

House Bill 1500
Senate Amendments
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SECTION 1. Section 12.005, Utilities Code, is amended to read as follows:

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

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

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

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

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

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

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

(4) the results ~~[rules]~~ of the most recent formal audit of the

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SECTION 1. Same as House version.

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commission ~~[with an emphasis on the rules that relate to disciplinary and investigatory authority];~~

(5) the requirements of:

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

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

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

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

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

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

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

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

SECTION 3. Section 12.202, Utilities Code, is amended by

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adding Subsections (a-1) and (a-2) to read as follows:

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

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

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

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

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

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

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

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

(A) an assessment of:

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

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

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- (B) an assessment of the effect of competition on:
- (i) customers in both competitive and noncompetitive telecommunications markets, with a specific focus on rural markets; and
 - (ii) the rates and availability of telecommunications services for residential and business customers, including any effects on universal service; and
- (C) a summary of commission action over the preceding two years that reflects changes in the scope of competition in regulated electric and telecommunications markets; and
- (3) recommendations for legislation that the commission determines appropriate to promote the public interest in the context of partially competitive electric and telecommunications markets.
- (b) A telecommunications utility, as defined by Section 51.002, shall cooperate with the commission as necessary for the commission to satisfy the requirements of this section.

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

Sec. 12.205. STRATEGIC COMMUNICATIONS PLAN.

The commission shall:

(1) develop an agency-wide plan for:

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

(B) responding to changing communications needs;

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

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

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

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

No equivalent provision.

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SECTION 6. Same as House version.

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

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

(f) The commission and a person may develop and enter into a voluntary mitigation plan relating to a violation of Section 39.157 or rules adopted by the commission under that section. The commission may approve the plan only if the commission determines that the plan is in the public interest. The voluntary mitigation plan must be reviewed at least once every two years and not later than the 90th day after the implementation date of a wholesale market design change. As part of the review, the commission must determine whether the voluntary mitigation plan remains in the public interest. If the commission determines that the voluntary mitigation plan is no longer in the public interest, the commission and the person must agree to a modification of the plan or the commission must terminate the plan. Adherence [If the commission and a person enter into a voluntary mitigation plan, adherence] to the plan must be considered in

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determining whether a violation occurred and, if so, the penalty to be assessed ~~[constitutes an absolute defense against an alleged violation with respect to activities covered by the plan].~~ [FA6]

No equivalent provision.

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

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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. [FA14]

No equivalent provision.

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

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

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

(c) The report described by Subsection (b) shall state the reasons for the unplanned service interruption and may be published in any reasonable manner, including through an electronic interface on the Internet website of the independent organization certified under Section 39.151 for the ERCOT power region. [FA3]

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

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

(d-1) The commission by rule shall establish a reasonable allowance for transmission-owning utility costs incurred to interconnect generation resources directly with the ERCOT transmission system at transmission voltage. The allowance must take into account:
the potential to reduce the costs to consumers of generation interconnection;
historical generation interconnection costs; and
any other factor that the commission considers reasonable to accomplish the goal of this subsection.

(d-2) Costs in excess of the transmission-owning utility

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allowance provided by Subsection (d-1) incurred to interconnect generation resources with the ERCOT transmission system must be directly assigned to and collected from the generation resource interconnecting through the facilities.

(d-3) Not later than September 1 of every fifth year, the commission shall review and may adjust the allowance provided by Subsection (d-1) to account for inflation or supply chain issues. [FA9]

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

SUBCHAPTER F. RENEWABLE ENERGY GENERATION FACILITY PERMIT

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

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

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

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

(4) "Renewable energy generation facility" means:

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

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

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

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

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

(2) a solar power facility located:

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

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

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

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

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

(2) the commission by order approves the construction.

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

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- (1) a description of the location of the facility;
 - (2) a description of the type of facility;
 - (3) a copy of any information filed with the Federal Energy Regulatory Commission in connection with registration with that commission;
 - (4) any assumed business or professional name of the applicant filed under Chapter 71, Business & Commerce Code; and
 - (5) any other information required by commission rule, provided that in requiring that information the commission shall protect the competitive process in a manner that ensures the confidentiality of competitively sensitive information.
- Sec. 35.204. APPROVAL OR DENIAL OF APPLICATION.
- (a) The commission may approve an application only if the commission finds that issuance or amendment of the permit would not violate state or federal law or rule and would not interfere with the purpose of this subchapter.
 - (b) A permit holder does not have a vested right in a permit.
- Sec. 35.205. CONDITIONS OF PERMIT. For each permit, the commission shall prescribe the conditions under which it is issued, including:
- (1) the boundary of the permitted facility location;
 - (2) the maximum number of renewable energy generation facilities authorized by the permit; and
 - (3) any monitoring and reporting requirements prescribed by the commission for the permit holder.
- Sec. 35.206. RENEWABLE ENERGY GENERATION FACILITY FUND. (a) The renewable energy generation facility fund is a dedicated account in the general revenue fund.
- (b) The fund consists of:
 - (1) fees collected under this subchapter;

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(2) gifts, grants, and donations; and

(3) legislative appropriations.

