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PROJECT NO. 53401

RULEMAKING TO ESTABLISH ELECTRIC WEATHERIZATION STANDARDS – PHASE II	§ § §	**PUBLIC UTILITY COMMISSION OF TEXAS**

TEXAS PUBLIC POWER ASSOCIATION'S COMMENTS ON PROPOSAL FOR PUBLICATION

The Texas Public Power Association (TPPA) appreciates the opportunity to respond to the Proposal for Publication (PFP) by the Public Utility Commission of Texas (Commission) regarding its rulemaking to establish its second phase of electric weatherization standards. These comments are submitted on behalf of TPPA and do not necessarily reflect the opinions of any individual TPPA member.

Formed in 1978, TPPA is the statewide association for the 72 municipally-owned utilities (MOUs) in Texas. TPPA membership also includes several electric cooperatives and joint actions agencies, as well as the Lower Colorado River Authority. TPPA members serve urban, suburban, and rural Texas and vary in size from large, vertically-integrated utilities to relatively small distribution-only systems. We are proud to serve approximately 5.1 million Texans across the state. MOUs offer a long track record of stability, and we serve an essential role in providing secure and reliable power to the wholesale electricity markets in these regions, including ERCOT. Many of our member systems have been providing stable and reliable electric power to communities in Texas for over 100 years, and collectively, our members provide more than 13,800 MW of generation and maintain nearly 8,500 miles of high-voltage transmission assets.

I. Background

Under new PURA § 35.0021, as created by Senate Bill 3, 87th regular session (SB3), the Commission is required to develop rules that require each provider of electric generation service to prepare its owned generation assets to adequately generate electric service during a weather emergency according to reliability standards adopted by the Commission. Similarly, under new PURA § 38.075, as created by SB3, the Commission shall develop rules that require each MOU, electric cooperative, and transmission and distribution utility providing transmission service in the ERCOT power region to implement measures to prepare the cooperative's or utility's facilities to

maintain service quality and reliability during a weather emergency according to standards adopted by the Commission.

Previously, the Commission adopted its Phase I rules relating to winter weather preparedness,[1] and this rulemaking will provide weather preparedness requirements for both winter and summer weather seasons. On May 26, the Commission filed the PFP in the Texas Register, seeking comments by June 23. These comments are timely filed.

II. General Comments on the PFP

Good cause exceptions. The proposed rule deletes all provisions found in the current rule relating to good cause exceptions for generation entities and transmission service providers (TSPs) that cannot timely comply with the provisions of the rule.[2] TPPA strongly recommends that the Commission maintain these provisions. Under the current rule, of the 847 readiness reports that ERCOT received from generator entities, only 244 reports requested some form of good cause exception, and ERCOT noted that many of these good cause exceptions were based on an inability to comply with "only a small number" of the required elements of the rule or were assertions that a given requirement did not apply to the generation entity.[3] Further, ERCOT stated that many of the good cause exceptions included a fairly short period to come into compliance.[4] To that end, of the 244 reports that requested a good cause exception, Commission Staff only filed a notice of disagreement, which requires the entity to prove up its request to the Commission, on 14 good cause exceptions,[5] and Commission Staff has since removed its disagreement on all but two of the requests.

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[1] *Rulemaking to Establish Electric Weatherization Standards*, Project No. 51840, Order Adopting New 16 TAC § 25.55 as Approved at the October 21, 2021 Open Meeting (Oct. 26, 2021).

[2] *See* 16 TAC § 25.55(c)(6) and (f)(4).

[3] *ERCOT Compliance Reports of Generation Resource Winter Readiness Pursuant to 16 TAC § 25.55(c)(4)*, Docket No. 52786, ERCOT's Report Concerning Generation Entity Compliance with Winter Weather Readiness Report Submission Requirements (Dec. 10, 2021).

[4] *Id.*

[5] Docket No. 52786, Notice of Disagreement with High Lonesome Wind Power LLC's Assertion of Good Cause (Dec. 17, 2021); Notice of Disagreement with KCE TX 2 LLC's Assertion of Good Cause (Dec. 17, 2021); Notice of Disagreement with Nueces Bay LLC's Assertion of Good Cause (Dec. 17, 2021); Notice of Disagreement with San Miguel Electric Cooperative Inc.'s LLC's Assertion of Good Cause (Dec. 17, 2021); Notice of Disagreement with OCI Alamo 1 LLC's Assertion of Good Cause (Dec. 17, 2021); Notice of Disagreement with Signal Hill Generating LLC's Assertion of Good Cause (Dec. 17, 2021); Notice of Disagreement with Sweeny Cogeneration LLC's Assertion of Good Cause (Dec. 17, 2021); Notice of Disagreement with TPC Group LLC's Assertion of Good Cause (Dec. 17, 2021); Notice of Disagreement with KCE TX 7 LLC's Assertion of Good Cause (Dec. 17, 2021); Notice of

On the transmission side, ERCOT noted that only four of the 54 TSP readiness reports requested a good cause exception.[6] Commission Staff only filed a notice of disagreement on two of these good cause exceptions and removed its disagreement on both less than a month later.[7]

Given the more than 900 entities who filed readiness reports, roughly three-quarters did not ask for any good cause exception, and for those who did, Commission Staff filed a formal notice of disagreement in a mere 16 cases – less than 2% of the overall number of filed reports – indicating that good cause exceptions were largely used only when necessary.

