

BILL ANALYSIS

Senate Research Center
88R20925 JXC-D

C.S.S.B. 7
By: Schwertner; King
Business & Commerce
4/3/2023
Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The Texas electricity market is distorted due to federal subsidies targeted at less reliable generators, which gives them an unfair market advantage over reliable generators. While these subsidies generally lower prices, they also contribute to a less reliable grid. S.B. 7 addresses market uncertainty and increases reliability by targeting investment at the dispatchable assets that we need.

(Original Author's/Sponsor's Statement of Intent)

C.S.S.B. 7 amends current law relating to the reliability of the ERCOT power grid.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends the heading to Section 39.159, Utilities Code, as added by Chapter 426 (S.B. 3), Acts of the 87th Legislature, Regular Session, 2021, to read as follows:

Sec. 39.159. POWER REGION RELIABILITY AND DISPATCHABLE GENERATION.

SECTION 2. Amends Section 39.159, Utilities Code, as added by Chapter 426 (S.B. 3), Acts of the 87th Legislature, Regular Session, 2021, by amending Subsection (b) and adding Subsections (b-1), (b-2), (d), and (e), as follows:

(b) Requires the Public Utility Commission of Texas (PUC) to ensure that the independent organization certified under Section 39.151 (Essential Organizations) for the Electric Reliability Council of Texas (ERCOT) power region:

(1)-(3) makes no changes to these subdivisions;

(4)-(5) makes nonsubstantive changes to these subdivisions; and

(6) allocates the cost of providing ancillary services and reliability services procured under this section on a semiannual basis among dispatchable 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 six months, as determined by the PUC based on a number of hours adopted by the PUC for that six-month period, as follows:

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

(B) for non-dispatchable generation facilities, the difference between the mean of the lowest quartile generation for each non-dispatchable generation facility and the mean generation of the facility; and

(C) for load serving entities, the difference between the mean of the highest quartile of total load and the mean of total load in the ERCOT power region, allocated to each load serving entity on a load ratio share basis.

(b-1) Provides that Subsection (b)(6) 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.

(b-2) Provides that Subsection (b)(6) does not apply to electric energy storage.

(d) Requires the PUC to 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. Requires the independent organization, under the required program, to:

(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 10 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.

SECTION 3. Amends Subchapter D, Chapter 39, Utilities Code, by adding Section 39.1591, as follows:

Sec. 39.1591. REPORT ON DISPATCHABLE AND NON-DISPATCHABLE GENERATION FACILITIES. Requires the PUC, not later than December 1 of each year, to file an annual report with the legislature that:

(1) includes:

(A) the estimated annual costs incurred under Subchapter D (Market Structure) by dispatchable and non-dispatchable generators 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 non-dispatchable and dispatchable electricity to load and to interconnect transmission level loads;

(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 PUC 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 of the report.

SECTION 4. Amends Subchapter D, Chapter 39, Utilities Code, by adding Section 39.1595, as follows:

Sec. 39.1595. RELIABILITY PROGRAM. (a) Prohibits the PUC, under Section 39.159(b), as added by Chapter 426 (S.B. 3), Acts of the 87th Legislature, Regular Session, 2021, or other law, from adopting a reliability program for the ERCOT power region that requires the purchase of capacity credits earned by generators to support a reserve margin mandate unless the PUC ensures that:

(1) the cost to the ERCOT market of the credits does not exceed \$500 million annually;

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

(3) the cost of credits is assigned to generation facilities and load serving entities according to Section 39.159(b)(6), as added by Chapter 426 (S.B. 3), Acts of the 87th Legislature, Regular Session, 2021;

(4) the program includes appropriate penalties for a failure to perform during a reliability event caused by factors within the reasonable control of the generator, including a requirement for a generator to buy back credits that the generator sold but for which the generator did not provide the required capacity;

(5) 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;

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

(7) 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;

(8) generators who receive credits are prohibited from self-arranging credit exchanges with any affiliated competitive retail electric providers;

(9) 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;

(10) qualifying generators do not receive credits that exceed the amount of generation bid into the forward market on an individual resource basis; and

(11) 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 PUC.

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

(c) Requires the PUC and the independent organization certified under Section 39.151 for the ERCOT power region to 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 Subsection (a), if any.

(d) Requires the PUC, if the PUC adopts a program described by Subsection (a), to require the wholesale electric market monitor to submit to the PUC and the legislature a report on the costs and benefits of continuing the program. Provides that this subsection expires September 1, 2029.

SECTION 5. (a) Requires the PUC, not later than September 1, 2024, to implement the changes in law made by this Act to Section 39.159(b), Utilities Code, as added by Chapter 426 (S.B. 3), Acts of the 87th Legislature, Regular Session, 2021.

(b) Requires the PUC to 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.

(c) Provides that the PUC is required to prepare the portions of the report required by Sections 39.159(2) and (3), Utilities Code, as added by this Act, only for reports due on or after December 1, 2024.

SECTION 5. Effective date: upon passage or September 1, 2023.