



# SIERRA CLUB

## LONE STAR CHAPTER

Chairman Todd Hunter

Members, Committee on State Affairs

From: Cyrus Reed, Conservation Director, Sierra Club, [cyrus.reed@sierraclub.org](mailto:cyrus.reed@sierraclub.org), 512-888-9411.

**Re: Part 2 of Homework Assignment**

### **Specific suggestions on bills heard last week**

We are supportive of both HB 4821 and HB 4862 by Shelby. I do not have any specific changes but during testimony TPCA representatives seemed to misunderstand the point of HB 4862. The point of the bill is not to dispute that certain potential violations might not turn out to be violations at all, but simply provide transparency and a report on those potential violations and instances where the potential violations were found to be actual violations. This is very similar to what agencies like the RRC and TCEQ already do - list notices of violations but also the result, including when they turn out to be resolved, or need actual enforcement action. While we have not seen the committee substitutes, assuming they are similar to the committee substitutes in the Senate we are supportive.

### **Hunter Bills**

**HB 4834 and HJR 180.** The Sierra Club is opposed to these bills because we don't think it makes sense for the state to be lending out money for resources in the competitive market. That being said, we do believe that some language is needed around what happens if a competitive entity gets a loan and is unable to pay it back or ends up going bankrupt.

We also suggest putting provisions on the loans that they can not be used for simply complying with enforcement, such as putting on pollution control equipment on an

existing resource, and assuring that loans can not be used for existing weatherization requirements. If weatherization is included as an option for financing it should only be for future weatherization requirements - otherwise we would be providing an advantage to resources that are not complying with current requirements.

**HB 4831. Relating to the implementation of a program to meet the reliability needs in the ERCOT power region.**

We propose some amendments to the bill to improve it.

**Proposed amendment No. 1. Make sure that following the assessment there is a determination by the commission to move forward and that real-time co-optimization also occurs.**

Add Section 39.166 (b) and (c) and renumber (b) to be (e)

(b) The assessment provided by the independent organization certified under 39.151 for the ERCOT power region and the independent market monitor must be completed on or before February 1, 2024;

(c) On or before June 1, 2024, the commission shall determine based upon the assessment required under (a) whether it is still in the interests of the state to pursue the proposed reliability program in a public meeting, and allow for stakeholder and public input on the assessment and decision on whether to move forward on implementation of the reliability assessment.

(d) If the commission moves forward with the reliability product described in (a) they will assure that the commission also implements real-time co-optimization either before or concurrently with the implementation of the reliability product.

**Proposed amendment no 2. Rewrite current (b) to make the reliability product technology-neutral and require co-optimization**

(b) (e) The reliability program described in Subsection (a) implemented by the commission must provide that:

(1) credits are centrally cleared to avoid market manipulation by affiliated generation and retail companies;

(2) participation in the program is limited to dispatchable resources with the specific attributes necessary to meet operational needs of the ERCOT power region, but can include storage resources and controllable load resources;

(3) qualifying ~~generators~~ resources receive performance credits not to exceed the amount of generation or load reduction bid into the forward market on an individual basis;

(4) generating units receive performance credits only for providing power during the tightest hours as defined by the commission;

(5) controllable loads receive performance credits only for reducing demand during the tightest hours as defined by the commission;

(5) a penalty structure exists for ~~generators~~ resources that bid into the forward market but do not meet their full obligation, without exception, that results in a net benefit to load;

(6) the independent market monitor has the authority and necessary resources to investigate potential instances of market manipulation, including financial and physical actions, and recommend penalties to the commission; and

(7) the program is subject to an independent review to determine the benefits of its continuation that must be completed by January 1, 2029.

**HB 4832. Relating to the reliability of the ERCOT power grid.**

We propose some amendments to the bill.

**Amendment no. 1. We would simply eliminate the cost-allocation section b-6. Cost-allocation is expensive, confusing and will simply delay the implementation of the DRRS product.**

and

(6) allocates the cost of providing ancillary services and reliability services procured under this section on an annual basis among dispatchable generation facilities, non-dispatchable generation facilities, and load serving entities in proportion to their contribution to net load variability over the highest 100 hours of net load in the preceding year as follows:

(A) for dispatchable generation facilities, the difference between the mean of the highest quartile forced outage rate for the facility and the mean forced outage rate of all dispatchable generation facilities in the ERCOT power region;

(B) for non-dispatchable generation facilities, the difference between the mean of the lowest quartile generation for each non-dispatchable generation facility, divided by the installed capacity of that facility, and the mean generation of all non-dispatchable generation facilities in the ERCOT power region, divided by the total installed capacity of all non-dispatchable generation facilities in the ERCOT power region; and

(C) for load serving entities, the difference between the mean of the highest quartile of each entity's metered load and the mean of each entity's metered load.

(b-1) 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.

**Amendment no. 2. Eliminate the provision that says you can't provide DRRS if you are providing other services. Resources should be able to provide services for multiple ancillary services.**

(d) The commission shall require the independent organization certified under Section 39.151 for the ERCOT power region to develop an ancillary services program that requires load serving entities to purchase dispatchable reliability reserve services on a day-ahead basis to account for market uncertainty. ~~The program must provide payments only to generation resources that are not providing other ancillary services.~~ The commission must require the independent organization to:

**Amendment No. 3. Add the words “as well as dispatchable” in the reports.**

Sec. 39.1591. REPORT ON DISPATCHABLE AND NON-DISPATCHABLE GENERATION FACILITIES. The commission shall file an annual report with the legislature that:

(1) includes:

(A) the estimated annual costs required to be incurred under this subchapter by non-dispatchable **as well as by dispatchable** generators to guarantee that a firm amount of electric energy will be provided for the ERCOT power grid; and

(B) the cumulative annual transmission costs that have been incurred in the ERCOT market to facilitate the transmission of non-dispatchable **as well as by dispatchable** electricity to load;

**HB 4836. Relating to the legislature's goals for natural gas generating capacity.**

We are opposed to the bill as filed, but believe that a better approach would be to create a dispatchable energy goal for the new generation. Please find an attempted rewrite of the bill to create 5,000 MW by 2027 and 10,000 MWs by 2030 with a credit trading program. Again if the Legislature felt like more than 10,000 MWs were needed we could make those total higher but creating an independent dispatchable goal and trading program would not pit renewables against dispatchable but simply say we need X amount of new dispatchable. We proved that we can set a renewable portfolio standard and meet it easily. Let's do the same with dispatchable generation.

A rewrite is proposed and attached separately. It's a kinder, gentler bill that doesn't punish renewables but establishes a dispatchable goal that is separate and apart. Some renewables like geothermal are dispatchable and we should be encouraging them along with hydrogen and other new technologies.