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

Sec. 35.207. FEE. (a) An annual fee is imposed on each permit holder. Fees must be deposited in the renewable energy generation facility fund.

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

Sec. 35.208. POWER TO REGULATE AND SUPERVISE.

(a) For purposes of this subchapter, a provision of Subchapter B or E, Chapter 14, that authorizes the commission to regulate a public utility also applies to a person required to obtain a permit under this subchapter, including an electric cooperative and a municipally owned utility.

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

Sec. 35.209. ENFORCEMENT AND PENALTIES. For the purposes of enforcing this subchapter, a reference in Chapter 15 to a person includes any person required to obtain a permit under this subchapter, including an electric cooperative and a municipally owned utility. [FA13]

No equivalent provision.

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

(d) If the commission issues a certificate of convenience and necessity or if the commission, acting under the authority formerly provided by Section 39.203(e), ordered [~~orders~~] an electric utility or a transmission and distribution utility to construct or enlarge transmission or transmission-related facilities to facilitate meeting the goal for generating capacity from renewable energy technologies under former Section

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39.904(a), the commission shall find that the facilities are used and useful to the utility in providing service for purposes of this section and are prudent and includable in the rate base, regardless of the extent of the utility's actual use of the facilities. [FA10(7)]

No equivalent provision.

SECTION __. Section 37.0541, Utilities Code, is amended to read as follows:

Sec. 37.0541. CONSOLIDATION OF CERTAIN PROCEEDINGS. The commission shall consolidate the proceeding on an application to obtain or amend a certificate of convenience and necessity for the construction of a transmission line with the proceeding on another application to obtain or amend a certificate of convenience and necessity for the construction of a transmission line if it is apparent from the applications or a motion to intervene in either proceeding that the transmission lines that are the subject of the separate proceedings share a common point of interconnection. [~~This section does not apply to a proceeding on an application for a certificate of convenience and necessity for a transmission line to serve a competitive renewable energy zone as part of a plan developed by the commission under Section 39.904(g)(2);FA10(7)]~~]

No equivalent provision.

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

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

- (1) the adequacy of existing service;
- (2) the need for additional service;
- (3) the effect of granting the certificate on the recipient of the certificate and any electric utility serving the proximate area;

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and

(4) other factors, such as:

(A) community values;

(B) recreational and park areas;

(C) historical and aesthetic values;

(D) environmental integrity; and

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

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

(d) The commission by rule shall establish criteria, in addition to the criteria described by Subsection (c), for granting a certificate for a transmission project that serves the ERCOT power region and[;] that is not necessary to meet state or federal reliability standards[; ~~and that is not included in a plan developed under Section 39.904(g)~~]. The criteria must include a comparison of the estimated cost of the transmission project for consumers and the estimated congestion cost savings for consumers that may result from the transmission project, considering both current and future expected congestion levels and the transmission project's ability to reduce those congestion levels. The commission shall include with its decision on an application for a certificate to which this subsection applies findings on the criteria. [FA10(7)]

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

Sec. 38.078. CIRCUIT SEGMENTATION STUDY AND

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

(b) A circuit segmentation study must:

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

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

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

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

(c) Each transmission and distribution utility shall submit a report of the conclusions of the utility's study to the commission not later than September 1, 2024.

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

(e) If the commission determines that the implementation of circuit segmentation engineering and investments as provided by a transmission and distribution utility's circuit segmentation study report would facilitate better outage

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management in the ERCOT power region, investments made by the utility for such purposes shall be presumed just, reasonable, and appropriate for rate-based cost recovery.
[FA15]

No equivalent provision.

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

Sec. 39.002. APPLICABILITY. This chapter, other than Sections 39.151, 39.1516, 39.155, 39.157(e), 39.159, 39.160, 39.203, [~~39.904,~~] 39.9051, 39.9052, and 39.914(e), and Subchapters M and N, does not apply to a municipally owned utility or an electric cooperative. Sections 39.157(e) and[~~]~~ 39.203[~~, and 39.904, however,~~] apply only to a municipally owned utility or an electric cooperative that is offering customer choice. If there is a conflict between the specific provisions of this chapter and any other provisions of this title, except for Chapters 40 and 41, the provisions of this chapter control. [FA10(7)]

No equivalent provision.

