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OPEN MEETING COVER SHEET

MEMORANDUM AND PROPOSAL FOR PUBLICATION

MEETING DATE: December 16, 2021

DATE DELIVERED: December 15, 2021

AGENDA ITEM NO.: 25

CAPTION: Project No. 52287 – Power Outage Alert
Criteria

DESCRIPTION: Memo and Proposal for Publication

Public Utility Commission of Texas

Memorandum

TO: Chairman Peter Lake
Commissioner Will McAdams
Commissioner Lori Cobos
Commissioner Jimmy Glotfelty

FROM: David Smeltzer, Director of Rules and Projects

DATE: December 15, 2021

RE: December 16, 2021 Open Meeting – Agenda Item No. #3
Project No. 52287, *Power Outage Alert Criteria*

Please find attached to this memorandum Commission Staff's proposal for publication in the above-referenced project for consideration at the December 16, 2021 Open Meeting. Commission Staff proposes new 16 Texas Administrative Code (TAC) §25.57 relating to Power Outage Alert Criteria. This proposed rule will establish criteria for the content, activation, and termination of regional and statewide power outage alerts as required by Tex. Gov't. Code §411.301(b), enacted by the 87th Texas Legislature as Senate Bill 3.

Commission Staff recommends the Commission approve this draft for publication in the *Texas Register*.

PROJECT NO. 52287

POWER OUTAGE ALERT CRITERIA

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**PUBLIC UTILITY COMMISSION
OF TEXAS**

(STAFF RECOMMENDATION)

**PROPOSAL FOR PUBLICATION OF NEW 16 TAC §25.57
FOR CONSIDERATION AT THE DECEMBER 16, 2021 OPEN MEETING**

1 The Public Utility Commission of Texas (commission) proposes new 16 Texas Administrative
2 Code (TAC) §25.57 relating to Power Outage Alert Criteria. This proposed rule will establish the
3 criteria for the content, activation, and termination of regional and statewide power outage alerts
4 as required by Tex. Gov't. Code §411.301(b), enacted by the 87th Texas Legislature as Senate
5 Bill 3.

6

7 ***Growth Impact Statement***

8 The agency provides the following governmental growth impact statement for the proposed rule,
9 as required by Tex. Gov't. Code §2001.0221. The agency has determined that for each year of the
10 first five years that the proposed rule is in effect, the following statements will apply:

11 (1) the proposed rule will not create a government program and will not eliminate a government
12 program;

13 (2) implementation of the proposed rule will not require the creation of new employee positions
14 and will not require the elimination of existing employee positions;

1 (3) implementation of the proposed rule will not require an increase and will not require a decrease
2 in future legislative appropriations to the agency;

3 (4) the proposed rule will not require an increase and will not require a decrease in fees paid to the
4 agency;

5 (5) the proposed rule will not create a new regulation;

6 (6) the proposed rule will not expand, limit, or repeal an existing regulation;

7 (7) the proposed rule will not change the number of individuals subject to the rule's applicability;
8 and

9 (8) the proposed rule will not affect this state's economy.

10

11 ***Fiscal Impact on Small and Micro-Businesses and Rural Communities***

12 There is no adverse economic effect anticipated for small businesses, micro-businesses, or rural
13 communities as a result of implementing the proposed rule. Accordingly, no economic impact
14 statement or regulatory flexibility analysis is required under Tex. Gov't. Code §2006.002(c).

15

16 ***Takings Impact Analysis***

17 The commission has determined that the proposed rule will not be a taking of private property as
18 defined in chapter 2007 of the Texas Government Code.

19

20 ***Fiscal Impact on State and Local Government***

21 Ms. Mariah Benson, Economist, Market Analysis Division, has determined that for the first five-
22 year period the proposed rule is in effect, there will be no fiscal implications for the state or for

1 units of local government under Tex. Gov't. Code §2001.024(a)(4) as a result of enforcing or
2 administering the sections.

