

SENATE AMENDMENTS

2nd Printing

By: Holland, Bell of Kaufman, Canales,
Goldman, Clardy

H.B. No. 1500

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the continuation and functions of the Public Utility
3 Commission of Texas and the Office of Public Utility Counsel, and
4 the functions of the independent organization certified for the
5 ERCOT power region.

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

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

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

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

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

24 (b) The [~~A~~] training program must [~~established under this~~

1 ~~section shall]~~ provide the person with information [~~to the~~
2 ~~commissioner]~~ regarding:

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

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

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

10 (4) the results [~~rules]~~ of the most recent formal
11 audit of the commission [~~with an emphasis on the rules that relate~~
12 ~~to disciplinary and investigatory authority]~~;

13 (5) the requirements of:

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

17 (B) other laws applicable to members of a state
18 policy-making body in performing their duties [~~current budget for~~
19 ~~the commission]~~; and

20 (6) [~~the results of the most recent formal audit of the~~
21 ~~commission,~~

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

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

26 [~~(9)] any applicable ethics policies adopted by the~~

27 commission or the Texas Ethics Commission.

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

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

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

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

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

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

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

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

27 Sec. 12.203. BIENNIAL REPORT. (a) Not later than January

1 15 of each odd-numbered year, the commission shall prepare a
2 written report that includes:

3 (1) suggestions regarding modification and
4 improvement of the commission's statutory authority and for the
5 improvement of utility regulation in general, including the
6 regulation of water and sewer service under Chapter 13, Water Code,
7 that the commission considers appropriate for protecting and
8 furthering the interest of the public;

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

11 (A) an assessment of:

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

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

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

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

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

26 (C) a summary of commission action over the
27 preceding two years that reflects changes in the scope of

1 competition in regulated electric and telecommunications markets;

2 and

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

7 (b) A telecommunications utility, as defined by Section
8 51.002, shall cooperate with the commission as necessary for the
9 commission to satisfy the requirements of this section.

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

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

14 (1) develop an agency-wide plan for:

15 (A) improving the effectiveness of commission
16 communications with the public, market participants, and other
17 relevant audiences; and

18 (B) responding to changing communications needs;

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

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

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

25 Sec. 13.002. APPLICATION OF SUNSET ACT. The Office of
26 Public Utility Counsel is subject to Chapter 325, Government Code
27 (Texas Sunset Act). Unless continued in existence as provided by

1 that chapter, the office is abolished [~~and this chapter expires~~]
2 September 1, 2029 [~~2023~~].

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

6 (d) The commission shall adopt and enforce rules relating to
7 the reliability of the regional electrical network and accounting
8 for the production and delivery of electricity among generators and
9 all other market participants, or may delegate those
10 responsibilities to an independent organization [~~responsibilities~~
11 ~~for adopting or enforcing such rules. Rules adopted by an~~
12 ~~independent organization and enforcement actions taken by the~~
13 ~~organization under delegated authority from the commission are~~
14 ~~subject to commission oversight and review and may not take effect~~
15 ~~before receiving commission approval~~]. An independent organization
16 certified by the commission is directly responsible and accountable
17 to the commission. The commission has complete authority to
18 oversee and investigate the independent organization's finances,
19 budget, and operations as necessary to ensure the organization's
20 accountability and to ensure that the organization adequately
21 performs the organization's functions and duties. The independent
22 organization shall fully cooperate with the commission in the
23 commission's oversight and investigatory functions. The
24 commission may take appropriate action against an independent
25 organization that does not adequately perform the organization's
26 functions or duties or does not comply with this section, including
27 decertifying the organization or assessing an administrative

1 penalty against the organization. The commission by rule shall
2 adopt procedures governing decertification of an independent
3 organization, selecting and certifying a successor organization,
4 and transferring assets to the successor organization to ensure
5 continuity of operations in the region. The commission may not
6 implement, by order or by rule, a requirement that is contrary to an
7 applicable federal law or rule.

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

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

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

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

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

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

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

1 following professions:

2 (A) finance;

3 (B) business;

4 (C) engineering, including electrical
5 engineering;

6 (D) trading;

7 (E) risk management;

8 (F) law; or

9 (G) electric market design.

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

24 (g-7) The presiding officer of the commission shall
25 designate commissioners to serve terms on the independent
26 organization's governing body under Subsection (g-1)(1)(B) in the
27 order in which the commissioners were first appointed to the

1 commission. A commissioner may not serve an additional term until
2 each commissioner has served a term.

3 SECTION 8. Section 39.1511, Utilities Code, is amended by
4 amending Subsection (a) and adding Subsection (a-1) to read as
5 follows:

6 (a) Meetings of the governing body of an independent
7 organization certified under Section 39.151 and meetings of a
8 subcommittee that includes a member of the governing body must be
9 open to the public. The bylaws of the independent organization and
10 the rules of the commission may provide for the governing body or
11 subcommittee to enter into executive session closed to the public
12 only to address a matter that the independent organization would be
13 authorized to consider in a closed meeting if the independent
14 organization were governed under Chapter 551, Government Code
15 ~~[sensitive matters such as confidential personnel information,~~
16 ~~contracts, lawsuits, competitively sensitive information, or other~~
17 ~~information related to the security of the regional electrical~~
18 ~~network].~~

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

26 SECTION 9. Subchapter D, Chapter 39, Utilities Code, is
27 amended by adding Section 39.1514 to read as follows:

1 Sec. 39.1514. COMMISSION DIRECTIVES TO INDEPENDENT
2 ORGANIZATION. (a) The commission may not use a verbal directive
3 to direct an independent organization certified under Section
4 39.151 to take an official action. The commission may direct the
5 organization to take an official action only through:

6 (1) a contested case;

7 (2) rulemaking;

8 (3) a memorandum; or

9 (4) a written order.

10 (b) The commission by rule shall:

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

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

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

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

24 (c) Notwithstanding another provision of this section, the
25 commission may use a verbal directive to direct an independent
26 organization to take an official action in an urgent or emergency
27 situation that poses an imminent threat to public health, public

1 safety, or the reliability of the power grid. If the commission
2 uses a verbal directive, the commission shall provide written
3 documentation of the directive to the independent organization not
4 later than 72 hours after the urgent or emergency situation ends.
5 The commission by rule shall establish criteria for determining
6 whether a situation is urgent or an emergency under this subsection
7 and establish a process by which the commission will issue
8 directives to the independent organization under this subsection.

9 SECTION 10. Section 39.155(d), Utilities Code, is amended
10 to read as follows:

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

15 SECTION 11. Section 39.157(f), Utilities Code, is amended
16 to read as follows:

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

1 both, subject to the certification provisions of this title.

2 SECTION 12. (a) This section takes effect only if the Act
3 of the 88th Legislature, Regular Session, 2023, relating to
4 nonsubstantive additions to and corrections in enacted codes
5 becomes law.

6 (b) Subchapter D, Chapter 39, Utilities Code, is amended by
7 adding Sections 39.166 and 39.167 to read as follows:

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

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

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

19 (2) summarize key findings from:

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

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

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

27 (4) be presented in plain language that is readily

1 understandable by a person with limited knowledge of the electric
2 industry.

3 Sec. 39.167. CONFLICTS OF INTEREST REPORT. The commission
4 and the independent organization certified under Section 39.151 for
5 the ERCOT power region annually shall review statutes, rules,
6 protocols, and bylaws that apply to conflicts of interest for
7 commissioners and for members of the governing body of the
8 independent organization and submit to the legislature a report on
9 the effects the statutes, rules, protocols, and bylaws have on the
10 ability of the commission and the independent organization to
11 fulfill their duties.

12 SECTION 13. (a) This section takes effect only if the Act of
13 the 88th Legislature, Regular Session, 2023, relating to
14 nonsubstantive additions to and corrections in enacted codes does
15 not become law.

16 (b) Subchapter D, Chapter 39, Utilities Code, is amended by
17 adding Sections 39.166 and 39.167 to read as follows:

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

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

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

1 for meeting system needs;

2 (2) summarize key findings from:

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

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

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

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

14 Sec. 39.167. CONFLICTS OF INTEREST REPORT. The commission
15 and the independent organization certified under Section 39.151 for
16 the ERCOT power region annually shall review statutes, rules,
17 protocols, and bylaws that apply to conflicts of interest for
18 commissioners and for members of the governing body of the
19 independent organization and submit to the legislature a report on
20 the effects the statutes, rules, protocols, and bylaws have on the
21 ability of the commission and the independent organization to
22 fulfill their duties.

23 SECTION 14. Section 39.203(i), Utilities Code, is amended
24 to read as follows:

25 (i) The commission, in cooperation with transmission and
26 distribution utilities and the ERCOT independent system operator,
27 shall study whether existing transmission and distribution

1 planning processes are sufficient to provide adequate
2 infrastructure for seawater desalination projects. If the
3 commission determines that statutory changes are needed to ensure
4 that adequate infrastructure is developed for projects of that
5 kind, the commission shall include recommendations in the report
6 required by Section 12.203 [~~31.003~~].

7 SECTION 15. Section 39.206(q), Utilities Code, is amended
8 to read as follows:

9 (q) The commission shall, in conjunction with the Nuclear
10 Regulatory Commission, investigate the development of a mechanism
11 whereby the State of Texas could ensure that funds for
12 decommissioning will be obtained when necessary in the same manner
13 as if the State of Texas were the licensee under federal law. [~~The
14 commission shall file legislative recommendations regarding any
15 changes in law that may be necessary to carry out the purposes of
16 this subsection prior to January 15, 2009, which may be combined
17 with the report required by Section 31.003.~~]

18 SECTION 16. Section 39.408(g), Utilities Code, is amended
19 to read as follows:

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

21 SECTION 17. Section 39.4525(g), Utilities Code, is amended
22 to read as follows:

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

24 SECTION 18. Section 39.504(g), Utilities Code, is amended
25 to read as follows:

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

27 SECTION 19. Section 39.904(k), Utilities Code, is amended

1 to read as follows:

2 (k) The commission and the independent organization
3 certified under Section 39.151 for the ERCOT power region [~~for~~
4 ~~ERCOT~~] shall study the need for increased transmission and
5 generation capacity throughout this state and report to the
6 legislature the results of the study and any recommendations for
7 legislation. The report must be filed with the legislature not
8 later than December 31 of each even-numbered year [~~and may be filed~~
9 ~~as a part of the report required by Subsection (j)~~].

10 SECTION 20. Section 39.9055, Utilities Code, is amended to
11 read as follows:

12 Sec. 39.9055. EXAMINATION OF DEMAND RESPONSE POTENTIAL OF
13 SEAWATER DESALINATION PROJECTS. The commission and the ERCOT
14 independent system operator shall study the potential for seawater
15 desalination projects to participate in existing demand response
16 opportunities in the ERCOT market. To the extent feasible, the
17 study shall determine whether the operational characteristics of
18 seawater desalination projects enable projects of that kind to
19 participate in ERCOT-operated ancillary services markets or other
20 competitively supplied demand response opportunities. The study
21 shall also determine the potential economic benefit to a seawater
22 desalination project if the project is able to reduce its demand
23 during peak pricing periods. The commission shall include the
24 results of the study in the report required by Section 12.203
25 [~~31.003~~].

26 SECTION 21. Section 39.908, Utilities Code, is amended to
27 read as follows:

1 Sec. 39.908. EFFECT OF SUNSET PROVISION. [~~(a)~~] If the
2 commission is abolished under Section 12.005 or other law, the [~~and~~
3 ~~the other provisions of this title expire as provided by Chapter~~
4 ~~325, Government Code (Texas Sunset Act), this subchapter, including~~
5 ~~the provisions of this title referred to in this subchapter,~~
6 ~~continues in full force and effect and does not expire.~~

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

12 SECTION 22. Section 52.060, Utilities Code, is amended to
13 read as follows:

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

19 SECTION 23. Section 13.4132, Water Code, is amended by
20 adding Subsection (b-1) to read as follows:

21 (b-1) Notwithstanding Section 5.505, the term of an
22 emergency order issued under this section by the utility commission
23 or the commission may not exceed 360 days. The emergency order may
24 be renewed:

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

26 (2) if the utility is undergoing a sale, transfer,
27 merger, consolidation, or acquisition required to be reported to

1 the utility commission under Section 13.301, for a reasonable time
2 until the sale, transfer, merger, consolidation, or acquisition is
3 complete.

4 SECTION 24. (a) The following provisions are repealed:

- 5 (1) Section 304.201, Business & Commerce Code;
6 (2) Section 31.003, Utilities Code;
7 (3) Section 39.155(b), Utilities Code;
8 (4) Section 39.904(j), Utilities Code; and
9 (5) Section 52.006, Utilities Code.

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

12 SECTION 25. The presiding officer of the Public Utility
13 Commission of Texas shall designate a commissioner to serve a term
14 on the governing body of the independent organization certified
15 under Section 39.151, Utilities Code, for the ERCOT power region
16 that begins January 1, 2024, to comply with Section 39.151(g-1),
17 Utilities Code, as amended by this Act.