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

(b) A customer is entitled:

- (1) to be informed about rights and opportunities in the transition to a competitive electric industry;
- (2) to choose the customer's retail electric provider consistent with this chapter, to have that choice honored, and to assume that the customer's chosen provider will not be changed without the customer's informed consent;
- (3) to have access to providers of energy efficiency services, to on-site distributed generation, and to providers of energy

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generated by renewable energy resources;
(4) to be served by a provider of last resort that offers a commission-approved standard service package;
(5) to receive sufficient information to make an informed choice of service provider;
(6) to be protected from unfair, misleading, or deceptive practices, including protection from being billed for services that were not authorized or provided; ~~and~~
(7) to have an impartial and prompt resolution of disputes with its chosen retail electric provider and transmission and distribution utility;
(8) to participation in demand response programs through retail electric providers that offer demand response programs;
and
(9) to receive notice from the retail electric provider that serves the customer when the independent organization certified under Section 39.151 for the ERCOT power region issues an emergency energy alert. [FA12]

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

(d) The commission shall adopt and enforce rules relating to the reliability of the regional electrical network and accounting for the production and delivery of electricity among generators and all other market participants, or may delegate those responsibilities to an independent organization ~~[responsibilities for adopting or enforcing such rules. Rules adopted by an independent organization and enforcement actions taken by the organization under delegated authority from the commission are subject to commission oversight and review and may not take effect before receiving commission~~

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approval]. An independent organization certified by the commission is directly responsible and accountable to the commission. The commission has complete authority to oversee and investigate the independent organization's finances, budget, and operations as necessary to ensure the organization's accountability and to ensure that the organization adequately performs the organization's functions and duties. The independent organization shall fully cooperate with the commission in the commission's oversight and investigatory functions. The commission may take appropriate action against an independent organization that does not adequately perform the organization's functions or duties or does not comply with this section, including decertifying the organization or assessing an administrative penalty against the organization. The commission by rule shall adopt procedures governing decertification of an independent organization, selecting and certifying a successor organization, and transferring assets to the successor organization to ensure continuity of operations in the region. The commission may not implement, by order or by rule, a requirement that is contrary to an applicable federal law or rule.

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

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

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

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

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

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

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

(A) finance;

(B) business;

(C) engineering, including electrical engineering;

(D) trading;

(E) risk management;

(F) law; or

(G) electric market design.

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

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protocols. The commission may approve, reject, or remand with suggested modifications to the independent organization's governing body protocols adopted by the organization.

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

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

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

(a-1) An independent organization's governing body or a subcommittee may adopt a policy allowing the governing body or subcommittee to enter into an executive session closed to the public and commissioners, including the

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

(a) Meetings of the governing body of an independent organization certified under Section 39.151 and meetings of a subcommittee that includes a member of the governing body must be open to the public. The bylaws of the independent organization and the rules of the commission may provide for the governing body or subcommittee to enter into executive session closed to the public only to address risk management or a matter that the independent organization would be authorized to consider in a closed meeting if the independent organization were governed under Chapter 551, Government Code [~~sensitive matters such as confidential personnel information, contracts, lawsuits, competitively sensitive information, or other information related to the security of the regional electrical network~~]. [FA7]

(a-1) An independent organization's governing body or a subcommittee may adopt a policy allowing the governing body or subcommittee to enter into an executive session closed to the public and commissioners, including the

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commissioners serving as ex officio nonvoting members, only to address a contested case, as defined by Section 2001.003, Government Code, or a personnel matter that is unrelated to members of the governing body.

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

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

- (1) a contested case;
- (2) rulemaking;
- (3) a memorandum; or
- (4) a written order.

(b) The commission by rule shall:

- (1) specify the types of directives the commission may issue through a contested case, rulemaking, memorandum, or written order;
- (2) establish the conditions under which a commission vote is required before issuing a directive;
- (3) require that proposed commission directives be included as an item on a commission meeting agenda and require the commission to allow members of the public an opportunity to

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commissioners serving as ex officio nonvoting members, only to address a contested case, as defined by Section 2001.003, Government Code, or a personnel matter that is unrelated to members of the governing body.