3

4 ***Public Benefits***

5 Ms. Benson has determined that for each year of the first five years the proposed section is in effect
6 the public benefit anticipated as a result of enforcing this section will be greater public awareness
7 of the potential for electricity outages. There will be no adverse economic effect on small
8 businesses or micro-businesses as a result of enforcing this section.

9

10 ***Local Employment Impact Statement***

11 For each year of the first five years the proposed section is in effect, there should be no effect on
12 a local economy; therefore, no local employment impact statement is required under Tex. Gov't.
13 Code §2001.022.

14

15 ***Costs to Regulated Persons***

16 Tex. Gov't. Code §2001.0045(b) does not apply to this rulemaking because the commission is
17 expressly excluded under subsection §2001.0045(c)(7).

18

19 ***Public Hearing***

20 The commission staff will conduct a public hearing on this rulemaking on January 14, 2022, at
21 10:00 A.M. in the Commissioners' Hearing Room, 7th floor, William B. Travis Building if
22 requested in accordance with Tex. Gov't. Code §2001.029. The request for a public hearing must

1 be received by January 11, 2022. If a request for public hearing is received, commission staff will
2 file in this project a notice of hearing.

3

4 *Public Comments*

5 Interested persons may file comments electronically through the interchange on the commission's
6 website. Comments must be filed by **January 11, 2022**. Comments should be organized in a
7 manner consistent with the organization of the proposed rules. The commission invites specific
8 comments regarding the costs associated with, and benefits that will be gained by, implementation
9 of the proposed rule. The commission will consider the costs and benefits in deciding whether to
10 modify the proposed rules on adoption. **Commission staff strongly encourages commenters to**
11 **include a bulleted executive summary to assist Commission Staff in reviewing the filed**
12 **comments in a timely fashion.** All comments should refer to Project Number 52287.

13

14 *Statutory Authority*

15 The amended rule is proposed under PURA §14.002, which provides the Public Utility
16 Commission with the authority to make adopt and enforce rules reasonably required in the exercise
17 of its powers and jurisdiction. The amended rule is also proposed under Tex. Gov't. Code
18 §2261.253, which requires each state agency to establish a procedure, by rule, to identify each
19 contract that requires enhanced contract monitoring.

20

21 Cross Reference to Statute: Public Utility Regulatory Act §14.002 and Tex. Gov't. Code
22 §2261.253.

1 **§25.57 Power Outage Alert Criteria.**

2 (a) **Purpose and Applicability.** This section establishes criteria for the activation, content,
3 and termination of power outage alerts (POAs) as required by Tex. Gov't Code
4 §411.301(b). This section applies to the Electric Reliability Council of Texas (ERCOT)
5 and transmission service providers in power regions in Texas other than the ERCOT power
6 region.

7

8 (b) **Definitions.**

9 (1) **Load shed instructions** -- Directions given by a reliability coordinator to a
10 transmission service provider to reduce electricity usage along its systems by a
11 described amount to prevent longer and larger outages for an entire power region.

12 (2) **System-wide** -- The entirety of a power region.

13

14 (c) **Issuance of a POA.** The commission may recommend the Texas Department of Public
15 Safety issue a POA based on information received from ERCOT and transmission service
16 providers in power regions other than ERCOT. The issuance of a POA may be
17 recommended when load shed instructions have been issued or are likely to be issued
18 because the system-wide power supply in one or more power regions within Texas may be
19 inadequate to meet demand..

20 (1) The commission may recommend the Texas Department of Public Safety issue a
21 POA statewide or for one or more specific power regions in Texas.

22 (2) In conjunction with or as an alternative to recommending the issuance of a system-
23 wide POA, the commission may disseminate information by contacting the media,

1 posting on social media, notifying government officials, or via other available
2 means of communication.