18 SECTION 26. (a) Except as provided by Subsection (b) of
19 this section, Section 12.059, Utilities Code, as amended by this
20 Act, applies to a member of the Public Utility Commission of Texas
21 appointed before, on, or after the effective date of this Act.

22 (b) A member of the Public Utility Commission of Texas who,
23 before the effective date of this Act, completed the training
24 program required by Section 12.059, Utilities Code, as that law
25 existed before the effective date of this Act, is only required to
26 complete additional training on the subjects added by this Act to
27 the training program required by Section 12.059, Utilities Code. A

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1 commission member described by this subsection may not vote,
2 deliberate, or be counted as a member in attendance at a meeting of
3 the commission held on or after December 1, 2023, until the member
4 completes the additional training.

5 SECTION 27. This Act takes effect September 1, 2023.

ADOPTED

MAY 24 2023

By: C. Schwab

Substitute the following for H.B. No. 1500:

Latey Secretary of the Senate H.B. No. 1500

By: C. Schwab

C.S. H.B. No. 1500

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the continuation and functions of the Public Utility
3 Commission of Texas and the Office of Public Utility Counsel, and
4 the functions of the independent organization certified for the
5 ERCOT power region; increasing an administrative penalty.

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

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8 read as follows:

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19 in attendance at a meeting of the commission until the person
20 completes a [~~Before a commissioner may assume the commissioner's~~
21 ~~duties and before the commissioner may be confirmed by the senate,~~
22 ~~the commissioner must complete at least one course of the~~] training
23 program that complies with [~~established under~~] this section.

24 (b) The [A] training program must [~~established under this~~

1 ~~section shall~~] provide the person with information [~~to the~~
2 ~~commissioner~~] regarding:

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

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

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

10 (4) the results [~~rules~~] of the most recent formal
11 audit of the commission [~~with an emphasis on the rules that relate~~
12 ~~to disciplinary and investigatory authority~~];

13 (5) the requirements of:

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

17 (B) other laws applicable to members of a state
18 policy-making body in performing their duties [~~current budget for~~
19 ~~the commission~~]; and

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

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

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

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

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

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

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23 regular commission meeting on a meeting agenda item related to a
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25 SECTION 4. Section 12.203, Utilities Code, is amended to
26 read as follows:

27 Sec. 12.203. BIENNIAL REPORT. (a) Not later than January

1 15 of each odd-numbered year, the commission shall prepare a
2 written report that includes:

3 (1) suggestions regarding modification and
4 improvement of the commission's statutory authority and for the
5 improvement of utility regulation in general, including the
6 regulation of water and sewer service under Chapter 13, Water Code,
7 that the commission considers appropriate for protecting and
8 furthering the interest of the public;

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

11 (A) an assessment of:

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

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

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

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

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

26 (C) a summary of commission action over the
27 preceding two years that reflects changes in the scope of

1 competition in regulated electric and telecommunications markets;
2 and

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

7 (b) A telecommunications utility, as defined by Section
8 51.002, shall cooperate with the commission as necessary for the
9 commission to satisfy the requirements of this section.

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

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

14 (1) develop an agency-wide plan for:

15 (A) improving the effectiveness of commission
16 communications with the public, market participants, and other
17 relevant audiences; and

18 (B) responding to changing communications needs;

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

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

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

25 Sec. 13.002. APPLICATION OF SUNSET ACT. The Office of
26 Public Utility Counsel is subject to Chapter 325, Government Code
27 (Texas Sunset Act). Unless continued in existence as provided by

1 that chapter, the office is abolished [~~and this chapter expires~~]
2 September 1, 2029 [2023].

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

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

11 (f) The commission and a person may develop and enter into a
12 voluntary mitigation plan relating to a violation of Section 39.157
13 or rules adopted by the commission under that section. The
14 commission may approve the plan only if the commission determines
15 that the plan is in the public interest. The voluntary mitigation
16 plan must be reviewed at least once every two years and not later
17 than the 90th day after the implementation date of a wholesale
18 market design change. As part of the review, the commission must
19 determine whether the voluntary mitigation plan remains in the
20 public interest. If the commission determines that the voluntary
21 mitigation plan is no longer in the public interest, the commission
22 and the person must agree to a modification of the plan or the
23 commission must terminate the plan. Adherence [~~If the commission~~
24 ~~and a person enter into a voluntary mitigation plan, adherence~~] to
25 the plan may be considered in determining whether a violation
26 occurred and, if so, the penalty to be assessed [~~constitutes an~~
27 ~~absolute defense against an alleged violation with respect to~~

1 ~~activities covered by the plan].~~

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

5 (d) The commission shall adopt and enforce rules relating to
6 the reliability of the regional electrical network and accounting
7 for the production and delivery of electricity among generators and
8 all other market participants, or may delegate those
9 responsibilities to an independent organization [~~responsibilities~~
10 ~~for adopting or enforcing such rules. Rules adopted by an~~
11 ~~independent organization and enforcement actions taken by the~~
12 ~~organization under delegated authority from the commission are~~
13 ~~subject to commission oversight and review and may not take effect~~
14 ~~before receiving commission approval]. An independent organization
15 certified by the commission is directly responsible and accountable
16 to the commission. The commission has complete authority to
17 oversee and investigate the independent organization's finances,
18 budget, and operations as necessary to ensure the organization's
19 accountability and to ensure that the organization adequately
20 performs the organization's functions and duties. The independent
21 organization shall fully cooperate with the commission in the
22 commission's oversight and investigatory functions. The
23 commission may take appropriate action against an independent
24 organization that does not adequately perform the organization's
25 functions or duties or does not comply with this section, including
26 decertifying the organization or assessing an administrative
27 penalty against the organization. The commission by rule shall~~

1 adopt procedures governing decertification of an independent
2 organization, selecting and certifying a successor organization,
3 and transferring assets to the successor organization to ensure
4 continuity of operations in the region. The commission may not
5 implement, by order or by rule, a requirement that is contrary to an
6 applicable federal law or rule.

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

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

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

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

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

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

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

- 1 (A) finance;
- 2 (B) business;
- 3 (C) engineering, including electrical
- 4 engineering;
- 5 (D) trading;
- 6 (E) risk management;
- 7 (F) law; or
- 8 (G) electric market design.

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

23 (g-7) The presiding officer of the commission shall
24 designate commissioners to serve terms on the independent
25 organization's governing body under Subsection (g-1)(1)(B) in the
26 order in which the commissioners were first appointed to the
27 commission. A commissioner may not serve an additional term until

1 each commissioner has served a term.

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

5 (a) Meetings of the governing body of an independent
6 organization certified under Section 39.151 and meetings of a
7 subcommittee that includes a member of the governing body must be
8 open to the public. The bylaws of the independent organization and
9 the rules of the commission may provide for the governing body or
10 subcommittee to enter into executive session closed to the public
11 only to address a matter that the independent organization would be
12 authorized to consider in a closed meeting if the independent
13 organization were governed under Chapter 551, Government Code
14 [sensitive matters such as confidential personnel information,
15 contracts, lawsuits, competitively sensitive information, or other
16 information related to the security of the regional electrical
17 network].

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

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

27 Sec. 39.1514. COMMISSION DIRECTIVES TO INDEPENDENT

1 ORGANIZATION. (a) The commission may not use a verbal directive
2 to direct an independent organization certified under Section
3 39.151 to take an official action. The commission may direct the
4 organization to take an official action only through:

5 (1) a contested case;

6 (2) rulemaking;

7 (3) a memorandum; or

8 (4) a written order.

9 (b) The commission by rule shall:

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

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

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

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

23 (c) Notwithstanding another provision of this section, the
24 commission may use a verbal directive to direct an independent
25 organization to take an official action in an urgent or emergency
26 situation that poses an imminent threat to public health, public
27 safety, or the reliability of the power grid. If the commission

1 uses a verbal directive, the commission shall provide written
2 documentation of the directive to the independent organization not
3 later than 72 hours after the urgent or emergency situation ends.
4 The commission by rule shall establish criteria for determining
5 whether a situation is urgent or an emergency under this subsection
6 and establish a process by which the commission will issue
7 directives to the independent organization under this subsection.

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

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

16 (i) Not later than December 1 of each year, the commission
17 shall submit a report to the legislature that describes for the
18 12-month period preceding the report's submission:

19 (1) the number of instances in which the market
20 monitor reported potential market manipulation to the commission or
21 commission staff;

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

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

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

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

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

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

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

24 Sec. 39.159. POWER REGION RELIABILITY AND DISPATCHABLE
25 GENERATION.

26 SECTION 15. Section 39.159, Utilities Code, as added by
27 Chapter 426 (S.B. 3), Acts of the 87th Legislature, Regular

1 Session, 2021, is amended by adding Subsections (d) and (e) to read
2 as follows:

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

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

14 (2) develop criteria for resource participation that
15 require a resource to:

16 (A) be capable of running for at least four hours
17 at the resource's high sustained limit;

18 (B) be online and dispatchable not more than two
19 hours after being called on for deployment; and

20 (C) have the dispatchable flexibility to address
21 inter-hour operational challenges; and

22 (3) reduce the amount of reliability unit commitment
23 by the amount of dispatchable reliability reserve services procured
24 under this section.

25 (e) Notwithstanding Subsection (d)(2)(A), the independent
26 organization certified under Section 39.151 for the ERCOT power
27 region may require a resource to be capable of running for more than

1 four hours as the organization determines is needed.

2 SECTION 16. Subchapter D, Chapter 39, Utilities Code, is
3 amended by adding Sections 39.1591, 39.1592, 39.1593, 39.1594, and
4 39.1595 to read as follows:

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

8 (1) includes:

9 (A) the estimated annual costs incurred under
10 this subchapter by dispatchable and non-dispatchable generators to
11 guarantee that a firm amount of electric energy will be provided for
12 the ERCOT power grid; and

13 (B) as calculated by the independent system
14 operator, the cumulative annual costs that have been incurred in
15 the ERCOT market to facilitate the transmission of dispatchable and
16 non-dispatchable electricity to load and to interconnect
17 transmission level loads;

18 (2) documents the status of the implementation of this
19 subchapter, including whether the rules and protocols adopted to
20 implement this subchapter have materially improved the
21 reliability, resilience, and transparency of the electricity
22 market; and

23 (3) includes recommendations for any additional
24 legislative measures needed to empower the commission to implement
25 market reforms to ensure that market signals are adequate to
26 preserve existing dispatchable generation and incentivize the
27 construction of new dispatchable generation sufficient to maintain

1 reliability standards for at least five years after the date of the
2 report.

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

8 (b) Not later than December 1 each year, the owner or
9 operator of each electric generation facility in the ERCOT power
10 region shall demonstrate to the commission the ability of the
11 facility to comply in the following calendar year with the
12 requirements of Subsection (c).

13 (c) The commission shall require:

14 (1) each electric generation facility operating in the
15 ERCOT power region to generate power when called upon for dispatch
16 for at least 15 hours during the highest net load hours during each
17 six-month period designated by the commission;

18 (2) each dispatchable generation facility operating
19 in the ERCOT power region to be capable of operating during at least
20 90 percent of the highest net load hours each year, excluding
21 planned outage hours; and

22 (3) each non-dispatchable generation facility to
23 provide during the highest net load hours each year at least 90
24 percent of the facility's average generation, as measured without
25 the use of energy storage or dispatchable generation for firming.

26 (d) The owner or operator of an electric generation facility
27 may comply with Subsection (c) by owning or acquiring through a

1 power purchase agreement or other means resources that are capable
2 of providing energy continuously at maximum capability for at
3 least:

4 (1) six hours; or

5 (2) a number of hours that is more than six adopted by
6 the commission by rule.

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

9 Sec. 39.1593. COST ALLOCATION OF RELIABILITY SERVICES. (a)
10 The commission shall hold hearings and perform an evaluation to
11 determine whether allocating costs under the methodology described
12 by Subsection (c) would result in a net savings to consumers in the
13 ERCOT power region compared to allocating all costs of ancillary
14 and reliability services to load. The commission shall make the
15 determination required by this subsection not later than December
16 1, 2027.

17 (b) The commission shall implement Subsection (c) only if
18 the commission determines under Subsection (a) that the cost
19 allocation method described by Subsection (c) would result in a net
20 savings to consumers in the ERCOT power region compared to
21 allocating all costs of ancillary and reliability services to load.
22 If the commission makes that determination, the commission shall
23 implement Subsection (c) as soon as possible after making the
24 determination.

25 (c) The cost of all ancillary services and reliability
26 services procured under Section 39.159, as added by Chapter 426
27 (S.B. 3), Acts of the 87th Legislature, Regular Session, 2021,

1 shall be allocated on a semiannual basis among dispatchable
2 generation facilities, non-dispatchable generation facilities, and
3 load-serving entities in proportion to their contribution to
4 unreliability during the highest net load hours in the preceding
5 six months, as determined by the commission based on a number of
6 hours adopted by the commission for that six-month period, as
7 follows:

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

13 (2) for non-dispatchable generation facilities, the
14 difference between the mean of the lowest quartile generation for
15 each non-dispatchable generation facility and the mean generation
16 of the facility; and

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

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

26 (e) Subsection (c) does not apply to electric energy
27 storage.