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

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

- (1) a contested case;
- (2) rulemaking; or [FA2(1)]
- (3) a memorandum or written order adopted by a majority vote. [FA2(2)]

(a-1) The commission must use a contested case or rulemaking process to direct an independent organization certified under Section 39.151 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. [FA2(3)]

(b) The commission by rule shall:

- (1) specify the types of directives the commission may issue through a contested case, rulemaking, memorandum, or written order, in accordance with Subsection (a-1); [FA2(4)]
- (2) [Deleted by FA2(5)]

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

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comment on the agenda item; and

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

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

No equivalent provision.

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comment on the agenda item; and

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

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

SECTION 11. Section 39.1515, Utilities Code, is amended by amending Subsections (a) and (f) and adding Subsection (i) to read as follows: [FA1(1)]

(a) An independent organization certified under Section 39.151 shall contract with an entity selected by the commission to act as the commission's wholesale electric market monitor to detect and prevent market manipulation strategies, ~~and~~ recommend measures to enhance the efficiency of the wholesale market, and provide independent analysis of any material changes proposed to the wholesale market. The commission may not restrict the market monitor from appearing or speaking before or providing analysis to the

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legislature. The independent organization may not substantially modify the market monitor's contract unless the modification is approved by a majority of the commissioners.
[FA1(2)]

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

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

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

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

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

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

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

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

SECTION 12. Same as House version.

SECTION 13. Same as House version.

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

No equivalent provision.

No equivalent provision.

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

Sec. 39.159. POWER REGION RELIABILITY AND DISPATCHABLE GENERATION.

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

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

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(1) determine the quantity of services necessary based on historical variations in generation availability for each season based on a targeted reliability standard or goal, including intermittency of non-dispatchable generation facilities and forced outage rates, for dispatchable generation facilities;
(2) develop criteria for resource participation that require a resource to:
(A) be capable of running for at least four hours at the resource's high sustained limit;
(B) be online and dispatchable not more than two hours after being called on for deployment; and
(C) have the dispatchable flexibility to address inter-hour operational challenges; and
(3) reduce the amount of reliability unit commitment by the amount of dispatchable reliability reserve services procured under this section.
(e) Notwithstanding Subsection (d)(2)(A), the independent organization certified under Section 39.151 for the ERCOT power region may require a resource to be capable of running for more than four hours as the organization determines is needed.

No equivalent provision.

SECTION 16. Subchapter D, Chapter 39, Utilities Code, is amended by adding Sections 39.1591, 39.1592, 39.1593, 39.1594, and 39.1595 to read as follows:
Sec. 39.1591. REPORT ON DISPATCHABLE AND NON-DISPATCHABLE GENERATION FACILITIES. Not later than December 1 of each year, the commission shall file a report with the legislature that:
(1) includes:
(A) the estimated annual costs incurred by load serving entities under this subchapter associated with firming

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dispatchable and non-dispatchable electric generation facilities to guarantee that a firm amount of electric energy will be provided for the ERCOT power grid; and

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

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

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

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

(b) Not later than December 1 of each year, the owner or operator of each electric generation facility, other than a battery energy storage resource, shall demonstrate to the commission the ability of the facility to operate or be available

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to operate when called on for dispatch at or above the facility's seasonal average generation capability during the highest net load hours, as determined by the commission. The facilities must be allowed to meet the performance requirements described by this subsection by supplementing or contracting with on-site or off-site resources, including battery energy storage resources. The commission shall determine each electric generation facility's average generation capability based on expected resource availability and seasonal-rated capacity on a standalone basis.

(c) The commission shall require the independent organization certified under Section 39.151 for the ERCOT power region to:

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

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

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

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

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

Sec. 39.1593. COST ALLOCATION OF RELIABILITY SERVICES. (a) The commission shall hold hearings and perform an evaluation to determine whether allocating the costs of ancillary and reliability services, including those procured under Section 39.159, as added by Chapter 426 (S.B.

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3), Acts of the 87th Legislature, Regular Session, 2021, using a methodology described by Subsection (b) would result in a net savings to consumers in the ERCOT power region compared to allocating all costs of ancillary and reliability services to load to ensure reliability associated with both operational and reserve capacity. The commission shall make the determination not later than December 1, 2026, and implement the cost allocation method that would result in the largest net savings to customers in the ERCOT power region as soon as practicable after that date.

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

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

(2) using another method identified by the commission.

