

- SUBJECT:** Allowing energy storage for distribution customers in ERCOT region
- COMMITTEE:** State Affairs — committee substitute recommended
- VOTE:** 8 ayes — Phelan, Hernandez, Holland, Hunter, P. King, Parker, E. Rodriguez, Springer
- 0 nays
- 5 absent — Deshotel, Guerra, Harless, Raymond, Smithee
- SENATE VOTE:** On final passage, April 17 — 31-0, on Local and Uncontested Calendar
- WITNESSES:** For — Tom Rose, CMG Consulting LLC; Cyrus Reed, Lone Star Chapter Sierra Club; Suzanne Bertin, Texas Advanced Energy Business Alliance; Katie Coleman, Texas Association of Manufacturers; Michele Gregg, Texas Competitive Power Advocates; Bill Moore, Vistra Energy; (*Registered, but did not testify*: Brett Kerr, Calpine; Margo Cardwell, Conservative Texans for Energy Innovation Foundation; Robert Helton, ENGIE North America; Luke Metzger, Environment Texas; Shannon Ratliff, Invenergy, LLC; Jessica Oney, NRG; Michael Choate, SPEER; Shana Joyce, Texas Oil and Gas Association; Charlie Hemmeline, Texas Solar Power Association; Mance Zachary, Vistra Energy)
- Against — None
- On — (*Registered, but did not testify*: Chad Seely, Electric Reliability Council of Texas; Connie Corona, Public Utility Commission of Texas)
- BACKGROUND:** Interested parties note that new technologies have developed since the vertically integrated utilities in the electric market were unbundled into retail, generation, and transmission and distribution segments. They suggest providing the Public Utility Commission with legislative guidance regarding the ownership and deployment of utility-scale battery storage devices in the ERCOT power region.

DIGEST: CSSB 1941 would make statutory provisions regarding electric energy storage applicable only in the ERCOT power region and expand those regulations to include the provision of reliable delivery of electric energy to distribution customers.

The bill would allow a transmission and distribution utility, with prior approval of the Public Utility Commission (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. PUC could not authorize a transmission and distribution utility to own a storage facility.

CSSB 1941 would prohibit the total amount of electric energy storage capacity reserved by contracts from exceeding 40 megawatts. PUC by rule would have to establish the maximum amount of storage capacity allotted to each transmission and distribution utility.

Before entering into a contract, the utility would have to issue a request for proposals for use of a storage facility to meet its reliability needs. A utility could enter into a contract only if use of a storage facility was more cost-effective than construction or modification of traditional distribution facilities.

The bill would prohibit a transmission and distribution utility from entering into a contract that reserved an amount of capacity exceeding the amount of capacity required to ensure reliable service to customers.

A power generation company that owned or operated an electric energy storage facility subject to a contract could sell electric energy or ancillary services through use of the facility only to the extent that the company reserved capacity as required by the contract. A company that owned or operated a storage facility subject to a contract from discharging the facility to satisfy the contract's requirements unless directed by the utility.

A contract would have to require a power generation company 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.

In establishing the rates of a transmission and distribution utility, a regulatory authority would have to review a contract between the utility and a power generation company. The utility would have the burden of proof to establish that the costs of the contract were reasonable and necessary.

The regulatory authority could authorize a transmission and distribution utility to include a reasonable return on the payments required under the contract only if the contract terms satisfied the relevant accounting standards for a capital lease or finance lease.

PUC would have to adopt rules as necessary to implement this bill and establish criteria for approving contracts.

The bill would take effect September 1, 2019, and PUC would have to adopt rules as soon as practicable after that date.