1 Sec. 39.1594. RELIABILITY PROGRAM. (a) Under Section
2 39.159(b), as added by Chapter 426 (S.B. 3), Acts of the 87th
3 Legislature, Regular Session, 2021, or other law, the commission
4 may not require retail customers or load-serving entities in the
5 ERCOT power region to purchase credits designed to support a
6 required reserve margin or other capacity or reliability
7 requirement unless the commission ensures that:

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

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

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

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

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

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

25 (7) any program reliability standard reasonably
26 balances the incremental reliability benefits to customers against
27 the incremental costs of the program based on an evaluation by the

1 wholesale electric market monitor;

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

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

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

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

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

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

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

27 (b) This section does not require the commission to adopt a

1 reliability program that requires an entity to purchase capacity
2 credits.

3 (c) The commission and the independent organization
4 certified under Section 39.151 for the ERCOT power region shall
5 consider comments and recommendations from a technical advisory
6 committee established under the bylaws of the independent
7 organization that includes market participants when adopting and
8 implementing a program described by Subsection (a), if any.

9 (d) If the commission adopts a program described by
10 Subsection (a), not later than January 1, 2029, the commission
11 shall require the independent organization certified under Section
12 39.151 for the ERCOT power region and the wholesale electric market
13 monitor to complete an updated assessment on the cost to and effects
14 on the ERCOT market of the proposed reliability program and submit
15 to the commission and the legislature a report on the costs and
16 benefits of continuing the program. The assessment must include:

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

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

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

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

27 (5) an evaluation of the planned timeline for

1 implementation of real time co-optimization for energy and
2 ancillary services in the ERCOT power region; and

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

5 Sec. 39.1595. GRID RELIABILITY LEGISLATIVE OVERSIGHT
6 COMMITTEE. (a) In this section, "committee" means the Grid
7 Reliability Legislative Oversight Committee established under this
8 section.

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

13 (c) The committee is composed of eight members as follows:

14 (1) three members of the senate, appointed by the
15 lieutenant governor;

16 (2) three members of the house of representatives,
17 appointed by the speaker of the house of representatives;

18 (3) the chair of the committee of the senate having
19 primary jurisdiction over matters relating to the generation of
20 electricity; and

21 (4) the chair of the committee of the house having
22 primary jurisdiction over matters relating to the generation of
23 electricity.

24 (d) An appointed member of the committee serves at the
25 pleasure of the appointing official.

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

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

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

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

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

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

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

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

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

27 (2) summarize key findings from:

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

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

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

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

11 Sec. 39.167. CONFLICTS OF INTEREST REPORT. The commission
12 and the independent organization certified under Section 39.151 for
13 the ERCOT power region annually shall review statutes, rules,
14 protocols, and bylaws that apply to conflicts of interest for
15 commissioners and for members of the governing body of the
16 independent organization and submit to the legislature a report on
17 the effects the statutes, rules, protocols, and bylaws have on the
18 ability of the commission and the independent organization to
19 fulfill their duties.

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

23 (1) its annual retail sales in this state;

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

27 (3) any other information the commission requires

1 relating to affiliations between retail electric providers.

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

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

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

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

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

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

27 (2) summarize key findings from:

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

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

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

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

12 Sec. 39.167. CONFLICTS OF INTEREST REPORT. The commission
13 and the independent organization certified under Section 39.151 for
14 the ERCOT power region annually shall review statutes, rules,
15 protocols, and bylaws that apply to conflicts of interest for
16 commissioners and for members of the governing body of the
17 independent organization and submit to the legislature a report on
18 the effects the statutes, rules, protocols, and bylaws have on the
19 ability of the commission and the independent organization to
20 fulfill their duties.

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

24 (1) its annual retail sales in this state;

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

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

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

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

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

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

24 (q) The commission shall, in conjunction with the Nuclear
25 Regulatory Commission, investigate the development of a mechanism
26 whereby the State of Texas could ensure that funds for
27 decommissioning will be obtained when necessary in the same manner

1 as if the State of Texas were the licensee under federal law. [~~The~~
2 ~~commission shall file legislative recommendations regarding any~~
3 ~~changes in law that may be necessary to carry out the purposes of~~
4 ~~this subsection prior to January 15, 2009, which may be combined~~
5 ~~with the report required by Section 31.003.~~]

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

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

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

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

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

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

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

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

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

27 Sec. 39.9055. EXAMINATION OF DEMAND RESPONSE POTENTIAL OF

1 SEAWATER DESALINATION PROJECTS. The commission and the ERCOT
2 independent system operator shall study the potential for seawater
3 desalination projects to participate in existing demand response
4 opportunities in the ERCOT market. To the extent feasible, the
5 study shall determine whether the operational characteristics of
6 seawater desalination projects enable projects of that kind to
7 participate in ERCOT-operated ancillary services markets or other
8 competitively supplied demand response opportunities. The study
9 shall also determine the potential economic benefit to a seawater
10 desalination project if the project is able to reduce its demand
11 during peak pricing periods. The commission shall include the
12 results of the study in the report required by Section 12.203
13 [~~31.003~~].

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

16 Sec. 39.908. EFFECT OF SUNSET PROVISION. [~~(a)~~] If the
17 commission is abolished under Section 12.005 or other law, the [~~and~~
18 ~~the other provisions of this title expire as provided by Chapter~~
19 ~~325, Government Code (Texas Sunset Act), this subchapter, including~~
20 ~~the provisions of this title referred to in this subchapter,~~
21 ~~continues in full force and effect and does not expire.~~

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

27 SECTION 27. Section 52.060, Utilities Code, is amended to

1 read as follows:

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

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

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

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

14 (2) if the utility is undergoing a sale, transfer,
15 merger, consolidation, or acquisition required to be reported to
16 the utility commission under Section 13.301, for a reasonable time
17 until the sale, transfer, merger, consolidation, or acquisition is
18 complete.

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

20 (1) Section 304.201, Business & Commerce Code;

21 (2) Section 31.003, Utilities Code;

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

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

24 (5) Section 52.006, Utilities Code.

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

27 SECTION 30. (a) The presiding officer of the Public Utility

1 Commission of Texas shall designate a commissioner to serve a term
2 on the governing body of the independent organization certified
3 under Section 39.151, Utilities Code, for the ERCOT power region
4 that begins January 1, 2024, to comply with Section 39.151(g-1),
5 Utilities Code, as amended by this Act.

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

10 (c) A member of the Public Utility Commission of Texas who,
11 before the effective date of this Act, completed the training
12 program required by Section 12.059, Utilities Code, as that law
13 existed before the effective date of this Act, is only required to
14 complete additional training on the subjects added by this Act to
15 the training program required by Section 12.059, Utilities Code. A
16 commission member described by this subsection may not vote,
17 deliberate, or be counted as a member in attendance at a meeting of
18 the commission held on or after December 1, 2023, until the member
19 completes the additional training.

20 SECTION 31. The Public Utility Commission of Texas shall
21 require the independent organization certified under Section
22 39.151, Utilities Code, for the ERCOT power region to implement the
23 program required by Section 39.159(d), Utilities Code, as added by
24 this Act, not later than December 1, 2024.

25 SECTION 32. (a) The Public Utility Commission of Texas
26 shall prepare the portions of the report required by Sections
27 39.1591(2) and (3), Utilities Code, as added by this Act, only for

1 reports due on or after December 1, 2024.

2 (b) The Public Utility Commission of Texas shall implement
3 Section 39.1592, Utilities Code, as added by this Act, not later
4 than December 1, 2027.

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

9 (d) The Public Utility Commission of Texas and the
10 independent organization certified under Section 39.151, Utilities
11 Code, for the ERCOT power region shall conduct a study to assess the
12 total cost to consumers of different methods of cost allocation of
13 reliability and ancillary services procured under Section 39.159,
14 Utilities Code, as added by Chapter 426 (S.B. 3), Acts of the 87th
15 Legislature, Regular Session, 2021, including the method of cost
16 allocation provided by Section 39.1593(c), Utilities Code, as added
17 by this Act. The study must include an assessment of cost
18 allocation methods for the ERCOT Contingency Reserve Service. The
19 Public Utility Commission of Texas shall report the results of the
20 study to the legislature not later than December 1, 2024.

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

24 (1) conduct a study on whether implementing an
25 alternative to the single market clearing price for energy,
26 ancillary services, and other products would reduce costs to
27 residential and small commercial customers or their load-serving

1 entities, such as paying generators the price bid and not the
2 additional amounts up to the highest cost generator needed to clear
3 the market;

4 (2) analyze:

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

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

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

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

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

22 SECTION 33. The changes in law made by this Act to Section
23 15.023, Utilities Code, apply only to a violation committed on or
24 after the effective date of this Act. A violation committed before
25 the effective date of this Act is governed by the law in effect when
26 the violation was committed, and the former law is continued in
27 effect for that purpose.

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

ADOPTED

MAY 24 2023

Latey Law
Secretary of the Senate

BY: 

FLOOR AMENDMENT NO. 1

1 Amend C.S.H.B. No. 1500 (senate committee printing) in
2 SECTION 11 of the bill as follows:

3 (1) In the recital, amending Section 39.1515, Utilities Code
4 (page 5, line 57), strike "Subsection (f)" and substitute
5 "Subsections (a) and (f)".

6 (2) Immediately following the recital, amending Section
7 39.1515, Utilities Code (page 5, between lines 58 and 59), insert
8 the following:

9 (a) An independent organization certified under Section
10 39.151 shall contract with an entity selected by the commission to
11 act as the commission's wholesale electric market monitor to detect
12 and prevent market manipulation strategies, ~~and~~ recommend
13 measures to enhance the efficiency of the wholesale market, and
14 provide independent analysis of any material changes proposed to
15 the wholesale market. The commission may not restrict the market
16 monitor from appearing or speaking before or providing analysis to
17 the legislature. The independent organization may not
18 substantially modify the market monitor's contract unless the
19 modification is approved by a majority of the commissioners.

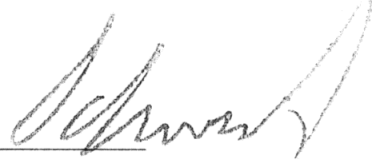
ADOPTED

MAY 24 2023

Latey Lewis
Secretary of the Senate

BY:

FLOOR AMENDMENT NO. 2



1 Amend C.S.H.B. No. 1500 (senate committee report) in SECTION
2 10 of the bill, adding Section 39.1514, Utilities Code, as follows:

3 (1) In added Subsection (a)(2) of the section (page 5, line
4 27), following the underlined semicolon, add "or".

5 (2) Strike added Subsections (a)(3) and (4) of the section
6 (page 5, lines 28 and 29), and substitute the following:

7 (3) a memorandum or written order adopted by a majority
8 vote.

9 (3) Immediately following added Subsection (a) of the
10 section (page 5, between lines 29 and 30), insert the following:

11 (a-1) The commission must use a contested case or rulemaking
12 process to direct an independent organization certified under
13 Section 39.151 to take an official action that will create a new
14 cost or fee, increase an existing cost or fee, or impose
15 significant operational obligations on an entity.

16 (4) In added Subsection (b)(1) of the section (page 5, line
17 33), between "order" and the underlined semicolon, insert ", in
18 accordance with Subsection (a-1)".

19 (5) Strike added Subsection (b)(2) of the section (page 5,
20 lines 34 and 35), and renumber subsequent subdivisions of that
21 subsection accordingly.

ADOPTED

MAY 24 2023

FLOOR AMENDMENT NO. 3

Lacey Saul
Secretary of the Senate BY: *[Signature]*

[Signature]

1 Amend C.S.H.B. No. 1500 (senate committee printing) by
2 adding the following appropriately numbered SECTION to the bill and
3 renumbering subsequent SECTIONS of the bill accordingly:

4 SECTION _____. Subchapter A, Chapter 35, Utilities Code, is
5 amended by adding Section 35.0022 to read as follows:

6 Sec. 35.0022. SERVICE INTERRUPTION NOTIFICATIONS. (a)
7 This section applies only to a provider of electric generation
8 service described by Section 35.0021(a).

9 (b) The commission by rule shall require a provider of
10 electric generation service to provide to the independent
11 organization certified under Section 39.151 for the ERCOT power
12 region notice of each material unplanned service interruption
13 within a reasonable time after the interruption of the service has
14 impacted generation availability. Not later than the third
15 business day after the service is restored, the independent
16 organization shall summarize the notices provided under this
17 subsection in a publicly available report.

18 (c) The report described by Subsection (b) shall state the
19 reasons for the unplanned service interruption and may be published
20 in any reasonable manner, including through an electronic interface
21 on the Internet website of the independent organization certified
22 under Section 39.151 for the ERCOT power region.