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

(d) A cost allocation method implemented under this section does not apply to electric energy storage. [FA17(1)]

Sec. 39.1594. RELIABILITY PROGRAM. (a) Under Section 39.159(b), as added by Chapter 426 (S.B. 3), Acts of the 87th Legislature, Regular Session, 2021, or other law, the commission may not require retail customers or load-serving entities in the ERCOT power region to purchase credits

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designed to support a required reserve margin or other capacity or reliability requirement unless the commission ensures that:

(1) the cost to the ERCOT market of the credits does not exceed \$1 billion annually, less the cost of any interim or bridge solutions that are lawfully implemented, except that the commission may adjust the limit:

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

(B) for inflation with a base year of 2026; [FA8]

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(c) The commission and the independent organization certified under Section 39.151 for the ERCOT power region shall consider comments and recommendations from a technical advisory committee established under the bylaws of the independent organization that includes market participants when adopting and implementing a program described by

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Subsection (a), if any.

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

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

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

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

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

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

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

(e) If the commission adopts a program described by Subsection (a), the commission by rule shall prohibit a generator that receives credits through the program from decommissioning or removing from service while the generator participates in the program any dispatchable electric

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generating facility operated by the generator unless the decommissioning or removal from service begins after September 1, 2028, or the commission finds that the decommissioning or removal from service:

(1) is required by federal law; or

(2) would alleviate significant financial hardship for the generator. [FA5]

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

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

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

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

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

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

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

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

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

(f) A member of the committee may not receive compensation for serving on the committee but is entitled to

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

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

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

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

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

(2) summarize key findings from:

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

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

(3) outline basic information regarding the electric grid and

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reimbursement for travel expenses incurred by the member while conducting the business of the committee as provided by the General Appropriations Act.

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

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

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

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

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

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

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

(2) summarize key findings from:

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

(B) the report required by Section 39.9112; [FA10(1)]

(3) outline basic information regarding the electric grid and

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market in this state, including generation capacity, customer demand, and transmission capacity currently installed on the grid and projected in the future; and

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

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

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market in this state, including generation capacity, customer demand, and transmission capacity currently installed on the grid and projected in the future; and

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

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

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

(1) its annual retail sales in this state;

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

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

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

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

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

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

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

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

(2) summarize key findings from:

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

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

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

(4) be presented in plain language that is readily understandable by a person with limited knowledge of the

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sensitive information.

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

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

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

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

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

(2) summarize key findings from:

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

(B) the report required by Section 39.9112; [FA10(2)]

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

(4) be presented in plain language that is readily understandable by a person with limited knowledge of the

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electric industry.

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

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

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electric industry.

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

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

- (1) its annual retail sales in this state;
- (2) the annual retail sales of its affiliates by number of customers, kilowatts per hour sold, and revenue from kilowatts per hour sold by customer class; and
- (3) any other information the commission requires relating to affiliations between retail electric providers.

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

SECTION 19. Sections 39.203(e) and (i), Utilities Code, are amended to read as follows: [FA10(3)]

(e) The commission may require an electric utility or a

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transmission and distribution utility to construct or enlarge facilities to ensure safe and reliable service for the state's electric markets and to reduce transmission constraints within ERCOT in a cost-effective manner where the constraints are such that they are not being resolved through Chapter 37 or the ERCOT transmission planning process. ~~[The commission shall require an electric utility or a transmission and distribution utility to construct or enlarge transmission or transmission-related facilities for the purpose of meeting the goal for generating capacity from renewable energy technologies under Section 39.904(a).]~~ In any proceeding brought under Chapter 37, an electric utility or transmission and distribution utility ordered to construct or enlarge facilities under this subchapter need not prove that the construction ordered is necessary for the service, accommodation, convenience, or safety of the public and need not address the factors listed in Sections 37.056(c)(1)-(3) and (4)(E). Notwithstanding any other law, including Section 37.057, in any proceeding brought under Chapter 37 by an electric utility or a transmission and distribution utility related to an application for a certificate of public convenience and necessity to construct or enlarge transmission or transmission-related facilities under this subsection, the commission shall issue a final order before the 181st day after the date the application is filed with the commission. If the commission does not issue a final order before that date, the application is approved. [FA10(4)]

(i) The commission, in cooperation with transmission and distribution utilities and the ERCOT independent system operator, shall study whether existing transmission and distribution planning processes are sufficient to provide adequate infrastructure for seawater desalination projects. If

(i) The commission, in cooperation with transmission and distribution utilities and the ERCOT independent system operator, shall study whether existing transmission and distribution planning processes are sufficient to provide adequate infrastructure for seawater desalination projects. If

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the commission determines that statutory changes are needed to ensure that adequate infrastructure is developed for projects of that kind, the commission shall include recommendations in the report required by Section 12.203 ~~[31.003]~~.

