that have received
 14-3 state or federal subsidies to receiving the price bid by that type
 14-4 of generator; or
 14-5 (ii) limiting a generator to receiving the
 14-6 price bid by that generator; and
 14-7 (B) if a pay as bid mechanism is used or a single
 14-8 market clearing price mechanism is retained, whether
 14-9 non-dispatchable and dispatchable generation facilities should bid
 14-10 into separate markets for ERCOT power region products such that the
 14-11 generation facilities are directly competing against technologies
 14-12 with similar attributes; and
 14-13 (3) report the results of the study and analysis
 14-14 conducted under this subsection to the legislature not later than
 14-15 December 1, 2025.

14-16 SECTION 33. The changes in law made by this Act to Section
 14-17 15.023, Utilities Code, apply only to a violation committed on or
 14-18 after the effective date of this Act. A violation committed before
 14-19 the effective date of this Act is governed by the law in effect when
 14-20 the violation was committed, and the former law is continued in
 14-21 effect for that purpose.

14-22 SECTION 34. This Act takes effect September 1, 2023.

14-23 * * * * *