ADOPTED

19.11
MAY 24 2023

FLOOR AMENDMENT NO. 5

Lacey Spaul
Secretary of the Senate BY: *C. Schmidt*

1 Amend C.S.H.B. No. 1500 (senate committee printing) in
2 SECTION 16 of the bill, in added Section 39.1594, Utilities Code
3 (page 9, between lines 46 and 47), by inserting the following:

4 (e) If the commission adopts a program described by
5 Subsection (a), the commission by rule shall prohibit a generator
6 that receives credits through the program from decommissioning or
7 removing from service while the generator participates in the
8 program any dispatchable electric generating facility operated by
9 the generator unless the decommissioning or removal from service
10 begins after September 1, 2028, or the commission finds that the
11 decommissioning or removal from service:

12 (1) is required by federal law; or

13 (2) would alleviate significant financial hardship
14 for the generator.

ADOPTED

✓✓

MAY 24 2023

Lacey Spivey
Secretary of the Senate

[Signature]

FLOOR AMENDMENT NO. 6

1 Amend C.S.H.B. No. 1500 (senate committee printing) in
2 SECTION 7 of the bill, in amended Section 15.023(f), Utilities Code
3 (page 3, line 49), by striking "may" and substituting "must".

ADOPTED

✓✓
MAY 24 2023

Lacey Daw
Secretary of the Senate

BY: _____



FLOOR AMENDMENT NO. 7

1 Amend C.S.H.B. No. 1500 (senate committee report) in SECTION
2 9 of the bill, in amended Section 39.1511(a), Utilities Code (page
3 5, line 5), between "address" and "a matter" by inserting "risk
4 management or".

ADOPTED

MAY 24 2023

Lacey Spaw
Secretary of the Senate

BY:



FLOOR AMENDMENT NO. 8

1 Amend C.S.H.B. 1500 (senate committee report) in SECTION 16
2 of the bill, in added Section 39.1594(a), Utilities Code (page 8,
3 line 39), between "annually" and the underlined semicolon, by
4 inserting the following:

5 , less the cost of any interim or bridge solutions that are
6 lawfully implemented, except that the commission may adjust the
7 limit:

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

10 (B) for inflation with a base year of 2026

ADOPTED

RV 21-9
MAY 24 2023

FLOOR AMENDMENT NO. 9

Lacey Spaw
Secretary of the Senate

BY:

Phil King

1 Amend C.S.H.B. No. 1500 (senate committee printing) by adding
2 the following appropriately numbered SECTIONS to the bill and
3 renumbering subsequent SECTIONS of the bill accordingly:

4 SECTION __. Section 35.004, Utilities Code, is amended by
5 amending Subsection (d) and adding Subsections (d-1), (d-2), and
6 (d-3) to read as follows:

7 (d) The commission shall price wholesale transmission
8 services within ERCOT based on the postage stamp method of pricing
9 under which a transmission-owning utility's rate is based on the
10 ERCOT utilities' combined annual costs of transmission, other than
11 costs described by Subsections (d-2) and (d-3), divided by the
12 total demand placed on the combined transmission systems of all
13 such transmission-owning utilities within a power region. An
14 electric utility subject to the freeze period imposed by Section
15 39.052 may treat transmission costs in excess of transmission
16 revenues during the freeze period as an expense for purposes of
17 determining annual costs in the annual report filed under Section
18 39.257. Notwithstanding Section 36.201, the commission may
19 approve wholesale rates that may be periodically adjusted to ensure
20 timely recovery of transmission investment. Notwithstanding
21 Section 36.054(a), if the commission determines that conditions
22 warrant the action, the commission may authorize the inclusion of
23 construction work in progress in the rate base for transmission
24 investment required by the commission under Section 39.203(e).

25 (d-1) The commission by rule shall establish a reasonable

1 allowance for transmission-owning utility costs incurred to
2 interconnect generation resources directly with the ERCOT
3 transmission system at transmission voltage. The allowance must
4 take into account:

5 (1) the potential to reduce the costs to consumers of
6 generation interconnection;

7 (2) historical generation interconnection costs; and

8 (3) any other factor that the commission considers
9 reasonable to accomplish the goal of this subsection.

10 (d-2) Costs in excess of the transmission-owning utility
11 allowance provided by Subsection (d-1) incurred to interconnect
12 generation resources with the ERCOT transmission system must be
13 directly assigned to and collected from the generation resource
14 interconnecting through the facilities.

15 (d-3) Not later than September 1 of every fifth year, the
16 commission shall review and may adjust the allowance provided by
17 Subsection (d-1) to account for inflation or supply chain issues.

18 SECTION __. The Public Utility Commission of Texas is not
19 required to conduct the first review of an allowance under Section
20 35.004(d-3), Utilities Code, as added by this Act, until the fifth
21 year after the adoption of the rules required by Section 35.004(d-
22 1), Utilities Code, as added by this Act.

23 Section __. The Public Utility Commission of Texas shall
24 adopt rules as necessary to implement the changes in law made by
25 this Act to Section 35.004, Utilities Code, not later than the
26 180th day after the effective date of this Act.

27 SECTION __. The changes in law made by this Act to Section

1 35.004, Utilities Code, apply only to an electric generation
2 facility that executes a standard generator interconnection
3 agreement with a transmission-owning utility after December 31,
4 2025.

ADOPTED

MAY 24 2023

Latey Spaw
Secretary of the Senate

FLOOR AMENDMENT NO. 10

BY: Phil King

1 Amend C.S.H.B. No. 1500 (senate committee printing) as
2 follows:

3 (1) In SECTION 17(b) of the bill, in added Section
4 39.166(b)(2)(B), Utilities Code (page 10, line 30), strike
5 "39.904(k)" and substitute "39.9112".

6 (2) In SECTION 18(b) of the bill, in added Section
7 39.166(b)(2)(B), Utilities Code (page 11, line 16), strike
8 "39.904(k)" and substitute "39.9112".

9 (3) In the recital to SECTION 19 of the bill, amending
10 Section 39.203, Utilities Code (page 11, line 50), strike "Section
11 39.203(i), Utilities Code, is amended" and substitute "Sections
12 39.203(e) and (i), Utilities Code, are amended".

13 (4) In SECTION 19 of the bill, amending Section 39.203,
14 Utilities Code (page 11, between lines 51 and 52), insert the
15 following:

16 (e) The commission may require an electric utility or a
17 transmission and distribution utility to construct or enlarge
18 facilities to ensure safe and reliable service for the state's
19 electric markets and to reduce transmission constraints within
20 ERCOT in a cost-effective manner where the constraints are such
21 that they are not being resolved through Chapter 37 or the ERCOT
22 transmission planning process. [~~The commission shall require an~~
23 ~~electric utility or a transmission and distribution utility to~~
24 ~~construct or enlarge transmission or transmission-related~~
25 ~~facilities for the purpose of meeting the goal for generating~~

01

1 ~~capacity from renewable energy technologies under Section~~
2 ~~39.904(a).~~] In any proceeding brought under Chapter 37, an
3 electric utility or transmission and distribution utility ordered
4 to construct or enlarge facilities under this subchapter need not
5 prove that the construction ordered is necessary for the service,
6 accommodation, convenience, or safety of the public and need not
7 address the factors listed in Sections 37.056(c)(1)-(3) and
8 (4)(E). Notwithstanding any other law, including Section 37.057,
9 in any proceeding brought under Chapter 37 by an electric utility
10 or a transmission and distribution utility related to an
11 application for a certificate of public convenience and necessity
12 to construct or enlarge transmission or transmission-related
13 facilities under this subsection, the commission shall issue a
14 final order before the 181st day after the date the application is
15 filed with the commission. If the commission does not issue a
16 final order before that date, the application is approved.

17 (5) Strike SECTION 24 of the bill, amending Section
18 39.904(k), Utilities Code (page 12, lines 12 through 21), and
19 renumber subsequent SECTIONS of the bill accordingly.

20 (6) In SECTION 29(a) of the bill, repealing provisions of
21 law, strike Subdivisions (4) and (5) (page 13, lines 5 and 6), and
22 substitute the following:

23 (4) Section 39.904, Utilities Code;

24 (5) Section 39.916(g), Utilities Code; and

25 (6) Section 52.006, Utilities Code.

26 (7) Add the following appropriately numbered SECTIONS to the
27 bill and renumber subsequent SECTIONS of the bill accordingly:

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

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

14 SECTION _____. Section 37.0541, Utilities Code, is amended to
15 read as follows:

16 Sec. 37.0541. CONSOLIDATION OF CERTAIN PROCEEDINGS. The
17 commission shall consolidate the proceeding on an application to
18 obtain or amend a certificate of convenience and necessity for the
19 construction of a transmission line with the proceeding on another
20 application to obtain or amend a certificate of convenience and
21 necessity for the construction of a transmission line if it is
22 apparent from the applications or a motion to intervene in either
23 proceeding that the transmission lines that are the subject of the
24 separate proceedings share a common point of interconnection.
25 [~~This section does not apply to a proceeding on an application for~~
26 ~~a certificate of convenience and necessity for a transmission line~~
27 ~~to serve a competitive renewable energy zone as part of a plan~~

1 ~~developed by the commission under Section 39.904(g)(2).]~~

2 SECTION _____. Sections 37.056(c) and (d), Utilities Code,
3 are amended to read as follows:

4 (c) The commission shall grant each certificate on a
5 nondiscriminatory basis after considering:

6 (1) the adequacy of existing service;

7 (2) the need for additional service;

8 (3) the effect of granting the certificate on the
9 recipient of the certificate and any electric utility serving the
10 proximate area; and

11 (4) other factors, such as:

12 (A) community values;

13 (B) recreational and park areas;

14 (C) historical and aesthetic values;

15 (D) environmental integrity; and

16 (E) the probable improvement of service or
17 lowering of cost to consumers in the area if the certificate is
18 granted, including any potential economic or reliability benefits
19 associated with dual fuel and fuel storage capabilities in areas
20 outside the ERCOT power region[~~;~~ and

21 [~~(F) to the extent applicable, the effect of~~
22 ~~granting the certificate on the ability of this state to meet the~~
23 ~~goal established by Section 39.904(a) of this title].~~

24 (d) The commission by rule shall establish criteria, in
25 addition to the criteria described by Subsection (c), for granting
26 a certificate for a transmission project that serves the ERCOT
27 power region and[~~;~~] that is not necessary to meet state or federal

1 reliability standards [~~and that is not included in a plan~~
2 ~~developed under Section 39.904(g)~~]. The criteria must include a
3 comparison of the estimated cost of the transmission project for
4 consumers and the estimated congestion cost savings for consumers
5 that may result from the transmission project, considering both
6 current and future expected congestion levels and the transmission
7 project's ability to reduce those congestion levels. The
8 commission shall include with its decision on an application for
9 a certificate to which this subsection applies findings on the
10 criteria.

11 SECTION _____. Section 39.002, Utilities Code, as amended by
12 Chapters 908 (H.B. 4492) and 950 (S.B. 1580), Acts of the 87th
13 Legislature, Regular Session, 2021, is reenacted and amended to
14 read as follows:

15 Sec. 39.002. APPLICABILITY. This chapter, other than
16 Sections 39.151, 39.1516, 39.155, 39.157(e), 39.159, 39.160,
17 39.203, [~~39.904~~] 39.9051, 39.9052, and 39.914(e), and Subchapters
18 M and N, does not apply to a municipally owned utility or an
19 electric cooperative. Sections 39.157(e) and[~~7~~] 39.203[~~and~~
20 ~~39.904, however,~~] apply only to a municipally owned utility or an
21 electric cooperative that is offering customer choice. If there
22 is a conflict between the specific provisions of this chapter and
23 any other provisions of this title, except for Chapters 40 and 41,
24 the provisions of this chapter control.

25 SECTION _____. Section 39.402(a), Utilities Code, is amended
26 to read as follows:

27 (a) Until the date on which an electric utility subject to

1 this subchapter is authorized by the commission to implement
2 customer choice, the rates of the utility shall be regulated under
3 traditional cost of service regulation and the utility is subject
4 to all applicable regulatory authority prescribed by this subtitle
5 and Subtitle A, including Chapters 14, 32, 33, 36, and 37. Until
6 the date on which an electric utility subject to this subchapter
7 implements customer choice, the provisions of this chapter, other
8 than this subchapter, Sections 39.1516[~~7~~, ~~39.904~~,] and 39.905, and
9 the provisions relating to the duty to obtain a permit from the
10 Texas Commission on Environmental Quality for an electric
11 generating facility and to reduce emissions from an electric
12 generating facility, shall not apply to that utility. That portion
13 of any commission order entered before September 1, 2001, to comply
14 with this subchapter shall be null and void.

15 SECTION ____ . Section 39.452(d), Utilities Code, is amended
16 to read as follows:

17 (d) Until the date on which an electric utility subject to
18 this subchapter implements customer choice:

19 (1) the provisions of this chapter do not apply to that
20 electric utility, other than this subchapter, Sections 39.1516[~~7~~
21 ~~39.904~~,] and 39.905, the provisions relating to the duty to obtain
22 a permit from the Texas Commission on Environmental Quality for an
23 electric generating facility and to reduce emissions from an
24 electric generating facility, and the provisions of Subchapter G
25 that pertain to the recovery and securitization of hurricane
26 reconstruction costs authorized by Sections 39.458-39.463; and

27 (2) the electric utility is not subject to a rate freeze

1 and, subject to the limitation provided by Subsection (b), may
2 file for rate changes under Chapter 36 and for approval of one or
3 more of the rate rider mechanisms authorized by Sections 39.454
4 and 39.455.