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

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

No equivalent provision.

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the commission determines that statutory changes are needed to ensure that adequate infrastructure is developed for projects of that kind, the commission shall include recommendations in the report required by Section 12.203 ~~[31.003]~~.

SECTION 20. Same as House version.

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

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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. [FA14]

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No equivalent provision.

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

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

No equivalent provision.

SENATE VERSION (IE)

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

(a) Until the date on which an electric utility subject to this subchapter is authorized by the commission to implement customer choice, the rates of the utility shall be regulated under traditional cost of service regulation and the utility is subject to all applicable regulatory authority prescribed by this subtitle and Subtitle A, including Chapters 14, 32, 33, 36, and 37. Until the date on which an electric utility subject to this subchapter implements customer choice, the provisions of this chapter, other than this subchapter, Sections 39.1516[~~39.904~~,] and 39.905, and the provisions relating to the duty to obtain a permit from the Texas Commission on Environmental Quality for an electric generating facility and to reduce emissions from an electric generating facility, shall not apply to that utility. That portion of any commission order entered before September 1, 2001, to comply with this subchapter shall be null and void. [FA10(7)]

SECTION 21. Same as House version.

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

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

(1) the provisions of this chapter do not apply to that electric utility, other than this subchapter, Sections 39.1516[~~39.904~~,] and 39.905, the provisions relating to the duty to obtain a permit from the Texas Commission on Environmental Quality for an electric generating facility and to reduce emissions

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from an electric generating facility, and the provisions of Subchapter G that pertain to the recovery and securitization of hurricane reconstruction costs authorized by Sections 39.458-39.463; and

(2) the electric utility is not subject to a rate freeze and, subject to the limitation provided by Subsection (b), may file for rate changes under Chapter 36 and for approval of one or more of the rate rider mechanisms authorized by Sections 39.454 and 39.455. [FA10(7)]

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

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

No equivalent provision.

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

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

No equivalent provision.

SECTION 22. Same as House version.

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

(b) Until the date on which an electric utility subject to this subchapter implements customer choice, the provisions of this chapter, other than this subchapter and Sections 39.1516[, 39.904,] and 39.905, do not apply to that utility. [FA10(7)]

SECTION 23. Same as House version.

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

(b) Until the date on which an electric utility subject to this subchapter implements customer choice, the provisions of this chapter, other than this subchapter and Sections 39.1516[, 39.904,] and 39.905, do not apply to that utility. [FA10(7)]

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No equivalent provision.

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;

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(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

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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

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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. [FA14]

SECTION 19. Section 39.904(k), Utilities Code, is amended to read as follows:

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

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

Sec. 39.9055. EXAMINATION OF DEMAND RESPONSE POTENTIAL OF SEAWATER DESALINATION PROJECTS. The commission and the ERCOT independent system operator shall study the potential for seawater desalination projects to participate in existing demand response opportunities in the ERCOT market. To the extent feasible, the study shall determine whether the operational

No equivalent provision. SECTION 24. [Deleted by FA10(5)]

SECTION 25. Same as House version.

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characteristics of seawater desalination projects enable projects of that kind to participate in ERCOT-operated ancillary services markets or other competitively supplied demand response opportunities. The study shall also determine the potential economic benefit to a seawater desalination project if the project is able to reduce its demand during peak pricing periods. The commission shall include the results of the study in the report required by Section 12.203 [31.003].

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

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

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

No equivalent provision.

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SECTION 26. Same as House version.

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

Sec. 39.9111. RULES RELATED TO RENEWABLE POWER FACILITIES. The commission may adopt rules requiring renewable power facilities to have reactive power control capabilities or any other feasible technology designed

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to reduce the facilities' effects on system reliability.

Sec. 39.9112. REPORT ON TRANSMISSION AND GENERATION CAPACITY. The commission and the independent organization certified under Section 39.151 for the ERCOT power region shall study the need for increased transmission and generation capacity throughout this state and report to the legislature the results of the study and any recommendations for legislation. The report must be filed with the legislature not later than December 31 of each even-numbered year.

Sec. 39.9113. RENEWABLE ENERGY CREDITS. To facilitate voluntary contractual obligations and verify claims regarding environmental attributes of renewable energy production in this state, the independent organization certified under Section 39.151 for the ERCOT power region shall maintain an accreditation and banking system to award and track voluntary renewable energy credits generated by eligible facilities. [FA10(7)]

No equivalent provision.

