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PROJECT NO. 51840

**RULEMAKING TO ESTABLISH
ELECTRIC WEATHERIZATION
STANDARDS**

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**PUBLIC UTILITY COMMISSION

OF TEXAS**

**PROPOSAL FOR PUBLICATION FOR NEW 16 TAC § 25.55
AS APPROVED AT THE AUGUST 26, 2021 WORK SESSION**

The Public Utility Commission of Texas (commission) proposes new 16 Texas Administrative Code (TAC) §25.55, relating to weather emergency preparedness, to implement weather emergency preparedness measures for generation entities and transmission service providers in the Electric Reliability Council of Texas (ERCOT) power region, as required by Senate Bill 3 (SB 3), 87th Legislature Session (Regular Session).

Proposed §25.55 represents the first of two phases in the commission's development of robust weather emergency preparedness reliability standards. It is the intent of the commission that the primary objective of implementing phase one weather emergency preparedness reliability standards is to ensure that the electric industry is prepared to provide continuous reliable electric service throughout this upcoming winter season and to comply with the statutory deadline for the adoption of weather emergency preparedness reliability standards set forth in SB 3. Specifically, the proposal requires generators to implement the winter weather readiness actions identified in the 2012 Quanta Technology Report on Extreme Weather Preparedness Best Practices and to fix any known, acute issues that arose during the 2020 – 2021 winter weather season. Similarly, the commission requires transmission service providers to implement key recommendations contained in the 2011 Report on Outages and Curtailments During the Southwest Cold Weather Event on February 1-5, 2011, jointly

prepared by the Federal Energy Regulatory Commission and the North American Electric Reliability Corporation. Further, the proposal requires a notarized attestation from the highest-ranking representative, official, or official with binding authority over each of the above entities attesting to the completion of all required activities.

The commission will develop phase two of the weather emergency preparedness reliability standards in a future project. The phase two weather emergency preparedness reliability standards will consist of a more comprehensive, year-round set of weather emergency preparedness reliability standards that will be informed by a robust weather study that is currently being conducted by ERCOT in consultation with the Office of the Texas State Climatologist.

Growth Impact Statement

The agency provides the following governmental growth impact statement for the proposed rule, as required by Texas Government Code §2001.0221. The agency has determined that for each year of the first five years that the proposed rule is in effect, the following statements will apply:

- (1) the proposed rule will not create a government program and will not eliminate a government program;
- (2) implementation of the proposed rule will not require the creation of new employee positions and will not require the elimination of existing employee positions;
- (3) implementation of the proposed rule will not require an increase and will not require a decrease in future legislative appropriations to the agency;

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

(5) the proposed rule will create a new regulation;

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

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

(8) the proposed rule will positively affect this state's economy by reducing the risk of widespread involuntary load shed events that result in economic harm to residents and businesses.

Fiscal Impact on Small and Micro-Businesses and Rural Communities

There is no adverse economic effect anticipated for small businesses, micro-businesses, or rural communities as a result of implementing the proposed rule. Accordingly, no economic impact statement or regulatory flexibility analysis is required under Texas Government Code §2006.002(c).

Takings Impact Analysis

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

Fiscal Impact on State and Local Government

Kristin Abbott, Project Manager, has determined that, for the first five-year period the proposed rule is in effect, there will be no fiscal implications for the state or for units of local government under Texas Government Code §2001.024(a)(4) as a result of enforcing or administering the sections.

Public Benefits

Ms. Abbott has also determined that, for each year of the first five years the proposed rule and amendments are in effect, the anticipated public benefit expected as a result of the adoption of the proposed amendments will be alignment of commission rules with the requirements of PURA §35.0021 and §38.075. Ms. Abbott has determined that the economic costs to persons required to comply with the rule under Texas Government Code §2001.024(a)(5) will vary on an individual basis, depending on the current weather preparation readiness of the facilities and generation resources to which the rule is applicable.

