

BILL ANALYSIS

C.S.S.B. 1941
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State Affairs
Committee Report (Substituted)

BACKGROUND AND PURPOSE

It has been noted that, since the unbundling of the electric market in ERCOT into distinct retail, generation, and transmission and distribution business segments, new technologies have developed. The use of electric storage devices has been discussed in dockets before the Public Utility Commission of Texas (PUC), power generation companies, and transmission and distributions utilities. To provide the PUC with legislative guidance regarding the ownership and deployment of battery storage devices in the uniquely structured ERCOT market, C.S.S.B. 1941 seeks to set out contract guidelines that would allow for these devices to also be used for the purpose of transmission reliability issues.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the Public Utility Commission of Texas in SECTION 2 of this bill.

ANALYSIS

C.S.S.B. 1941 amends the Utilities Code to revise the applicability of statutory provisions relating to electric energy storage by:

- making those provisions applicable only to the ownership or operation of electric energy storage equipment or facilities in the ERCOT power region that are intended for certain purposes; and
- including the provision of reliable delivery of electric energy to distribution customers among such purposes.

C.S.S.B. 1941 authorizes a transmission and distribution utility, with prior approval of the Public Utility Commission of Texas (PUC), to contract with a power generation company to provide electric energy from an electric energy storage facility to ensure reliable service to distribution customers, contingent on use of such a facility being more cost-effective than construction or modification of traditional distribution facilities. Before entering into such a contract, a transmission and distribution utility must issue a request for proposals for use of an electric energy storage facility to meet the utility's reliability needs. The bill prohibits the utility from entering into such a contract that reserves an amount of capacity exceeding the amount of capacity required to ensure reliable service to the utility's distribution customers and prohibits the PUC from authorizing ownership of an electric energy storage facility by a transmission and distribution utility.

C.S.S.B. 1941 limits the authority of a power generation company that owns or operates an electric energy storage facility subject to a contract under the bill's provisions to sell electric energy or ancillary services through use of the facility to the extent that the company reserves capacity as required by the contract and prohibits such a company from discharging the facility for reliability purposes unless directed by the applicable transmission and distribution utility. Such a contract must require a power generation company that owns or operates an electric energy storage facility to reimburse a transmission and distribution utility for the cost of an administrative penalty assessed against the utility for a violation caused by the facility's failure to meet the requirements of the agreement.

C.S.S.B. 1941 requires a regulatory authority, in establishing the rates of a transmission and distribution utility, to review a contract between the utility and a power generation company under the bill's provisions and establishes that the utility has the burden of proof to establish that the costs of the contract are reasonable and necessary. The bill authorizes the authority to authorize a transmission and distribution utility to include a reasonable return on the payments required under the contract, contingent on the contract terms satisfying the relevant accounting standards for a capital lease or finance lease. The bill caps the total amount of electric energy storage capacity reserved by such contracts at 40 megawatts and requires the PUC by rule to establish the maximum amount of electric energy storage capacity allotted to each transmission and distribution utility. The bill requires the PUC to adopt rules as necessary to implement the bill's provisions relating to contracts for electric energy storage for reliability services and to establish criteria for approving those contracts.

EFFECTIVE DATE

September 1, 2019.

COMPARISON OF SENATE ENGROSSED AND SUBSTITUTE

While C.S.S.B. 1941 may differ from the engrossed in minor or nonsubstantive ways, the following summarizes the substantial differences between the engrossed and committee substitute versions of the bill.

The substitute revises the provision authorizing a transmission and distribution utility, with the approval of the PUC, to contract to provide electric energy from an electric energy storage the facility to ensure reliable service to certain customers by:

- specifying that the necessary PUC approval is prior approval;
- specifying the entity with which such a utility may contract as a power generation company that owns or operates an electric energy storage facility; and
- clarifying that the customers for whom the service is to be provided are distribution customers.

The substitute replaces a provision prohibiting the discharge of a facility subject to a contract under the bill's provisions from being discharged for reliability purposes unless directed by the applicable utility with a provision prohibiting the facility from being discharged to satisfy a contract requirement unless so directed.

The substitute replaces a provision authorizing a regulatory authority to authorize a transmission and distribution utility to include earning a reasonable return on the present value of future payments required under such a contract with a provision authorizing the authority to authorize the utility to include a reasonable return on the contract payments, contingent on the contract terms satisfying the relevant accounting standards for a capital lease or finance lease.