5 SECTION _____. Section 39.502(b), Utilities Code, is amended
6 to read as follows:

7 (b) Until the date on which an electric utility subject to
8 this subchapter implements customer choice, the provisions of this
9 chapter, other than this subchapter and Sections 39.1516[~~7~~
10 ~~39.904,~~] and 39.905, do not apply to that utility.

11 SECTION _____. Section 39.552(b), Utilities Code, is amended
12 to read as follows:

13 (b) Until the date on which an electric utility subject to
14 this subchapter implements customer choice, the provisions of this
15 chapter, other than this subchapter and Sections 39.1516[~~7~~
16 ~~39.904,~~] and 39.905, do not apply to that utility.

17 SECTION _____. Subchapter Z, Chapter 39, Utilities Code, is
18 amended by adding Sections 39.9111, 39.9112, and 39.9113 to read
19 as follows:

20 Sec. 39.9111. RULES RELATED TO RENEWABLE POWER FACILITIES.
21 The commission may adopt rules requiring renewable power
22 facilities to have reactive power control capabilities or any other
23 feasible technology designed to reduce the facilities' effects on
24 system reliability.

25 Sec. 39.9112. REPORT ON TRANSMISSION AND GENERATION
26 CAPACITY. The commission and the independent organization
27 certified under Section 39.151 for the ERCOT power region shall

1 study the need for increased transmission and generation capacity
2 throughout this state and report to the legislature the results of
3 the study and any recommendations for legislation. The report
4 must be filed with the legislature not later than December 31 of
5 each even-numbered year.

6 Sec. 39.9113. RENEWABLE ENERGY CREDITS. To facilitate
7 voluntary contractual obligations and verify claims regarding
8 environmental attributes of renewable energy production in this
9 state, the independent organization certified under Section 39.151
10 for the ERCOT power region shall maintain an accreditation and
11 banking system to award and track voluntary renewable energy
12 credits generated by eligible facilities.

13 SECTION ____ . Section 39.916(a), Utilities Code, is amended
14 by amending Subdivision (1) and adding Subdivision (4) to read as
15 follows:

16 (1) "Distributed renewable generation" means electric
17 generation with a capacity of not more than 2,000 kilowatts
18 provided by a renewable energy technology[~~as defined by Section~~
19 ~~39.904,~~] that is installed on a retail electric customer's side of
20 the meter.

21 (4) "Renewable energy technology" means any technology
22 that relies exclusively on an energy source that is naturally
23 regenerated over a short time and is derived from the sun directly
24 or indirectly or from moving water or other natural movements or
25 mechanisms of the environment. The term includes a technology
26 that relies on energy derived from the sun directly, on wind,
27 geothermal, hydroelectric, wave, or tidal energy, or on biomass or

1 biomass-based waste products, including landfill gas. The term
2 does not include a technology that relies on an energy resource
3 derived from a fossil fuel, a waste product from a fossil fuel, or
4 a waste product from an inorganic source.

5 SECTION _____. Section 40.001(a), Utilities Code, is amended
6 to read as follows:

7 (a) Notwithstanding any other provision of law, except
8 Sections 39.155, 39.157(e), and 39.203, [~~and 39.904,~~] this chapter
9 governs the transition to and the establishment of a fully
10 competitive electric power industry for municipally owned
11 utilities. With respect to the regulation of municipally owned
12 utilities, this chapter controls over any other provision of this
13 title, except for sections in which the term "municipally owned
14 utility" is specifically used.

15 SECTION _____. Section 40.004, Utilities Code, is amended to
16 read as follows:

17 Sec. 40.004. JURISDICTION OF COMMISSION. Except as
18 specifically otherwise provided in this chapter, the commission
19 has jurisdiction over municipally owned utilities only for the
20 following purposes:

21 (1) to regulate wholesale transmission rates and
22 service, including terms of access, to the extent provided by
23 Subchapter A, Chapter 35;

24 (2) to regulate certification of retail service areas
25 to the extent provided by Chapter 37;

26 (3) to regulate rates on appeal under Subchapters D and
27 E, Chapter 33, subject to Section 40.051(c);

1 (4) to establish a code of conduct as provided by
2 Section 39.157(e) applicable to anticompetitive activities and to
3 affiliate activities limited to structurally unbundled affiliates
4 of municipally owned utilities, subject to Section 40.054;

5 (5) to establish terms and conditions for open access
6 to transmission and distribution facilities for municipally owned
7 utilities providing customer choice, as provided by Section
8 39.203;

9 (6) to administer [~~the renewable energy credits program~~
10 ~~under Section 39.904(b) and~~] the natural gas energy credits program
11 under Section 39.9044(b);

12 (7) to require reports of municipally owned utility
13 operations only to the extent necessary to:

14 (A) enable the commission to determine the
15 aggregate load and energy requirements of the state and the
16 resources available to serve that load; or

17 (B) enable the commission to determine information
18 relating to market power as provided by Section 39.155; and

19 (8) to evaluate and monitor the cybersecurity
20 preparedness of a municipally owned utility described by Section
21 39.1516(a)(3) or (4).

22 SECTION _____. Section 41.001, Utilities Code, is amended to
23 read as follows:

24 Sec. 41.001. APPLICABLE LAW. Notwithstanding any other
25 provision of law, except Sections 39.155, 39.157(e), and 39.203,
26 [~~and 39.904,~~] this chapter governs the transition to and the
27 establishment of a fully competitive electric power industry for

1 electric cooperatives. Regarding the regulation of electric
2 cooperatives, this chapter shall control over any other provision
3 of this title, except for sections in which the term "electric
4 cooperative" is specifically used.

5 SECTION _____. (a) Except as provided by Subsection (b) of
6 this section, notwithstanding the repeal by this Act of Section
7 39.904, Utilities Code, the Public Utility Commission of Texas by
8 rule shall adopt a program to apply that section as it existed
9 immediately before the effective date of this Act, and to apply
10 other statutes that referred to that section immediately before
11 the effective date of this Act, as if that section had not been
12 repealed by this Act and the other statutes that referred to that
13 section had not been repealed or amended by this Act.

14 (b) Under Subsection (a) of this section, the statutes
15 described in that subsection must be applied as if Section 39.904
16 were applicable only to renewable energy technologies that
17 exclusively rely on an energy source that is naturally regenerated
18 over a short time and derived directly from the sun.

19 (c) This section expires September 1, 2025, and the Public
20 Utility Commission of Texas shall phase out the program required
21 by Subsection (a) of this section so that it terminates on that
22 date.

23 SECTION _____. It is the intent of the 88th Legislature,
24 Regular Session, 2023, that the amendments made by this Act be
25 harmonized with another Act of the 88th Legislature, Regular
26 Session, 2023, relating to nonsubstantive additions to and
27 corrections in enacted codes.

ADOPTED

MAY 24 2023

Lacey Law
Secretary of the Senate

BY: Phil King

FLOOR AMENDMENT NO. 11

1 Amend C.S.H.B. No. 1500 (senate committee printing) by adding
2 the following appropriately numbered SECTIONS and renumbering
3 subsequent SECTIONS of the bill accordingly:

4 SECTION _____. The heading to Section 39.918, Utilities Code,
5 is amended to read as follows:

6 Sec. 39.918. UTILITY FACILITIES FOR POWER RESTORATION AFTER
7 SIGNIFICANT [~~WIDESPREAD~~] POWER OUTAGE.

8 SECTION _____. Section 39.918, Utilities Code, is amended by
9 amending Subsections (a) and (b) and adding Subsection (a-1) to
10 read as follows:

11 (a) In this section, "significant [~~widespread~~] power
12 outage" means an event that [~~results in~~]:

13 (1) results in a loss of electric power that:

14 (A) affects a significant number of distribution
15 customers of a transmission and distribution utility[+] and
16 [+B+] has lasted or is expected to last for at
17 least six [~~eight~~] hours;

18 (B) affects distribution customers of a
19 transmission and distribution utility in an area for which the
20 governor has issued a disaster or emergency declaration;

21 (C) affects distribution customers served by a
22 radial transmission or distribution facility, creates a risk to
23 public health or safety, and has lasted or is expected to last for
24 at least 12 hours; or

25 (D) creates [~~and~~

26 [+2+] a risk to public health or safety because it

1 affects a critical infrastructure facility that serves the public
2 such as a hospital, health care facility, law enforcement facility,
3 fire station, or water or wastewater facility; or

4 (2) causes the independent system operator to order a
5 transmission and distribution utility to shed load.

6 (a-1) The Texas Division of Emergency Management, the
7 independent organization certified under Section 39.151 for the
8 ERCOT power region, or the executive director of the commission
9 may determine that a power outage other than an outage described
10 by Subsection (a) is a significant power outage for the purposes
11 of this section.

12 (b) Notwithstanding any other provision of this subtitle, a
13 transmission and distribution utility may:

14 (1) lease and operate facilities that provide temporary
15 emergency electric energy to aid in restoring power to the
16 utility's distribution customers during a significant [~~widespread~~]
17 power outage in which:

18 (A) the independent system operator has ordered
19 the utility to shed load; or

20 (B) the utility's distribution facilities are not
21 being fully served by the bulk power system under normal
22 operations; and

23 (2) procure, own, and operate, or enter into a
24 cooperative agreement with other transmission and distribution
25 utilities to procure, own, and operate jointly, transmission and
26 distribution facilities that have a lead time of at least six
27 months and would aid in restoring power to the utility's
28 distribution customers following a significant [~~widespread~~] power

1 outage. In this section, long lead time facilities may not be
2 electric energy storage equipment or facilities under Chapter 35,
3 Utilities Code.

4 SECTION ____ . Section 39.918(k), Utilities Code, is repealed.

ADOPTED
MAY 24 2023

FLOOR AMENDMENT NO. 12

Latey Law
Secretary of the Senate

BY: *Jai Manicz*

1 Amend C.S.H.B. No. 1500 (senate committee printing) by adding
2 the following appropriately numbered SECTIONS to the bill and
3 renumbering subsequent SECTIONS of the bill accordingly:

4 SECTION __. Section 39.101(b), Utilities Code, is amended to
5 read as follows:

6 (b) A customer is entitled:

7 (1) to be informed about rights and opportunities in
8 the transition to a competitive electric industry;

9 (2) to choose the customer's retail electric provider
10 consistent with this chapter, to have that choice honored, and to
11 assume that the customer's chosen provider will not be changed
12 without the customer's informed consent;

13 (3) to have access to providers of energy efficiency
14 services, to on-site distributed generation, and to providers of
15 energy generated by renewable energy resources;

16 (4) to be served by a provider of last resort that
17 offers a commission-approved standard service package;

18 (5) to receive sufficient information to make an
19 informed choice of service provider;

20 (6) to be protected from unfair, misleading, or
21 deceptive practices, including protection from being billed for
22 services that were not authorized or provided; ~~and~~

23 (7) to have an impartial and prompt resolution of
24 disputes with its chosen retail electric provider and transmission
25 and distribution utility;

1 (8) to participation in demand response programs
2 through retail electric providers that offer demand response
3 programs; and

4 (9) to receive notice from the retail electric provider
5 that serves the customer when the independent organization
6 certified under Section 39.151 for the ERCOT power region issues
7 an emergency energy alert.

8 SECTION __. Subchapter Z, Chapter 39, Utilities Code, is
9 amended by adding Section 39.919 to read as follows:

10 Sec. 39.919. AVERAGE TOTAL RESIDENTIAL LOAD REDUCTION GOALS.

11 (a) The commission by rule shall establish goals in the ERCOT
12 power region to reduce the average total residential load.

13 (b) The rules adopted under Subsection (a) must provide for
14 the adoption of a program that:

15 (1) provides demand response participation to
16 residential customers where reasonably available;

17 (2) promotes the use of smart metering technology;

18 (3) is capable of responding to an emergency energy
19 alert about low operating reserves issued by the independent
20 organization certified under Section 39.151 for the ERCOT power
21 region;

22 (4) provides opportunities for demand response
23 providers to contract with retail electric providers to provide
24 demand response services;

25 (5) ensures the program does not impact the critical
26 needs of vulnerable populations;

27 (6) facilitates the widespread deployment of smart

1 responsive appliances and devices in a manner that enables the
2 customer's appliance or device to be enrolled as part of a demand
3 response product or plan offered by a retail electric provider;

4 (7) establishes the method by which the components of
5 the ratio described by Subsection (c) are calculated for purposes
6 of determining whether the goals described by Subsection (a) have
7 been achieved;

8 (8) provides for achievement of demand reductions
9 within both summer and winter seasons; and

10 (9) allows a retail electric provider that offers a
11 demand response program under this section to obtain funding for
12 the demand response program through an energy efficiency incentive
13 program established under Section 39.905.

14 (c) The goals described by Subsection (a) must be calculated
15 as a ratio by dividing the amount of load reduced at peak demand
16 by the total amount of demand, at the same time, of all residential
17 customers who have responsive appliances or devices at their
18 premises that reduce the electric consumption of the customers.