Local Employment Impact Statement

For each year of the first five years the proposed rule is in effect, there should be no effect on a local economy; therefore, no local employment impact statement is required under Texas Government Code §2001.022.

Costs to Regulated Persons

Texas Government Code §2001.0045(b) does not apply to this rulemaking because the commission is expressly excluded under subsection §2001.0045(c)(7).

Public Hearing

The commission staff will conduct a public hearing on this rulemaking on September 20, 2021, at 9:30 A.M. in the Commissioners' Hearing Room, 7th floor, William B. Travis Building, if requested in accordance with Texas Government Code §2001.029. The request for a public hearing must be received by September 16, 2021. If no request for public hearing is received and the commission staff cancels the hearing, it will file in this project a notification of the cancellation of the hearing prior to the scheduled date for the hearing.

Public Comments

Interested persons may file comments electronically through the interchange on the commission's website. Comments must be filed by **September 16, 2021**. No reply comments are requested. Comments should be organized in a manner consistent with the organization of the proposed rule. The commission invites specific comments regarding the costs associated with, and benefits that will be gained by, implementation of the proposed rule. The commission will consider the costs and benefits in deciding whether to modify the proposed rule on adoption.

Commission staff strongly encourages commenters to include a bulleted executive summary to assist commission staff in reviewing the filed comments in a timely fashion. All comments should refer to Project Number 51840.

Statutory Authority

The new rule is proposed under the following provision of PURA: §14.001, which provides the commission the general power to regulate and supervise the business of each public utility within its jurisdiction and to do anything specifically designated or implied by PURA that is necessary and convenient to the exercise of that power and jurisdiction; §14.002, which provides the commission with the authority to make and enforce rules reasonably required in the exercise of

its powers and jurisdiction; §35.0021, which requires the commission to adopt rules that require each provider of electric generation service in the ERCOT power region to implement measures to prepare the provider's generation assets to provide adequate electric generation service during a weather emergency; and §38.075, which requires the commission to adopt rules to require each electric cooperative, municipally owned utility, and transmission and distribution utility providing transmission service in the ERCOT power region to implement measures to prepare its facilities to maintain service quality and reliability during a weather emergency.

Cross reference to statutes: PURA §§14.001, 14.002, 35.0021, and 38.075.

§25.55. Weather Emergency Preparedness.

(a) Application. This section applies to the Electric Reliability Council of Texas, Inc. (ERCOT) and to generation entities and transmission service providers in the ERCOT power region.

(b) Definitions. In this section, the following definitions apply unless the context indicates otherwise.

(1) **Cold weather critical component** – Any component that is susceptible to freezing, the occurrence of which is likely to lead to unit trip, derate, or failure to start.

(2) **Energy storage resource** – An energy storage system registered with ERCOT for the purpose of providing energy or ancillary services to the ERCOT grid and associated facilities behind the system’s point of interconnection necessary for the operation of the system.

(3) **Generation entity** – An ERCOT-registered resource entity acting on behalf of an ERCOT-registered generation resource or energy storage resource.

(4) **Generation resource** – A generator capable of providing energy or ancillary services to the ERCOT grid and that is registered with ERCOT as a generation resource, as well as associated facilities behind the generator’s point of interconnection necessary for the operation of the generator.

(5) **Inspection** – The activities that ERCOT engages in to determine whether a generation entity is in compliance with subsection (c) of this section or whether a transmission service provider is in compliance with subsection (f) of this section. An inspection may

include site visits; assessments of procedures; interviews; and review of information provided by a generation entity or transmission service provider in response to a request by ERCOT, including review of evaluations conducted by the generation entity or transmission service provider or its contractor. ERCOT will determine, in consultation with the commission, the number, extent, and content of inspections and may conduct inspections using both employees and contractors.

(6) **Resource** – A generation resource or energy storage resource.

(7) **Weather emergency preparation measures** – Measures that a generation entity or transmission service provider takes to support the function of a facility in extreme weather conditions, including weatherization, fuel security, staffing plans, operational readiness, and structural preparations.