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

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

(4) "Renewable energy technology" means any technology that relies exclusively on an energy source that is naturally regenerated over a short time and is derived from the sun directly or indirectly or from moving water or other natural movements or mechanisms of the environment. The term

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includes a technology that relies on energy derived from the sun directly, on wind, geothermal, hydroelectric, wave, or tidal energy, or on biomass or biomass-based waste products, including landfill gas. The term does not include a technology that relies on an energy resource derived from a fossil fuel, a waste product from a fossil fuel, or a waste product from an inorganic source. [FA10(7)]

No equivalent provision.

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

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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. [FA14]

No equivalent provision.

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

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Sec. 39.918. UTILITY FACILITIES FOR POWER RESTORATION AFTER SIGNIFICANT~~[WIDESPREAD]~~ POWER OUTAGE. [FA11]

No equivalent provision.

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

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

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

(A) affects a significant number of distribution customers of a transmission and distribution utility^[\u00b5] and

~~[(B)]~~ has lasted or is expected to last for at least six ~~[eight]~~ hours;

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

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

(D) creates ~~[and~~

[(2)] a risk to public health or safety because it affects a critical infrastructure facility that serves the public such as a hospital, health care facility, law enforcement facility, fire station, or water or wastewater facility; or

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

(a-1) The Texas Division of Emergency Management, the independent organization certified under Section 39.151 for the ERCOT power region, or the executive director of the commission may determine that a power outage other than an

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outage described by Subsection (a) is a significant power outage for the purposes of this section.

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

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

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

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

(2) procure, own, and operate, or enter into a cooperative agreement with other transmission and distribution utilities to procure, own, and operate jointly, transmission and distribution facilities that have a lead time of at least six months and would aid in restoring power to the utility's distribution customers following a significant [widespread] power outage. In this section, long lead time facilities may not be electric energy storage equipment or facilities under Chapter 35, Utilities Code. [FA11]

No equivalent provision.

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

Sec. 39.919. AVERAGE TOTAL RESIDENTIAL LOAD REDUCTION GOALS. (a) The commission by rule shall establish goals in the ERCOT power region to reduce the average total residential load.

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

(1) provides demand response participation to residential

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customers where reasonably available;
(2) promotes the use of smart metering technology;
(3) is capable of responding to an emergency energy alert about low operating reserves issued by the independent organization certified under Section 39.151 for the ERCOT power region;
(4) provides opportunities for demand response providers to contract with retail electric providers to provide demand response services;
(5) ensures the program does not impact the critical needs of vulnerable populations;
(6) facilitates the widespread deployment of smart responsive appliances and devices in a manner that enables the customer's appliance or device to be enrolled as part of a demand response product or plan offered by a retail electric provider;
(7) establishes the method by which the components of the ratio described by Subsection (c) are calculated for purposes of determining whether the goals described by Subsection (a) have been achieved;
(8) provides for achievement of demand reductions within both summer and winter seasons; and
(9) allows a retail electric provider that offers a demand response program under this section to obtain funding for the demand response program through an energy efficiency incentive program established under Section 39.905.
(c) The goals described by Subsection (a) must be calculated as a ratio by dividing the amount of load reduced at peak demand by the total amount of demand, at the same time, of all residential customers who have responsive appliances or devices at their premises that reduce the electric consumption of the customers. [FA12]

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No equivalent provision.

No equivalent provision.

SENATE VERSION (IE)

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

(a) Notwithstanding any other provision of law, except Sections 39.155, 39.157(e), and 39.203, [~~and 39.904,~~] this chapter governs the transition to and the establishment of a fully competitive electric power industry for municipally owned utilities. With respect to the regulation of municipally owned utilities, this chapter controls over any other provision of this title, except for sections in which the term "municipally owned utility" is specifically used. [FA10(7)]

SECTION __. Section 40.004, Utilities Code, is amended to read as follows:

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

- (1) to regulate wholesale transmission rates and service, including terms of access, to the extent provided by Subchapter A, Chapter 35;
- (2) to regulate certification of retail service areas to the extent provided by Chapter 37;
- (3) to regulate rates on appeal under Subchapters D and E, Chapter 33, subject to Section 40.051(c);
- (4) to establish a code of conduct as provided by Section 39.157(e) applicable to anticompetitive activities and to affiliate activities limited to structurally unbundled affiliates of municipally owned utilities, subject to Section 40.054;
- (5) to establish terms and conditions for open access to transmission and distribution facilities for municipally owned utilities providing customer choice, as provided by Section 39.203;

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- (6) to administer ~~[the renewable energy credits program under Section 39.904(b) and]~~ the natural gas energy credits program under Section 39.9044(b);
- (7) to require reports of municipally owned utility operations only to the extent necessary to:
- (A) enable the commission to determine the aggregate load and energy requirements of the state and the resources available to serve that load; or
- (B) enable the commission to determine information relating to market power as provided by Section 39.155; and
- (8) to evaluate and monitor the cybersecurity preparedness of a municipally owned utility described by Section 39.1516(a)(3) or (4). [FA10(7)]

No equivalent provision.