19 SECTION __. The Public Utility Commission of Texas shall
20 adopt rules as necessary for the adoption of a program to begin
21 facilitating the widespread deployment of appliances and devices
22 capable of being part of a demand response product or plan offered
23 by a retail electric provider, as provided by Section 39.919(b)(6),
24 Utilities Code, as added by this Act, before December 31, 2024.

ADOPTED

FLOOR AMENDMENT NO.

13

MAY 24 2023

19-11

BY:

Lawrence Kelly

Lacey Spaw
Secretary of the Senate

1 Amend C.S.H.B. 1500 (senate committee printing) by adding the
2 following appropriately numbered SECTION to the bill and
3 renumbering subsequent SECTIONS of the bill accordingly:

4 SECTION _____. Chapter 35, Utilities Code, is amended by
5 adding Subchapter F to read as follows:

6 SUBCHAPTER F. RENEWABLE ENERGY GENERATION FACILITY PERMIT

7 Sec. 35.201. DEFINITIONS; APPLICABILITY. (a) In this
8 subchapter:

9 (1) "Historic site" means a site under the
10 jurisdiction of the Texas Historical Commission, including under
11 Chapter 442, Government Code.

12 (2) "Permit holder" means a person who holds a permit
13 issued under this subchapter.

14 (3) "Person" includes an electric cooperative and a
15 municipally owned utility.

16 (4) "Renewable energy generation facility" means:

17 (A) a wind power facility as defined by Section
18 301.0001; or

19 (B) a solar power facility as defined by Section
20 302.0001.

21 (b) This subchapter applies to a renewable energy
22 generation facility regardless of whether the facility is the
23 subject of a wind power facility agreement or solar power facility
24 agreement entered into under Chapter 301 or 302.

25 (c) This subchapter applies only to a renewable energy
26 generation facility that is:

27 (1) a wind power facility located less than 10 miles
28 from a historic site, a river, or a natural area, state park, or
29 wildlife management area described by Section 11.221, Parks and

1 Wildlife Code; or

2 (2) a solar power facility located:

3 (A) outside the corporate boundaries of a home
4 rule municipality; and

5 (B) less than five miles from a historic site, a
6 river, or a natural area, state park, or wildlife management area
7 described by Section 11.221, Parks and Wildlife Code.

8 Sec. 35.202. LEGISLATIVE POLICY AND PURPOSE. The
9 conservation and development of all the natural resources of this
10 state are declared to be public rights and duties. It is also
11 declared that balancing private property rights, the need to
12 increase electric generation, and the need to mitigate unreasonable
13 impacts of renewable energy generation facilities on wildlife,
14 water, and land in this state is in the public interest. In the
15 exercise of the police power of this state, it is necessary and
16 desirable to provide additional means so that the installation and
17 removal of renewable energy generation facilities is placed under
18 the authority and direction of the commission.

19 Sec. 35.203. PERMIT REQUIRED; APPLICATION. (a) A person
20 may not interconnect a renewable energy generation facility with a
21 capacity of 10 megawatts or more to a transmission facility unless:

22 (1) the person holds a permit to operate a renewable
23 energy generation facility issued by the commission under this
24 subchapter; or

25 (2) the commission by order approves the construction.

26 (b) A person may apply for a permit to operate a renewable
27 energy generation facility by filing with the commission:

28 (1) a description of the location of the facility;

29 (2) a description of the type of facility;

30 (3) a copy of any information filed with the Federal
31 Energy Regulatory Commission in connection with registration with

1 that commission;

2 (4) any assumed business or professional name of the
3 applicant filed under Chapter 71, Business & Commerce Code; and

4 (5) any other information required by commission rule,
5 provided that in requiring that information the commission shall
6 protect the competitive process in a manner that ensures the
7 confidentiality of competitively sensitive information.

8 Sec. 35.204. APPROVAL OR DENIAL OF APPLICATION. (a) The
9 commission may approve an application only if the commission finds
10 that issuance or amendment of the permit would not violate state or
11 federal law or rule and would not interfere with the purpose of this
12 subchapter.

13 (b) A permit holder does not have a vested right in a permit.

14 Sec. 35.205. CONDITIONS OF PERMIT. For each permit, the
15 commission shall prescribe the conditions under which it is issued,
16 including:

17 (1) the boundary of the permitted facility location;

18 (2) the maximum number of renewable energy generation
19 facilities authorized by the permit; and

20 (3) any monitoring and reporting requirements
21 prescribed by the commission for the permit holder.

22 Sec. 35.206. RENEWABLE ENERGY GENERATION FACILITY FUND.

23 (a) The renewable energy generation facility fund is a dedicated
24 account in the general revenue fund.

25 (b) The fund consists of:

26 (1) fees collected under this subchapter;

27 (2) gifts, grants, and donations; and

28 (3) legislative appropriations.

29 (c) Money in the fund may be used only by the commission to
30 implement this subchapter.

31 Sec. 35.207. FEE. (a) An annual fee is imposed on each

1 permit holder. Fees must be deposited in the renewable energy
2 generation facility fund.

3 (b) The commission by rule shall adopt a fee schedule for
4 determining the amount of the fee to be charged.

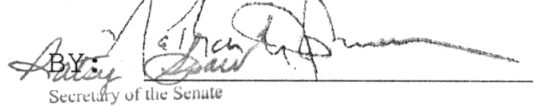
5 Sec. 35.208. POWER TO REGULATE AND SUPERVISE. (a) For
6 purposes of this subchapter, a provision of Subchapter B or E,
7 Chapter 14, that authorizes the commission to regulate a public
8 utility also applies to a person required to obtain a permit under
9 this subchapter, including an electric cooperative and a
10 municipally owned utility.

11 (b) The commission may adopt and enforce rules reasonably
12 required in the exercise of its powers under this subchapter.

13 Sec. 35.209. ENFORCEMENT AND PENALTIES. For the purposes
14 of enforcing this subchapter, a reference in Chapter 15 to a person
15 includes any person required to obtain a permit under this
16 subchapter, including an electric cooperative and a municipally
17 owned utility.

ADOPTED

MAY 24 2023

By: 
Secretary of the Senate

FLOOR AMENDMENT NO. 14

Amend C.S.H.B. No. 1500 (senate committee printing) by adding the following appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION ____ . Section 31.002, Utilities Code, is amended by adding Subdivisions (2-a) and (4-c) and amending Subdivision (10) to read as follows:

(2-a) "Aggregated distributed energy resource" means a group of distributed energy resources joined together to be operated as a single distributed energy resource, where each individual resource in the aggregation produces not more than 1.5 megawatts of electricity, subject to an increase or decrease by commission rule if the commission determines that a different capacity size limit is appropriate and does not adversely affect the ERCOT power region or distribution system reliability.

(4-c) "Distributed energy resource" means a source of electricity connected at a voltage less than 60 kilovolts, including electric energy storage, distributed generation, distributed natural gas generation, or electric vehicles that provide electricity onto the distribution system. The term does not include a facility that provides temporary emergency electric energy under Section 39.918.

(10) "Power generation company" means a person ~~including a person who owns or operates a distributed natural gas generation facility,~~ that:

(A) generates electricity that is intended to be

sold at wholesale, including the owner or operator of electric energy storage equipment or facilities to which Subchapter E, Chapter 35, applies;

(B) does not own a transmission or distribution facility in this state other than an essential interconnecting facility, a facility not dedicated to public use, or a facility otherwise excluded from the definition of "electric utility" under this section; and

(C) does not have a certificated service area, although its affiliated electric utility or transmission and distribution utility may have a certificated service area.

SECTION _____. Subchapter H, Chapter 39, Utilities Code, is amended by adding Section 39.3515 to read as follows:

Sec. 39.3515. REGISTRATION OF DISTRIBUTED ENERGY RESOURCES.

(a) An owner or operator of a distributed energy resource may provide energy or ancillary services in the wholesale market in the ERCOT power region through generating electricity and providing that electricity onto a distribution system only if:

(1) the owner or operator is registered with the commission as a power generation company under Section 39.351 and authorized by the independent organization certified under Section 39.151 for the ERCOT power region; or

(2) the distributed energy resource:

(A) is part of an aggregated distributed energy resource that is included in the registration of a power generation company under Section 39.351 and the independent organization certified under Section 39.151 for the ERCOT power region; and

(B) has complied with the interconnection requirements of the interconnecting transmission and distribution utility.

(b) The commission may establish simplified filing requirements to facilitate the registration of aggregated distributed energy resources. The filing requirements must require the registrant to disclose the name of the power generation company that operates the aggregated distributed energy resource.

(c) Notwithstanding any other provision of this chapter, a facility described by Section 39.914 or 39.916 may not be aggregated unless the facility is interconnected and operated in parallel with the distribution system, and:

(1) electricity from the facility provides energy or ancillary services in the wholesale market in the ERCOT power region in a manner described by this section; or

(2) the estimated annual amount of electricity to be produced by the facility is more than the retail electric customer's estimated annual electricity consumption at the time of the facility's installation or the actual amount of electricity produced by the facility was more than the retail electric customer's actual electricity consumption in the year prior to the facility's installation.

(d) The commission by rule shall:

(1) authorize the registrations described by Subsection (a); and

(2) adopt procedures for the creation of aggregated distributed energy resources.

SECTION ____ . Chapter 39, Utilities Code, is amended by adding Subchapter O to read as follows:

SUBCHAPTER O. INTERCONNECTION OF DISTRIBUTED ENERGY RESOURCES

Sec. 39.701. METERING EQUIPMENT AND INFORMATION. An interconnecting transmission and distribution utility is not required to provide an owner or operator of a distributed energy resource access to the utility's meter equipment if essential metering information is made available by the utility.

Sec. 39.702. INTEGRATION AND COST RECOVERY. (a) The commission by rule shall establish for the ERCOT power region:

(1) requirements for the dispatchability, reliability, and other characteristics of each type or classification of distributed energy resource;

(2) appropriate disclosure requirements and other customer protections for residential and small commercial customers of providers of aggregated distributed energy services;

(3) information an owner or operator of a distributed energy resource must provide to the interconnecting transmission and distribution utility to ensure the resource will not adversely affect the transmission or distribution system;

(4) interconnection guidelines that address:

(A) the determination of whether a given interconnection or combination of interconnections would exceed a transmission and distribution utility's system capacity in a particular location;

(B) considerations for feeder locations related to distributed energy resources;

(C) considerations of the size or capacity of a distributed energy resource;

(D) the assessment by the interconnecting transmission and distribution utility of potential impacts to other customers in the area of the distributed energy resource;
and

(E) other operating parameters necessary for the transmission and distribution utility's reliable operation of its transmission and distribution system;

(5) a methodology for the appropriate allocation and recovery of the transmission and distribution utility's costs to interconnect a distributed energy resource; and

(6) requirements for the independent organization certified under Section 39.151 for the ERCOT power region to report to the commission periodically:

(A) the categories and generation levels of distributed energy resources allowed to participate in the ERCOT wholesale market;

(B) the categories and megawatt levels of aggregated distributed energy resources allowed to participate in the ERCOT wholesale market;

(C) performance metrics for distributed energy resources allowed to participate in the ERCOT wholesale market;
and

(D) other information the commission may require.

(b) The commission shall authorize a transmission and distribution utility to:

(1) defer for recovery in a later ratemaking proceeding the incremental operations and maintenance expenses, or other expenses, and the return, not otherwise recovered in a rate proceeding, associated with the installation, modification, upgrade, or maintenance of its transmission or distribution facilities required by an interconnection with a distributed energy resource; and

(2) request recovery of the costs associated with an interconnection with a distributed energy resource, including any deferred expenses, through a proceeding under Section 35.004 or 36.210 or in another ratemaking proceeding regardless of whether the utility first requested recovery in a base-rate proceeding.

(c) Facilities required by an interconnection with a distributed energy resource are considered used and useful in providing service to the public and are prudent and includable in the rate base, regardless of the extent of the actual use of the facilities.

(d) This subchapter does not:

(1) require or authorize a distribution service provider to procure distributed energy resource services to enable the operation of the distribution system;

(2) require a distribution service provider to disclose to any third party, except as required by the independent system operator, the provider's system planning information, studies, models, critical infrastructure information, or other confidential information;

(3) diminish a distribution service provider's rights

or obligations to own or operate its distribution system and provide electric delivery service to retail customers in the provider's certificated service area;

(4) obligate a distribution service provider to interconnect a distributed energy resource with a capacity equal to or greater than 10 megawatts; or

(5) prohibit an interconnecting distribution service provider from shedding a distributed energy resource, or otherwise obligate an interconnecting distribution service provider to provide preferential treatment to feeders with distributed energy resources or prevent a transmission and distribution utility from fulfilling its load shedding obligations during an involuntary load shedding event initiated by the independent system operator or a planned or unplanned outage of the distribution system.

Sec. 39.703. LIABILITY. An interconnecting transmission and distribution utility or retail electric provider providing service to a distributed energy resource to which this subchapter applies is not liable for:

(1) a violation of reliability or service metrics caused by distributed energy resource operations that violate its interconnection agreement; or

(2) a distributed energy resource's inability or failure to provide services that violate its interconnection agreement or a penalty for such inability or failure.