(c) Phase one weather emergency preparedness reliability standards for a generation entity.

(1) By December 1, 2021, a generation entity must complete the following winter weather emergency preparations for each resource under its control:

(A) All preparations necessary to ensure the sustained operation of all cold weather critical components during winter weather conditions, such as chemicals, auxiliary fuels, and other materials, and personnel required to operate the resource;

(B) Installation of adequate wind breaks for resources susceptible to outages or derates caused by wind; enclosure of sensors for cold weather critical components; inspection of thermal insulation for damage or degradation and repair of any damaged or degraded insulation; confirmation of the operability of instrument air

moisture prevention systems; maintenance of freeze protection components for all equipment, including fuel delivery systems, the failure of which could cause an outage or derate, and establishment of a schedule for testing of such freeze protection components on an ongoing monthly basis; and the installation of monitoring systems for cold weather critical components, including circuitry providing freeze protection or preventing instrument air moisture;

- (C) All actions necessary to prevent a reoccurrence of any cold weather critical component failure that occurred in the period between November 30, 2020, and March 1, 2021;
 - (D) Provision of training on winter weather preparations to operational personnel; and
 - (E) Determination of minimum design temperature, minimum operating temperature, and other operating limitations based on temperature, precipitation, humidity, wind speed, and wind direction.
- (2) By December 1, 2021, a generation entity must submit to the commission and ERCOT, on a form prescribed by ERCOT and developed in consultation with commission staff, a winter weather readiness report that:
- (A) Describes all activities taken by the generation entity to complete the requirements of paragraph (1) of this subsection; and
 - (B) Includes, a notarized attestation sworn to by the generation entity's highest-ranking representative, official, or officer with binding authority over the generation entity, attesting to the completion of all activities described in paragraph (1) of this subsection and the accuracy and veracity of the information described in subparagraph (2)(A) of this subsection.

- (3) Based on the requirements of paragraph (1) of this subsection, ERCOT must develop a comprehensive checklist form that includes checking systems and subsystems containing cold weather critical components and file it with the commission no later than December 10, 2021. In addition, ERCOT must use a generation entity's winter weather readiness report submitted under paragraph (2) of this subsection to adapt the checklist to the inspections of the generation entity's resources.
- (4) No later than December 10, 2021, ERCOT must file with the commission a summary report of the winter weather readiness reports filed under paragraph (2) of this subsection, including a summary of compliance with the requirements of paragraph (1) and (2) of this subsection and a spreadsheet that delineates compliance with the requirements of paragraph (1) of this subsection for all resources subject to those requirements.
- (5) A generation entity that timely submits to ERCOT the winter weather readiness report required by paragraph (2) of this subsection is exempt, for the 2021 calendar year, from the requirement in Section 3.21(3) of the ERCOT Protocols that requires a generation entity to submit the Declaration of Completion of Generation Resource Winter Weatherization Preparations no earlier than November 1 and no later than December 1 of each year.
- (6) Good cause exception. A generation entity may submit a request for a good cause exception with the commission to specific requirements listed in paragraph (1) of this subsection.
- (A) A generation entity's request must include:

- (i) A detailed explanation and supporting documentation of the generation entity's inability to comply with a specific requirement of paragraph (1) of this subsection;
 - (ii) A detailed description and supporting documentation of the generation entity's efforts that have been made to comply with paragraph (1) of this subsection;
 - (iii) A plan, including a schedule and supporting documentation, to comply with the specific requirement of paragraph (1) of this subsection for which the good cause exception is being requested from the commission, including a proposed deadline or deadlines for filing updates with the commission on the status of the generation entity's compliance with the specific requirement of paragraph (1) of this subsection and expected compliance date;
 - (iv) Evidence that notice of the request has been provided to ERCOT; and
 - (v) A notarized attestation sworn to by the generation entity's highest-ranking representative, official, or officer with binding authority over the generation entity attesting to the accuracy and veracity of the information in the request.
- (B) ERCOT is a required party in the proceeding in which a generation entity requests a good cause exception from the commission. ERCOT must make a recommendation to the commission on the request by the deadline set forth by the presiding officer in the proceeding.