TPPA believes that the good cause exception process remains valuable as a way to proactively communicate with the Commission regarding any issues with compliance in a formal, transparent process. Supply chain challenges and shortages of qualified labor and appropriate equipment and infrastructure remain very real issues for TSPs and generation entities.

The good cause exception process also allows the Commission to focus its attention on grid reliability. The administrative approval process in the current rule allows Commission Staff to require regular reporting under a strict compliance timeline for issues with negligible reliability risk, while still empowering Commission Staff to pursue enforcement actions against more serious issues. Without these good cause exceptions, Commission Staff may be forced to pursue costly and time-consuming litigation to ensure compliance for minor paperwork issues that do not impact grid reliability.

TPPA expects the number of requested good cause exceptions to reduce year-over-year, as the rule becomes more ingrained in compliance schedules and supply chain challenges normalize. As such, TPPA recommends that the Commission maintain the good cause exception process.

Weather Study Provision Does Not Comply with Statute. Pursuant to SB3, the Commission is required to take into consideration weather predictions produced by the office of

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Disagreement with Midway Wind LLC's Assertion of Good Cause (Dec. 17, 2021); Notice of Disagreement with KCE TX 8 LLC's Assertion of Good Cause (Dec. 17, 2021); Notice of Disagreement with Blue Cube Operations, LLC's Assertion of Good Cause (Dec. 17, 2021); Notice of Disagreement with Barilla Solar LLC's Assertion of Good Cause (Dec. 17, 2021); and Notice of Disagreement with Chamon Power LLC's Assertion of Good Cause (Dec. 17, 2021).

[6] *ERCOT Compliance Reports of Transmission System Winter Readiness Pursuant to 16 TAC § 25.55(f)(3)*, Docket No. 52787, ERCOT's Report Concerning Transmission Service Provider Compliance with Winter Weather Readiness Report Submission Requirements (Dec. 10, 2021).

[7] Docket No. 52787, Commission Staff's Notice of Disagreement with Bandera Electric Cooperative Inc.'s Assertion of Good Cause (Dec. 20, 2021); Commission Staff's Notice of Disagreement with New Braunfels Utilities' Assertion of Good Cause (Dec. 20, 2021); Notice of Removal of New Braunfels Utility's Assertion of Good Cause (Jan. 11, 2022); and Notice of Removal of Bandera Electric Cooperative's Assertion of Good Cause (Jan. 19, 2022).

the state climatologist.[8] Proposed **25.55(i)** requires that ERCOT provide a historical weather study with specific instructions to "take into consideration weather predictions produced by the office of the state climatologist when preparing the historical weather study." However, these requirements appear contradictory, as the statutory requirement (reproduced in the proposed rule) requires the consideration of prospective weather predictions from the state climatologist, while the nature of the weather study is purely retrospective. Likewise, ERCOT's most recent Historical Weather Study Final Report, as filed with the Commission on December 15, 2021,[9] is indeed an entirely historical study without any predictions of future weather patterns. Further, it appears that the only involvement the state climatologist's office has had with either phase of this rulemaking is by suggesting a source of historical weather station data for ERCOT's weather study[10] and providing testimony at an August 2021 work session held by the Commission.[11] There is no evidence in the record that any provision of the PFP is based on "weather predictions produced by the office of the state climatologist," as required by statute, and therefore it is unclear whether this rule fully meets legislative requirements.

TPPA emphasizes that it interprets SB3 to not require ERCOT to conduct a weather study, nor does it require generation entities or TSPs to conduct weather preparation to a particular temperature standard as contemplated in proposed **25.55(c)(1)(B)**, **25.55(c)(2)(B)**, **25.55(f)(1)(B)**, and **25.55(f)(2)(B)**, but simply requires that the Commission consider weather predictions that are produced by the climatologist in adopting the rule for these preparations. Rather than housing the preparation of a weather study with ERCOT, for which it may not be well-suited to conduct, the Commission may wish to consider directly engaging with the climatologist in a separate proceeding and filling any knowledge gaps with qualified power plant and TSP engineers to determine the sufficiency of the rule requirements to address weather predictions made by the climatologist. TPPA believes that such an approach would ensure both compliance with the statutory requirements and provide a more robust and forward-looking rule with meaningful standards.

