SUBJECT: Establishing requirements for certain electric reliability programs

COMMITTEE: State Affairs — committee substitute recommended

VOTE: 13 ayes — Hunter, Hernandez, Anchía, Dean, Geren, Guillen, Metcalf, Raymond, Slawson, Smithee, Spiller, S. Thompson, Turner

0 nays

SENATE VOTE: On final passage (April 5) — 31 - 0

WITNESSES: For — Katie Coleman, Texas Association of Manufacturers; Warren Lasher, Texas Oil and Gas Association; Brent Bennett, Texas Public Policy Foundation (*Registered, but did not testify*: Julie Williams, Chevron; Kari Gibson, ConocoPhillips; Matthew Wilby, Contour Energy, LLC; Sam Gammage, Dow; Bill Oswald, Koch Companies; Mindy Ellmer, Lyondellbasell and Olin; Anne Billingsley, ONEOK, Inc.; Ashley McConkey, Texas Instruments, Inc.; Tricia Davis, Texas Royalty Council; Karen Marshall; Maria Person; Susan Stewart)

Against — Jean Ryall, Advanced Power Alliance; Mark Bell, Association of Electric Companies of Texas; Bryan Sams, Calpine Corporation; Shannon Ratliff, Cypress Creek Renewables; Terry Naulty, Denton Municipal Electric; Caitlin Smith, Jupiter Power LLC; Bill Barnes, NRG; Scott Harlan, Rockland Capital; Matthew Boms, Texas Advanced Energy Business Alliance; Michele Richmond, Texas Competitive Power Advocates; John Pitts, Texas Energy Buyers Alliance; Mark Stover, Texas Solar Power Association; Daniel Booth, TexGen Power; Sam Siegel, Vistra Corporation; John Gordon; Larry Linenschmidt; Susan Meredith (*Registered, but did not testify*: Hesston Klenk, AES Corp; Josh Schroeder, City of Georgetown; Leslie Pardue, Clearway Energy; Matt Welch, Conservative Texans for Energy Innovation; Jerry Valdez, Constellation Energy Generation; Madeline Symm, Cypress Creek Renewables; Lynnae Willette, EDF Renewables; Farish Mozley, EDP Renewables North America; Mike Meroney, Enel North America; Logan Spence, Engie N.A.; Luke Metzger, Environment Texas; Sandra Haverlah, Environmental Defense Fund; Michael Jewell, Eolian; Darrell Cline, Garland Power and Light; Tammy Embrey, Invenergy, LLC; Michael Jewell, Octopus Energy; Sloan Byerly, Ørsted; Michael Jewell, Pattern Energy; Michael Jewell, Plus Power; Lisa Hughes, RWE Clean Energy LLC; Robert Nathan, Schneider Electric; Michael Jewell, Solar Energy Industries Association; Mike Alvarado, WattBridge)

On — Pablo Vegas, ERCOT; Cyrus Reed, Lone Star Sierra Club; Carrie Bivens, Potomac Economics; Thomas Gleeson, Public Utility Commission of Texas; Clif Lange, South Texas Electric Coop, Inc.; Catherine Webking, Texas Energy Association for Marketers; Julia Harvey, Texas Electric Cooperatives; Nathan Murphy, Valero Companies; Karl Meeusen, Wärtsilä North America (*Registered, but did not testify*: Martha Landwehr, BASF Corporation; Kari Meyer, CPS Energy)

BACKGROUND: Concerns have been raised about the ongoing reliability and resilience of the ERCOT power grid in Texas. Some have suggested that the Legislature should give additional guidance to PUC regarding the implementation of the Performance Credit Mechanism and require ERCOT to ensure minimum performance standards for new energy resources.

DIGEST: CSSB 7 would amend the Utilities Code to prohibit the Public Utility Commission (PUC) from requiring retail customers or load-serving entities in the ERCOT power region to purchase credits designed to support a required reserve margin or other capacity or reliability requirement until ERCOT and the wholesale electric monitor completed an updated assessment on the cost to and effects on the ERCOT market of the proposed reliability program, and ERCOT began implementing real time co-optimization of energy and ancillary services in the ERCOT wholesale market.

The assessment would be required to include:

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

- 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;
- a set of metrics to measure the effects of the proposed reliability program on system reliability;
- an evaluation of the cost to retain existing dispatchable resources in the ERCOT power region;
- an evaluation of the planned timeline for implementation of real time co-optimization for energy and ancillary services in the ERCOT power region; and
- anticipated market and reliability effects of new and updated ancillary service products.

PUC could not implement a reliability program unless PUC by rule established the essential features of the program, including requirements to meet the reliability needs of the power region. Other essential features required to be in the program would include:

- central procurement of credits;
- limits on participation;
- prohibiting credits that exceed the amount of generation bid;
- penalty structure;
- limiting credits to those able to perform in real time during the tightest intervals of supply and demand;
- providing the electric market monitor the necessary authority and resources to investigate potential market manipulation;
- limits on the net cost of credit on the market;
- ensuring that reliability standard reasonably balanced the incremental reliability benefits to customers relative to cost; and
- certain other items specified in the bill.

PUC and ERCOT would be prohibited from adopting a market rule for the ERCOT power region associated with the implementation of a reliability program that provided a cost advantage to load-serving entities who owned, or whose affiliates owned, generation facilities.

PUC and ERCOT would be required to ensure that the net cost imposed on the ERCOT market for the credits did not exceed $1 billion annually minus the cost of any lawfully implemented interim solutions, except that the limit could be adjusted proportionally according to the highest net peak demand year-over-year or for inflation, with a base year of 2026 for either adjustment.

The wholesale electric market monitor would be required to biennially evaluate the incremental reliability benefits of the program for consumers compared to the costs to consumers of the program and the costs in the energy and ancillary services market and report the results of each evaluation to the Legislature.

CSSB 7 would require ERCOT to consider implementing an ancillary services program to procure dispatchable reliability reserve services on a day-ahead and real-time basis to account for market certainty. Additionally, PUC would have to require ERCOT to develop and implement a program to ensure minimum generation performance during times of high reliability risk due to low operating reserves. The wholesale electric market monitor would have to submit recommendations for implementing this program by December 1, 2024. The bill would specify that these programs could be implemented simultaneously.

The bill would require PUC to file an annual report with the Legislature that:

- included the estimated annual costs incurred by dispatchable and non-dispatchable generators to guarantee that a firm amount of electric energy would be provided for the ERCOT power gird;
- included the cumulative annual costs incurred in the ERCOT market to facilitate that transmission of dispatchable and non-dispatchable electricity to load to and to interconnect transmission level loads;
- documented the status of the implementation of statute governing

ERCOT, including whether related rules and protocols had materially improved the reliability, resilience, and transparency of the electricity market; and

- included recommendations for any additional legislative measures needed to empower PUC to implement market reforms to ensure sufficient dispatchable generation to maintain reliability standards for at least five years after the report's date.

CSSB 7 would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2023.

NOTES: According to the Legislative Budget Board, CSSB 7 would have a negative impact of about $1.4 million through the biennium ending in fiscal 2025.