(d) Inspections for a generation entity.

- (1) ERCOT inspections. ERCOT must conduct inspections of resources for the 2021 – 2022 winter season and must prioritize its inspection schedule based on risk level. ERCOT

may prioritize inspections based on factors such as whether a generation resource is critical for electric grid reliability; has experienced a forced outage, forced derate, or failure to start related to extreme weather conditions; or has other vulnerabilities related to extreme weather conditions.

- (2) ERCOT inspection report. ERCOT must provide a report on its inspection of a resource to the generation entity. The inspection report must address whether the resource has complied with the requirements in subsection (c) that ERCOT reviewed for the resource and, if the resource has not complied, ERCOT must provide the generation entity a reasonable period to cure the identified deficiencies. The cure period determined by ERCOT must consider what weather emergency preparation measures the generation entity may be reasonably expected to have taken before ERCOT's inspection, the reliability risk of the resource's noncompliance, and the complexity of the measures needed to cure the deficiency.

- (e) Weather-related failures by a generation entity to provide service.** For a generation entity with a resource that experiences repeated or major weather-related forced interruptions of service, including forced outages, derates, or maintenance-related outages, the generation entity must contract with a qualified professional engineer who is not an employee of the generation entity or its affiliate and who has not participated in previous assessments for the resource to assess its weather emergency preparation measures, plans, procedures, and operations. The generation entity must submit the qualified professional engineer's assessment to the commission and ERCOT. ERCOT must adopt rules that specify the circumstances for which this requirement applies and specify the scope and contents of the assessment. A generation entity to which this subsection applies may be subject to additional

inspections by ERCOT. ERCOT must refer to the commission for enforcement any generation entity that violates this rule and fails to cure the identified deficiencies within a reasonable period of time.

(f) Weather emergency preparedness reliability standards for a transmission service provider.

(1) By December 1, 2021, a transmission service provider must complete the following winter weather preparations for its systems and facilities:

(A) All preparations necessary to ensure the sustained operation of all cold weather critical components during winter weather conditions, including ensuring availability of supplies, such as chemicals, auxiliary fuels, and other materials, and personnel required to operate the transmission system and facilities;

(B) Confirmation of the ability of all systems and subsystems containing cold weather critical components required to operate each of the transmission service provider's substations to ensure operation of each substation within the design and operating limitations addressed in subparagraph (1)(H) of this paragraph;

(C) All actions necessary to prevent a reoccurrence of any cold weather critical component failure that occurred in the period between November 30, 2020 and March 1, 2021;

(D) Provision of training on winter weather preparations to operational personnel;

(E) Confirmation that the sulfur hexafluoride gas in breakers and metering and other electrical equipment is at the correct pressure and temperature to operate safely during extreme cold weather, and performance of annual maintenance that tests

sulfur hexafluoride breaker heaters by supporting circuitry to assure that they are functional;

(F) Confirmation of the operability of power transformers in extreme cold temperatures by:

- (i) Checking heaters in the control cabinets;
- (ii) Verifying that main tank oil levels are appropriate for actual oil temperature;
- (iii) Checking bushing oil levels; and
- (iv) Checking the nitrogen pressure if necessary.

(G) Determination of the ambient temperature to which the transmission service provider's equipment, such as fire protection systems, are protected, including accounting for the accelerated cooling effect of wind, and confirmation that temperature requirements are met during operations; and

(H) Determination of minimum design temperatures, minimum operating temperatures, and other operating limitations based on temperature, precipitation, humidity, wind speed, and wind direction for substations containing cold weather critical components.