SECTION _____. (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 Z, Chapter 39, Utilities Code, is amended by adding Section 39.9166 to read as follows:

Sec. 39.9166. DISTRIBUTED ENERGY RESOURCES. (a) A customer who purchases or leases a distributed energy resource or enters into a power purchase agreement for a distributed energy resource in the ERCOT power region is entitled to the information and disclosures required under Chapter 115, Business & Commerce Code, and is entitled to protection from fraudulent, unfair, misleading, or deceptive practices.

(b) An owner or operator of a distributed energy resource may provide energy or ancillary services in the wholesale market in the ERCOT power region.

(c) A person who owns or operates a distributed energy resource in an area in which customer choice has been introduced and is part of an aggregated distributed energy resource, or has not individually registered with the commission as its own power generation company, must sell the surplus electricity that is produced by the distributed energy resource and not consumed by the owner's premise to the retail electric provider that serves the premise's load at a value agreed to between the distributed energy resource owner and the retail electric provider that serves the premise's load. The value may be an agreed value based on the clearing price of energy or ancillary service at the time of day that the electricity is made available to the grid.

(d) A person who operates an aggregated distributed energy resource in an area in which customer choice has been introduced

is subject to customer protection rules established by the commission under Chapter 17 and this chapter.

(e) The independent organization certified under Section 39.151 for the ERCOT power region shall adopt procedures to ensure that the amount of electricity purchased from a distributed energy resource owner under this section is accounted for when settling the total load served by the retail electric provider that serves that premise owner's load.

(f) A distributed energy resource owner that requests net metering services for purposes of this section must have metering devices capable of providing measurements consistent with the independent organization's settlement requirements.

(g) A transmission and distribution utility may provide to customers educational information regarding the technical requirements for the interconnection of distributed energy resources to the distribution system. The provision of information under this subsection is not considered a competitive energy service.

(h) This section does not apply to a purchase or agreement entered into under Section 39.914 or 39.916.

SECTION _____. (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 Z, Chapter 39, Utilities Code, is amended by adding Section 39.9166 to read as follows:

Sec. 39.9166. DISTRIBUTED ENERGY RESOURCES. (a) A customer

who purchases or leases a distributed energy resource or enters into a power purchase agreement for a distributed energy resource in the ERCOT power region is entitled to the information and disclosures required under Chapter 113, Business & Commerce Code, as added by Chapter 561 (S.B. 398), Acts of the 87th Legislature, Regular Session, 2021, and is entitled to protection from fraudulent, unfair, misleading, or deceptive practices.

(b) An owner or operator of a distributed energy resource may provide energy or ancillary services in the wholesale market in the ERCOT power region.

(c) A person who owns or operates a distributed energy resource in an area in which customer choice has been introduced and is part of an aggregated distributed energy resource, or has not individually registered with the commission as its own power generation company, must sell the surplus electricity that is produced by the distributed energy resource and not consumed by the owner's premise to the retail electric provider that serves the premise's load at a value agreed to between the distributed energy resource owner and the retail electric provider that serves the premise's load. The value may be an agreed value based on the clearing price of energy or ancillary service at the time of day that the electricity is made available to the grid.

(d) A person who operates an aggregated distributed energy resource in an area in which customer choice has been introduced is subject to customer protection rules established by the commission under Chapter 17 and this chapter.

(e) The independent organization certified under Section

39.151 for the ERCOT power region shall adopt procedures to ensure that the amount of electricity purchased from a distributed energy resource owner under this section is accounted for when settling the total load served by the retail electric provider that serves that premise owner's load.

(f) A distributed energy resource owner that requests net metering services for purposes of this section must have metering devices capable of providing measurements consistent with the independent organization's settlement requirements.

(g) A transmission and distribution utility may provide to customers educational information regarding the technical requirements for the interconnection of distributed energy resources to the distribution system. The provision of information under this subsection is not considered a competitive energy service.

(h) This section does not apply to a purchase or agreement entered into under Section 39.914 or 39.916.

SECTION ____ . For the purposes of Section 39.3515(c)(2), Utilities Code, as added by this Act, a facility described by Section 39.914 or 39.916, Utilities Code, may be registered as an aggregated distributed energy resource with the Public Utility Commission of Texas if:

(1) the estimated annual amount of electricity to be produced by the facility was more than the retail electric customer's estimated annual electricity consumption at the time of installation, if the facility was installed not more than a year before the effective date of this Act; or

(2) the actual amount of electricity produced by the facility was more than the retail electric customer's actual electricity consumption in the year prior to the facility's installation, if the facility was installed more than a year before the effective date of this Act.

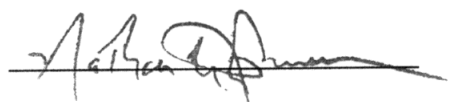
SECTION _____. As soon as practicable after the effective date of this Act, the Public Utility Commission of Texas shall adopt rules necessary to implement the changes in law made by this Act in amending Section 31.002, Utilities Code, and adding Subchapter O, Chapter 39, and Sections 39.3515 and 39.9166, Utilities Code.

ADOPTED

MAY 24 2023

Secretary of the Senate

FLOOR AMENDMENT NO. 15

BY: 

1 Amend C.S.H.B. No. 1500 (senate committee printing) by
2 adding the following appropriately numbered SECTION to the bill and
3 renumbering subsequent SECTIONS of the bill accordingly:

4 SECTION _____. Subchapter D, Chapter 38, Utilities Code, is
5 amended by adding Section 38.078 to read as follows:

6 Sec. 38.078. CIRCUIT SEGMENTATION STUDY AND COST RECOVERY.

7 (a) Not later than September 15, 2023, the commission shall direct
8 each transmission and distribution utility to perform a circuit
9 segmentation study.

10 (b) A circuit segmentation study must:

11 (1) use an engineering analysis to examine whether and
12 how the transmission and distribution utility's transmission and
13 distribution systems can be segmented and sectionalized to manage
14 and rotate outages more evenly across all customers and circuits,
15 while maintaining the protections offered to critical facilities;

16 (2) include an engineering analysis of the feasibility
17 of using sectionalization, automated reclosers, and other
18 technology to break up the circuits that host significant numbers
19 of critical facilities into smaller segments for outage management
20 purposes to enable more granular and flexible outage management;

21 (3) identify feeders with critical facilities that, if
22 equipped with facility-specific backup power systems and
23 segmentation, can enhance the utility's outage management
24 flexibility; and

25 (4) include an estimate of the time, capital cost, and
26 expected improvements to load-shed management associated with the
27 circuit segmentation study.

28 (c) Each transmission and distribution utility shall submit
29 a report of the conclusions of the utility's study to the commission

1 not later than September 1, 2024.

2 (d) The commission shall review each circuit segmentation
3 study not later than March 15, 2025.

4 (e) If the commission determines that the implementation of
5 circuit segmentation engineering and investments as provided by a
6 transmission and distribution utility's circuit segmentation study
7 report would facilitate better outage management in the ERCOT power
8 region, investments made by the utility for such purposes shall be
9 presumed just, reasonable, and appropriate for rate-based cost
10 recovery.

ADOPTED

✓✓
MAY 24 2023

FLOOR AMENDMENT NO. 17

Latey Law
Secretary of the Senate

BY: *C. Schmidt*

1 Amend C.S.H.B. No. 1500 (senate committee printing) as
2 follows:

3 (1) In SECTION 16 of the bill, strike added Sections 39.1591,
4 39.1592, and 39.1593, Utilities Code (page 6, line 65 through page
5 8, line 30) and substitute the following:

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

9 (1) includes:

10 (A) the estimated annual costs incurred by load
11 servicing entities under this subchapter associated with firming
12 dispatchable and non-dispatchable electric generation facilities
13 to guarantee that a firm amount of electric energy will be provided
14 for the ERCOT power grid; and

15 (B) as calculated by the independent system
16 operator, the cumulative annual costs that have been incurred in
17 the ERCOT market to facilitate the transmission of dispatchable
18 and non-dispatchable electricity to load and to interconnect
19 transmission level loads, including a statement of the total
20 cumulative annual costs and of the cumulative annual costs incurred
21 for each type of activity described by this paragraph;

22 (2) documents the status of the implementation of this
23 subchapter, including whether the rules and protocols adopted to
24 implement this subchapter have materially improved the
25 reliability, resilience, and transparency of the electricity

1 market; and

2 (3) includes recommendations for any additional
3 legislative measures needed to empower the commission to implement
4 market reforms to ensure that market signals are adequate to
5 preserve existing dispatchable generation and incentivize the
6 construction of new dispatchable generation sufficient to maintain
7 reliability standards for at least five years after the date the
8 report is filed.

9 Sec. 39.1592. GENERATION RELIABILITY REQUIREMENTS FOR
10 CERTAIN FACILITIES. (a) This section applies only to an electric
11 generation facility that is interconnected in the ERCOT power
12 region on or after January 1, 2026, has been in operation for at
13 least one year, and is not a self-generator.

14 (b) Not later than December 1 of each year, the owner or
15 operator of each electric generation facility, other than a battery
16 energy storage resource, shall demonstrate to the commission the
17 ability of the facility to operate or be available to operate when
18 called on for dispatch at or above the facility's seasonal average
19 generation capability during the highest net load hours, as
20 determined by the commission. The facilities must be allowed to
21 meet the performance requirements described by this subsection by
22 supplementing or contracting with on-site or off-site resources,
23 including battery energy storage resources. The commission shall
24 determine each electric generation facility's average generation
25 capability based on expected resource availability and seasonal-
26 rated capacity on a standalone basis.

27 (c) The commission shall require the independent organization

1 certified under Section 39.151 for the ERCOT power region to:

2 (1) enforce the requirements of Subsection (b) by
3 imposing financial penalties for failing to comply with the
4 performance requirements described by that subsection; and

5 (2) provide financial incentives for exceeding the
6 performance requirements described by that subsection.

7 (d) The independent organization certified under Section
8 39.151 for the ERCOT power region may not impose penalties under
9 Subsection (c):

10 (1) for resource unavailability due to planned
11 maintenance outages or physical transmission outages; or

12 (2) on resources that are already subject to performance
13 obligations under the day-ahead market rules or other reliability
14 or ancillary services established by the commission or the
15 independent organization.

16 Sec. 39.1593. COST ALLOCATION OF RELIABILITY SERVICES. (a)
17 The commission shall hold hearings and perform an evaluation to
18 determine whether allocating the costs of ancillary and
19 reliability services, including those procured under Section
20 39.159, as added by Chapter 426 (S.B. 3), Acts of the 87th
21 Legislature, Regular Session, 2021, using a methodology described
22 by Subsection (b) would result in a net savings to consumers in
23 the ERCOT power region compared to allocating all costs of
24 ancillary and reliability services to load to ensure reliability
25 associated with both operational and reserve capacity. The
26 commission shall make the determination not later than December 1,
27 2026, and implement the cost allocation method that would result

1 in the largest net savings to customers in the ERCOT power region
2 as soon as practicable after that date.

3 (b) The commission shall evaluate whether to allocate the
4 cost of ancillary services and reliability services:

5 (1) on a semiannual basis among generation facilities,
6 non-dispatchable generation facilities, and load serving entities
7 in proportion to their contribution to unreliability during the
8 highest net load hours in the preceding season, as determined by
9 the commission based on a number of hours adopted by the commission
10 for that season; or

11 (2) using another method identified by the commission.

12 (c) A cost allocation method implemented under this section
13 applies only to a generation facility or load serving entity that
14 has participated in the ERCOT market for at least one year,
15 including a load serving entity whose parent company or affiliate
16 has participated in the ERCOT market for at least one year.

17 (d) A cost allocation method implemented under this section
18 does not apply to electric energy storage.

19 (2) In SECTION 32 of the bill (page 13, lines 51 and 52),
20 strike "the method of cost allocation provided by Section
21 39.1593(c)," and substitute "methods of cost allocation described
22 by Section 39.1593,".

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 88TH LEGISLATIVE REGULAR SESSION

May 25, 2023

TO: Honorable Dade Phelan, Speaker of the House, House of Representatives

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: HB1500 by Holland (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.), **As Passed 2nd House**

Estimated Two-year Net Impact to General Revenue Related Funds for HB1500, As Passed 2nd House : a negative impact of (\$2,224,130) through the biennium ending August 31, 2025.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

General Revenue-Related Funds, Five- Year Impact:

<i>Fiscal Year</i>	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2024	(\$987,065)
2025	(\$1,237,065)
2026	(\$1,237,065)
2027	(\$737,065)
2028	(\$737,065)

All Funds, Five-Year Impact:

<i>Fiscal Year</i>	Probable (Cost) from General Revenue Fund 1	Probable Revenue Gain/(Loss) from Renewable Energy Generation Facility Fund	Probable (Cost) from Renewable Energy Generation Facility Fund	Change in Number of State Employees from FY 2023
2024	(\$987,065)	\$986,951	(\$986,951)	15.0
2025	(\$1,237,065)	\$986,951	(\$986,951)	15.0
2026	(\$1,237,065)	\$986,951	(\$986,951)	15.0
2027	(\$737,065)	\$986,951	(\$986,951)	15.0
2028	(\$737,065)	\$986,951	(\$986,951)	15.0

Fiscal Analysis

The bill would amend the Utilities Code to continue the functions of the Public Utility Commission of Texas, the Office of Public Utility Counsel, and the functions of the independent organization certified for the ERCOT power region until September 1, 2029.