- 3 (3) In determining whether to recommend the issuance of a POA, the commission will
4 consider the likelihood of system-wide load shed instructions being issued, the
5 expected length of time the load shed instructions will be in effect, and any other
6 relevant information.

7
8 **(d) POA for the ERCOT power region.**

- 9 (1) ERCOT must notify the commission when:

10 (A) ERCOT's forecasts indicate system-wide generation supply may be
11 insufficient to meet demand within the next 48 hours; or

12 (B) ERCOT issues or is preparing to issue load shed instructions.

- 13 (2) A notice under paragraph (d)(1) of this subsection must include any available,
14 relevant information to assist the commission in determining whether to
15 recommend the issuance of a POA and what information should be in a POA. The
16 notice must include, but is not limited to:

17 (A) Whether load shed instructions have been issued;

18 (B) Whether capacity is forecasted to be insufficient to meet demand
19 and, if so, an estimated time when load shed instructions may be
20 necessary;

21 (C) If applicable and known, an estimated time when load shed
22 instructions may be recalled; and

- 1 (D) If applicable and known, the initiating event or circumstances that
2 prompted the load shed instructions.
- 3 (3) ERCOT must notify the commission when any of the applicable conditions listed
4 under paragraph (d)(1) of this subsection are no longer applicable. This notice must
5 include information on any of the remaining conditions listed under paragraph
6 (d)(1) of this subsection that are still applicable.
- 7 (4) ERCOT must establish a procedure, in consultation with commission staff, to
8 provide the commission with notifications required under this subsection.
- 9 (5) The commission may:
- 10 (A) Request additional information and updates from ERCOT;
- 11 (B) Recommend the issuance of a POA;
- 12 (C) Recommend the issuance of updates to a POA; and
- 13 (D) Recommend the termination of a POA.
- 14
- 15 (e) **POA for power regions other than ERCOT.**
- 16 (1) A transmission service provider in a power region other than ERCOT must notify
17 the commission when it has received load shed instructions from the applicable
18 reliability coordinator to shed load in Texas.
- 19 (2) A notice provided under paragraph (e)(1) of this subsection must include:
- 20 (A) Whether load shed instructions have been issued;
- 21 (B) If applicable and known, as estimated time when load shed instructions will
22 be recalled; and

- 1 (C) If applicable and known, the cause or initiating event of the load shed
2 instructions.
- 3 (3) The transmission service provider must notify the commission when the applicable
4 reliability coordinator has recalled the load shed instructions. The transmission
5 service provider's notice must include any available information regarding power
6 outages and the expectation for power restoration within its service territory.
- 7 (4) A transmission service provider covered by this subsection must establish a
8 procedure, in consultation with commission staff, to provide the commission with
9 notifications required under this subsection.
- 10 (4) The commission may:
- 11 (A) Request additional information and updates from the transmission service
12 provider;
- 13 (B) Recommend the issuance of a POA;
- 14 (C) Recommend the issuance of updates to a POA; and
- 15 (D) Recommend the termination of a POA.
- 16
- 17 (f) **POA Content.** When known and as applicable, the POA must provide the following
18 information:
- 19 (1) Whether system-wide load shed is occurring or expected to occur
20 imminently;
- 21 (2) A brief explanation of the circumstances surrounding the load shed event or
22 expected load shed event;
- 23 (3) A statement that an electricity customer may experience a power outage;

- 1 (4) Where an electricity customer can seek assistance while the electricity
- 2 customer’s power may be out; and
- 3 (5) Any other information deemed relevant and of assistance to electricity
- 4 customers.

5

6 This agency hereby certifies that the proposal has been reviewed by legal counsel and

7 found to be within the agency’s legal authority to adopt.

8

9 **ISSUED IN AUSTIN, TEXAS ON THE ___ DAY OF DECEMBER 2021 BY THE**

10 **PUBLIC UTILITY COMMISSION OF TEXAS**

11 **ANDREA GONZALEZ**