(2) By December 1, 2021, a transmission service provider must submit to the commission and ERCOT, on a form prescribed by ERCOT and developed in consultation with commission staff, a winter-weather readiness report that:

(A) Describes all activities taken by a transmission service provider to complete the requirements of paragraph (1) of this subsection; and

(B) Includes a notarized attestation sworn to by the transmission service provider's highest-ranking representative, official, or officer with binding authority over the transmission service provider, attesting to the completion of all activities described

in paragraph (1) of this subsection and the accuracy and veracity of the information described in subparagraph (2)(A) of this subsection.

(3) No later than December 10, 2021, ERCOT must file with the commission a summary report of the winter weather readiness reports filed under paragraph (2) of this subsection, including a summary of compliance with the requirements of paragraph (1) and (2) of this subsection and a spreadsheet that delineates compliance with the requirements of paragraph (1) of this subsection for all facilities subject to the requirements.

(4) Good cause exception. A transmission service provider may submit a request for a good cause exception with the commission to specific requirements listed in paragraph (1) of this subsection.

(A) The request must include:

(i) A detailed explanation and supporting documentation of the inability of the transmission service provider to comply with a specific requirement of paragraph (1) of this subsection;

(ii) A detailed description and supporting documentation of the efforts that have been made to comply with paragraph (1) of this subsection;

(iii) A plan, including a schedule and supporting documentation, to comply with the specific requirement of paragraph (1) of this subsection for which the good cause exception is being requested from the commission, including a proposed deadline or deadlines to file updates with the commission on the status of the transmission service provider's compliance and expected compliance date;

(iv) Evidence that notice of the request has been provided to ERCOT; and

- (v) A notarized attestation sworn to by the transmission service provider's highest-ranking representative, official, or officer with binding authority over the transmission service provider attesting to the accuracy and veracity of the information in the request.
- (B) ERCOT is a required party to the proceeding in which a transmission service provider requests a good cause exception from the commission. ERCOT must make a recommendation to the commission on the request by the deadline set forth by the presiding officer in the proceeding.

(g) Inspections for a transmission service provider.

- (1) ERCOT inspections. ERCOT must conduct inspections of transmission systems and facilities for the 2021 – 2022 winter season and must prioritize its inspection schedule based on risk level. ERCOT may prioritize inspections based on factors such as whether a transmission system or facility is critical for electric grid reliability; has experienced a forced outage or other failure related to extreme weather conditions; or has other vulnerabilities related to extreme weather conditions.
- (2) ERCOT inspection report. ERCOT must provide a report on its inspection of a transmission system and facilities to the transmission service provider. The inspection report must address whether the system and facilities have complied with the requirements in subsection (f) of this section that ERCOT reviewed for the transmission service provider, and, if the transmission service provider has not complied, provide the transmission service provider a reasonable period to cure the identified deficiencies. The cure period determined by ERCOT must consider what weather emergency preparation measures the transmission service provider may be reasonably expected to have taken

before ERCOT's inspection, the reliability risk of the transmission service provider's noncompliance, and the complexity of the measures needed to cure the identified deficiencies.

- (h) Weather-related failures by a transmission service provider to provide service.** For a transmission service provider with a transmission system or facility that experiences repeated or major weather-related forced interruptions of service, including forced outages, derates, or maintenance-related outages, the transmission service provider must contract with a qualified professional engineer who is not an employee of the transmission service provider or its affiliate and who has not participated in previous assessments for this system or facility to assess its weather emergency preparation measures, plans, procedures, and operations and submit the assessment to the commission and ERCOT. ERCOT must adopt rules that specify the circumstances for which this requirement applies and specify the scope and contents of the assessment. A transmission service provider to which this subsection applies may be subject to additional inspections by ERCOT. ERCOT must refer to the commission for enforcement any transmission service provider that violates this rule and fails to cure the identified system or facility deficiencies within a reasonable period of time.

This agency certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

**ISSUED IN AUSTIN, TEXAS ON THE 26th DAY OF AUGUST 2021 BY THE
PUBLIC UTILITY COMMISSION OF TEXAS
ANDREA GONZALEZ**