SECTION __. Section 41.001, Utilities Code, is amended to read as follows:

Sec. 41.001. APPLICABLE LAW. Notwithstanding any other provision of law, except Sections 39.155, 39.157(e), and 39.203, ~~[and 39.904,]~~ this chapter governs the transition to and the establishment of a fully competitive electric power industry for electric cooperatives. Regarding the regulation of electric cooperatives, this chapter shall control over any other provision of this title, except for sections in which the term "electric cooperative" is specifically used. [FA10(7)]

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

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

SECTION 27. Same as House version.

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12.203 [52.006].

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

(b-1) Notwithstanding Section 5.505, the term of an emergency order issued under this section by the utility commission or the commission may not exceed 360 days.

The emergency order may be renewed:

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

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

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

(1) Section 304.201, Business & Commerce Code;

(2) Section 31.003, Utilities Code;

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

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

(5) Section 52.006, Utilities Code.

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

No equivalent provision.

No equivalent provision.

SECTION 28. Same as House version.

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

(1) Section 304.201, Business & Commerce Code;

(2) Section 31.003, Utilities Code;

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

(4) Section 39.904, Utilities Code;

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

(6) Section 52.006, Utilities Code. [FA10(6)]

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

Section ____ . Section 39.918(k), Utilities Code, is repealed. [FA11]

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

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Section 35.004(d-1), Utilities Code, as added by this Act. [FA9]

No equivalent provision.

Section _____. The Public Utility Commission of Texas shall adopt rules as necessary to implement the changes in law made by this Act to Section 35.004, Utilities Code, not later than the 180th day after the effective date of this Act. [FA9]

No equivalent provision.

SECTION ___. The changes in law made by this Act to Section 35.004, Utilities Code, apply only to an electric generation facility that executes a standard generator interconnection agreement with a transmission-owning utility after December 31, 2025. [FA9]

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

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

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

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

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

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

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

No equivalent provision.

No equivalent provision.

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

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

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

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

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

(d) The Public Utility Commission of Texas and the independent organization certified under Section 39.151, Utilities Code, for the ERCOT power region shall conduct a study to assess the total cost to consumers of different methods of cost allocation of reliability and ancillary services procured under Section 39.159, Utilities Code, as added by Chapter 426 (S.B. 3), Acts of the 87th Legislature, Regular Session, 2021, including methods of cost allocation described

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by Section 39.1593, Utilities Code, as added by this Act. The study must include an assessment of cost allocation methods for the ERCOT Contingency Reserve Service. The Public Utility Commission of Texas shall report the results of the study to the legislature not later than December 1, 2024. [FA17(2)]

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

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

(2) analyze:

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

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

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

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

(3) report the results of the study and analysis conducted

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under this subsection to the legislature not later than December 1, 2025.

No equivalent provision.

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. [FA14]

No equivalent provision.

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

(b) Under Subsection (a) of this section, the statutes described in that subsection must be applied as if Section 39.904 were applicable only to renewable energy technologies that exclusively rely on an energy source that is naturally

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regenerated over a short time and derived directly from the sun.

(c) This section expires September 1, 2025, and the Public Utility Commission of Texas shall phase out the program required by Subsection (a) of this section so that it terminates on that date. [FA10(7)]

No equivalent provision.

SECTION __. The Public Utility Commission of Texas shall adopt rules as necessary for the adoption of a program to begin facilitating the widespread deployment of appliances and devices capable of being part of a demand response product or plan offered by a retail electric provider, as provided by Section 39.919(b)(6), Utilities Code, as added by this Act, before December 31, 2024. [FA12]

No equivalent provision.

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

No equivalent provision.

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. [FA14]

No equivalent provision.

SECTION __. It is the intent of the 88th Legislature, Regular Session, 2023, that the amendments made by this Act be

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harmonized with another Act of the 88th Legislature, Regular Session, 2023, relating to nonsubstantive additions to and corrections in enacted codes. [FA10(7)]

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

SECTION 34. Same as House version.