The bill would allow the Public Utility Commission (PUC) to increase the maximum daily administrative penalty the agency may impose for a violation of a voluntary mitigation plan and requires PUC to review such plans at least once every two years. Voluntary mitigation plan violation penalties apply only after the effective date of the bill.

The bill would expand and clarify the Independent Market Monitor's (IMM) reporting to PUC and require PUC to report to the Legislature annually the number of instances the IMM reported potential market manipulation and other information as prescribed by the Legislature. PUC would be restricted from allowing the IMM from appearing, speaking, or providing analysis to the Legislature. ERCOT would also be prohibited from modifying the IMM's contract without majority approval by PUC

The bill would allow PUC to establish guardrails on the performance credit mechanism (PCM), including an annual cost cap of \$1 billion and requires PUC to direct ERCOT to procure dispatchable reliability reserve services (DRRS). A generator receiving credits through the PCM program is prohibited from decommissioning or removing from service any dispatchable electric generating facility while participating in PCM, unless it was after September 1, 2028, required by federal law, or alleviated significant financial hardship for the generator. PUC would adopt rules to implement this provision. PUC will define how ERCOT must calculate and allocate the cost of providing ancillary/reliability services, including requiring ERCOT to allocate on a semiannual basis.

The bill would establish the Grid Reliability Legislative Oversight Committee to oversee PUC's implementation of recent electric market legislation and will require retail electric providers (REPs) to annually report retail sales to PUC.

The bill would establish reliability requirements for generation facilities in the ERCOT power region and directs PUC to require ERCOT to enforce the requirements. PUC is required to annually report to the legislature estimated costs incurred by load serving entities (LSEs) associated with firming dispatchable and non-dispatchable electric generation facilities, other costs calculated by ERCOT, implementation status, and recommendations.

The bill would incorporate an instructional provision that requires PUC to require ERCOT to implement DRRS by December 1, 2024 and requires PUC to implement generator reliability requirements by December 1, 2027. PUC and ERCOT will be required to study the consumer costs associated with Senate Bill 3 from the 87th Regular Legislative Session and report to the Legislature by December 1, 2024, and study costs on alternatives to a single market clearing price and report to the Legislature by December 1, 2025.

The bill would require that when PUC gives a directive to ERCOT through a memorandum or a written order, it must be adopted by majority vote. The agency is also to engage in a contested case or rulemaking process to direct ERCOT to take an official action that will create a new cost or fee, increase an existing cost or fee, or impose significant operational obligations on an entity.

The bill would require PUC by rule to require a provider of electric generation service to provide ERCOT notice of each material unplanned service interruption within a reasonable time after the interruption of the service has impacted generation availability.

The bill would requires PUC under Section 35.004 to establish a reasonable allowance for costs incurred by transmission-owning utilities to interconnect generation resources to the ERCOT transmission grid. The allowance should take historical interconnection costs, potential to reduce consumer costs, and any other factors PUC considers reasonable into account. Any costs in excess of the allowance must be directly assigned to and collected from the generation resource. PUC must review and can adjust for inflation or supply chain issues every 5 years. PUC's first review can happen 5 years after adoption of the rules required to implement section 35.004, which must happen within 180 days of effective date of this act. Section 35.004 is applicable to

generators that execute a standard interconnection agreement with a transmission-owning utility after 12/31/2025.

The bill would require PUC to direct transmission and distribution utilities (TDUs) to perform a circuit segmentation study and submit a report to PUC by 2024. PUC is directed to review each study by 2025 and, if PUC determines that implementation of circuit segmentation would facilitate better outage management in the ERCOT region, then investments towards segmentation by a utility would be presumed to be just, reasonable, and appropriate for rate-based cost recovery.

This bill would amend Chapter 35 of the Utilities Code to add Subchapter F regarding permits for renewable energy generation facilities.

The bill would require operators of a wind or solar power facility with a capacity of 10 megawatts or more to obtain a permit from the PUC. In addition to a permit, the bill would require an operator to apply for and obtain PUC approval prior to constructing a new wind or solar power facility. The bill would impose an annual permit fee on each permit holder. The amount of the fee would be determined by the PUC.

The bill would create the Renewable Energy Generation Facility Fund as a dedicated account in the General Revenue fund. The fund would consist of an environmental impact fee established by the bill, gifts, grants, donations, and legislative appropriations.

The bill is effective September 1, 2023.

Methodology

Based on the analysis of the PUC, this estimate assumes that the agency would require \$250,000 in fiscal year 2024, and \$500,000 in fiscal year 2025 and 2026 from General Revenue for contractor costs related to the reports and studies as required by the bill.

This estimate assumes that the PUC would require 6.0 additional full time equivalent (FTE) positions to handle increased rulemakings and contested cases associated with issuing directives to ERCOT. Two Attorney III (\$90,000 per year with estimated benefits of \$27,297) would be needed to assist in rulemaking and contested cases. Two Economist III (\$90,000 per year with estimated benefits of \$27,297) would be needed to assist with rulemaking. Two Administrative Law Judge I (\$95,000 per year with estimated benefits of \$28,814) to assist with contested cases. The annual cost to PUC for these costs would be \$737,065 per fiscal year in General Revenue.

Under the bill's provisions, the Renewable Energy Generation Facility Fund would be established as a General Revenue-Dedicated account with eligible uses to include covering expenses necessary to implement the bill's provisions and to which would be deposited revenue generated through a new permit fee, which the bill establishes and requires to be administered by the PUC. The bill would require the agency to set a fee schedule to determine the amount to be charged to each permit holder. For purposes of this analysis, this estimate assumes that the PUC would establish a fee schedule for this new fee at an amount sufficient to cover the agency's annual costs with revenue deposited to the credit of the new General Revenue-Dedicated account Renewable Energy Generation Facility Fund.

This estimate assumes that the PUC would require 9.0 additional FTEs positions to implement the permitting of renewable energy generation facilities. An additional five Attorney III positions (\$90,000 per year with estimated benefits of \$27,297) would be needed for rulemaking which is anticipated to continue over a 5-year period. An additional Legal Assistant III position (\$60,000 per year with estimated benefit cost of \$18,198) would be needed to support the attorneys in rule making. An additional three Engineer III positions (\$75,000 per year with estimated benefits of \$22,748) would be needed to conduct analysis. The annual cost to PUC for these costs would be \$986,951 per fiscal year in the new established General Revenue-Dedicated account Renewable Energy Generation Facility Fund.

Note: This legislation would create or recreate a dedicated account in the General Revenue Fund, create or recreate a fund either in, with, or outside of the Treasury, or dedicate or rededicate a revenue source. The Legislature consolidated funds into the General Revenue Fund as of August 31, 1993 and eliminated all

applicable statutory revenue dedications as of August 31, 1995. Each subsequent Legislature has enacted a funds consolidation bill. The dedication included in this bill, unless created by a constitutional amendment, would be subject to funds consolidation review by the current Legislature.

Technology

PUC estimate anticipates a technology impact of \$18,000 in start-up equipment for new FTEs.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 116 Sunset Advisory Commission, 304 Comptroller of Public Accounts, 473 Public Utility Commission of Texas, 475 Office of Public Utility Counsel, 575 Texas Division of Emergency Management, 802 Parks and Wildlife Department, 808 Historical Commission

LBB Staff: JMc, SZ, GDZ, JBel, SMAT

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 88TH LEGISLATIVE REGULAR SESSION

May 23, 2023

TO: Honorable Charles Schwertner, Chair, Senate Committee on Business & Commerce

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: HB1500 by Holland (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.), **Committee Report 2nd House, Substituted**

Estimated Two-year Net Impact to General Revenue Related Funds for HB1500, Committee Report 2nd House, Substituted : a negative impact of (\$750,000) through the biennium ending August 31, 2025.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

General Revenue-Related Funds, Five- Year Impact:

<i>Fiscal Year</i>	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2024	(\$250,000)
2025	(\$500,000)
2026	(\$500,000)
2027	\$0
2028	\$0

All Funds, Five-Year Impact:

<i>Fiscal Year</i>	Probable (Cost) from General Revenue Fund 1
2024	(\$250,000)
2025	(\$500,000)
2026	(\$500,000)
2027	\$0
2028	\$0

Fiscal Analysis

The bill would amend the Utilities Code to continue the functions of the Public Utility Commission of Texas, the Office of Public Utility Counsel, and the functions of the independent organization certified for the ERCOT power region until September 1, 2029

The bill would allow the Public Utility Commission (PUC) to increase the maximum daily administrative penalty the agency may impose for a violation of a voluntary mitigation plan and requires PUC to review such plans at least once every two years. Voluntary mitigation plan violation penalties apply only after the effective date of the bill.

The bill would expand and clarify the Independent Market Monitor's (IMM) reporting to PUC and require PUC to report to the Legislature annually the number of instances the IMM reported potential market manipulation and other information as prescribed by the Legislature.

The bill would allow PUC to establish guardrails on the performance credit mechanism (PCM), including an annual cost cap of \$1 billion and requires PUC to direct ERCOT to procure dispatchable reliability reserve services (DRRS). PUC will define how ERCOT must calculate and allocate the cost of providing ancillary/reliability services, including requiring ERCOT to allocate on a semiannual basis.

The bill would establish the Grid Reliability Legislative Oversight Committee to oversee PUC's implementation of recent electric market legislation and will require retail electric providers (REPs) to annually report retail sales to PUC.

The bill would establish reliability requirements for generation facilities in the ERCOT power region and requires PUC and ERCOT to study the consumer costs associated with ancillary services procured in accordance with last session's Senate Bill 3 and whether implementing an alternative to the single market clearing price would reduce costs.

The bill would incorporate an instructional provision that requires PUC to require ERCOT to implement DRRS by December 1, 2024 and requires PUC to implement generator reliability requirements by December 1, 2027. PUC and ERCOT will be required to study the consumer costs associated with Senate Bill 3 from the 87th Regular Legislative Session and report to the Legislature by December 1, 2024, and study costs on alternatives to a single market clearing price and report to the Legislature by December 1, 2025.

The bill is effective September 1, 2023.

Methodology

Based on the analysis of the PUC, this estimate assumes that the agency would require \$250,000 in fiscal year 2024, and \$500,000 in fiscal year 2025 and 2026 for contractor costs related to the reports and studies required by the bill.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 116 Sunset Advisory Commission, 304 Comptroller of Public Accounts, 473 Public Utility Commission of Texas, 475 Office of Public Utility Counsel

LBB Staff: JMc, SZ, GDZ, JBel, SMAT

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 88TH LEGISLATIVE REGULAR SESSION

May 10, 2023

TO: Honorable Charles Schwertner, Chair, Senate Committee on Business & Commerce

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: HB1500 by Holland (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.), **As Engrossed**

No significant fiscal implication to the State is anticipated.

Based on the analysis of the Public Utility Commission of Texas, Comptroller of Public Accounts, the Office of Public Utility Counsel, and the Sunset Advisory Commission, duties and responsibilities associated with implementing the provisions of the bill could be accomplished by utilizing existing resources.

The bill would take effect September 1, 2023.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 116 Sunset Advisory Commission, 304 Comptroller of Public Accounts, 473 Public Utility Commission of Texas, 475 Office of Public Utility Counsel

LBB Staff: JMc, SZ, JBel, SMAT, GDZ

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 88TH LEGISLATIVE REGULAR SESSION

April 5, 2023

TO: Honorable Todd Hunter, Chair, House Committee on State Affairs

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: HB1500 by Holland (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.), **Committee Report 1st House, Substituted**

No significant fiscal implication to the State is anticipated.

Based on the analysis of the Public Utility Commission of Texas, Comptroller of Public Accounts, the Office of Public Utility Counsel, and the Sunset Advisory Commission, duties and responsibilities associated with implementing the provisions of the bill could be accomplished by utilizing existing resources.

The bill would take effect September 1, 2023.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 116 Sunset Advisory Commission, 304 Comptroller of Public Accounts, 473 Public Utility Commission of Texas, 475 Office of Public Utility Counsel

LBB Staff: JMc, SMAT, GDZ, JBel

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 88TH LEGISLATIVE REGULAR SESSION

March 14, 2023

TO: Honorable Todd Hunter, Chair, House Committee on State Affairs

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: HB1500 by Holland (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.), **As Introduced**

No significant fiscal implication to the State is anticipated.

Based on the analysis of the Public Utility Commission of Texas, Comptroller of Public Accounts, the Office of Public Utility Counsel, and the Sunset Advisory Commission, duties and responsibilities associated with implementing the provisions of the bill could be accomplished by utilizing existing resources.

The bill would take effect September 1, 2023.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 116 Sunset Advisory Commission, 304 Comptroller of Public Accounts, 473 Public Utility Commission of Texas, 475 Office of Public Utility Counsel

LBB Staff: JMc, SMAT, GDZ, JBel