

By: Patterson

H.B. No. 2288

A BILL TO BE ENTITLED

AN ACT

relating to the sale of electricity from certain non-dispatchable generation facilities in the ERCOT power region.

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

SECTION 1. Section 36.053(d), Utilities Code, is amended to read as follows:

(d) If the commission issues a certificate of convenience and necessity or if the commission, acting under the authority formerly provided by Section 39.203(e), ordered [~~orders~~] an electric utility or a transmission and distribution utility to construct or enlarge transmission or transmission-related facilities to facilitate meeting the goal for generating capacity from renewable energy technologies under Section 39.904(a), the commission shall find that the facilities are used and useful to the utility in providing service for purposes of this section and are prudent and includable in the rate base, regardless of the extent of the utility's actual use of the facilities.

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 Subsection (d) to read as follows:

(d) Notwithstanding any other law, the commission shall prohibit the sale of electric energy from a non-dispatchable generation facility at wholesale in the ERCOT power region after

1 January 1, 2030. This subsection does not prohibit a sale of
2 electricity under Section 39.914 or 39.916 or another sale of
3 electricity from distributed renewable generation.

4 SECTION 3. Section 39.203(e), Utilities Code, is amended to
5 read as follows:

6 (e) The commission may require an electric utility or a
7 transmission and distribution utility to construct or enlarge
8 facilities to ensure safe and reliable service for the state's
9 electric markets and to reduce transmission constraints within
10 ERCOT in a cost-effective manner where the constraints are such
11 that they are not being resolved through Chapter 37 or the ERCOT
12 transmission planning process. [~~The commission shall require an~~
13 ~~electric utility or a transmission and distribution utility to~~
14 ~~construct or enlarge transmission or transmission-related~~
15 ~~facilities for the purpose of meeting the goal for generating~~
16 ~~capacity from renewable energy technologies under Section~~
17 ~~39.904(a).~~] In any proceeding brought under Chapter 37, an
18 electric utility or transmission and distribution utility ordered
19 to construct or enlarge facilities under this subchapter need not
20 prove that the construction ordered is necessary for the service,
21 accommodation, convenience, or safety of the public and need not
22 address the factors listed in Sections 37.056(c)(1)-(3) and (4)(E).
23 Notwithstanding any other law, including Section 37.057, in any
24 proceeding brought under Chapter 37 by an electric utility or a
25 transmission and distribution utility related to an application for
26 a certificate of public convenience and necessity to construct or
27 enlarge transmission or transmission-related facilities under this

1 subsection, the commission shall issue a final order before the
2 181st day after the date the application is filed with the
3 commission. If the commission does not issue a final order before
4 that date, the application is approved.

5 SECTION 4. Sections 39.904(a), (j), (k), and (n), Utilities
6 Code, are amended to read as follows:

7 (a) It is the intent of the legislature that by January 1,
8 2015, an additional 5,000 megawatts of generating capacity from
9 renewable energy technologies will have been installed in this
10 state. The cumulative installed renewable capacity in this state
11 shall total 5,880 megawatts by January 1, 2015~~[, and the commission~~
12 ~~shall establish a target of 10,000 megawatts of installed renewable~~
13 ~~capacity by January 1, 2025]~~. The cumulative installed renewable
14 capacity in this state shall total 2,280 megawatts by January 1,
15 2007, 3,272 megawatts by January 1, 2009, 4,264 megawatts by
16 January 1, 2011, 5,256 megawatts by January 1, 2013, and 5,880
17 megawatts by January 1, 2015. Of the renewable energy technology
18 generating capacity installed to meet the goal of this subsection
19 after September 1, 2005, the commission shall establish a target of
20 having at least 500 megawatts of capacity from a renewable energy
21 technology other than a source using wind energy.

22 (j) The commission, after consultation with each
23 appropriate independent organization, electric reliability
24 council, or regional transmission organization, shall file a report
25 with the legislature not later than December 31, 2024 ~~[of each~~
26 ~~even-numbered year]~~. The report must include:

27 (1) an evaluation of the commission's implementation

1 of competitive renewable energy zones;

2 (2) the estimated cost of transmission service
3 improvements needed for each competitive renewable energy zone; and

4 (3) an evaluation of the effects that additional
5 renewable generation has on system reliability and on the cost of
6 alternatives to mitigate the effects.

7 (k) The commission and the independent organization
8 certified for ERCOT shall study the need for increased transmission
9 and generation capacity throughout this state and report to the
10 legislature the results of the study and any recommendations for
11 legislation. The report must be filed with the legislature [~~not~~
12 ~~later than December 31 of each even-numbered year and may be filed~~]
13 as a part of the report required by Subsection (j).

14 (n) Notwithstanding any other provision of law, before
15 January 1, 2030, the commission shall:

16 (1) have the authority to cap the price of renewable
17 energy credits;

18 (2) [~~and may~~] suspend the goal [contained] in
19 Subsection (a) [if such suspension is necessary] to protect the
20 reliability and operation of the grid; and

21 (3) abolish all programs and terminate any payments or
22 credits required under this section.

23 SECTION 5. The changes in law made by this Act apply only to
24 a contract involving the sale of electric energy from a
25 non-dispatchable generation facility entered into on or after the
26 effective date of this Act. A contract involving the sale of
27 electric energy from a non-dispatchable generation facility

1 entered into before the effective date of this Act is governed by
2 the law in effect on the date the contract was entered into, and the
3 former law is continued in effect for that purpose.

4 SECTION 6. This Act takes effect September 1, 2023.