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[8] PURA §§ 35.0021(b) and 38.075(a).

[9] *Project for ERCOT Weather Study to Implement Reliability Standards under PURA §§ 35.0021 and 38.075*, Project No. 52691, ERCOT Historical Weather Study Final Report (Dec. 15, 2021).

[10] *Id.* at 3.

[11] *See Rulemaking to Establish Electric Weatherization Standards*, Project No. 51840, August 12 Work Session Agenda (Aug. 9, 2021).

ERCOT's Most Recent Weather Study is Missing Vital Information. Several provisions of the proposed rule, including proposed **25.55(c)(2)(B)** and **25.55(f)(2)(B)**, require a generation entity and TSP, respectively, to implement weather emergency preparation measures that are reasonably expected to ensure operation at the greater of the maximum ambient temperature at which the resource has experienced sustained operations or at the 95th percentile maximum average 72-hour temperature reported in ERCOT's historical weather study. However, ERCOT's December 2021 Historical Weather Study Final Report does not include any analysis of this data point.[12] The parameters proposed for the summer requirements for both a generation entity and a TSP are therefore seemingly incomplete, and this would result in the rule only effectively requiring preparation measures to the maximum ambient temperature at which the resource or facility has experienced sustained operations, as the data for the 72-hour temperature reported in the weather study is not available.

At present, the PFP would require ERCOT to present an updated historical weather study by November 1, 2026.[13] Given the deficiencies in ERCOT's December 2021 Historical Weather Study Final Report, TPPA recommends that the Commission require ERCOT to complete a revised weather study that complies with the statute and contains all elements that generation entities and TSPs should consider before the Commission adopts a final rule. Requiring a revised report would be consistent with proposed **25.55(c)(1)(B)** and **25.55(c)(2)(B)**, **25.55(f)(1)(B)** and **25.55(f)(2)(B)**, each of which require a generation entity and TSP to implement weather preparation measures consistent with ERCOT's report beginning in 2023. In the alternative, the Commission could strike these provisions together with the language in proposed **25.55(i)** directing ERCOT to complete a weather study and instead directly consult with the office of the state climatologist to review its proposed rule in a public, transparent manner to ensure that it has fully considered the weather predictions produced by that office in adopting its rules, consistent with statute. TPPA notes that it is not expected that the climatologist would have direct experience with the effect of weather patterns on power plant operations or TSPs in Texas, and that the climatologist and the Commission would need to consider addressing any knowledge gap between

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[12] TPPA notes that ERCOT's December 2021 Historical Weather Study Final Report does include the 95th percentile maximum daily and average 168-hour temperature. *Supra* note 9 at 15 and 34. For cold weather preparedness, ERCOT's December 2021 Historical Weather Study Final Report does include analysis of the **minimum** average 72-hour temperature at pp. 37-38.

[13] *See* proposed 25.55(i).

the climatologist's weather pattern and prediction knowledge and the effect of weather patterns on regulated entities governed by this rule with qualified expertise.

Load Resource Requirements. TPPA is also concerned about the lack of requirements for load resources to be prepared for extreme weather conditions. In recent months, the Commission and ERCOT have allowed for much greater participation by load resources in ancillary services.[14] Given that ancillary services are a vital component of grid reliability, regardless of whether those services are provided by traditional generation entities or load resources, the Commission should ensure that all providers of ancillary services are prepared to perform under extreme circumstances. As such, TPPA believes that the Commission should ensure that load resources that provide ancillary services implement appropriate weather preparedness measures. TPPA recommends that the Commission expand the definition of "resource" in the proposed rule to include load resources providing ancillary services, in addition to generation resources and energy storage resources, as currently found in the proposed rule.

Recognizing Entity- and Facility-Specific Needs. Each power plant is highly unique in its engineering design and is comprised of thousands of components, all of which operate differently depending on many aspects of weather, including temperature, humidity, air pressure, and wind. This is particularly true for thermal units. How the unit components interact with these weather aspects also depends on where the unit is sited, as the unique topographical features where the plant is sited impact the effect of these weather aspects on the components themselves. Recognizing the regulatory challenge of making site-specific requirements, the Commission instead may wish to take a broad approach that requires generation entities and TSPs to "implement and maintain_weather emergency preparation measures reasonably expected to ensure the sustained operation" of the hot and cold weather critical components and to continue operation of the resource during a summer or winter weather emergency. The Commission could require the generation entity and the TSP to provide, with its affidavit, details of the measures taken. This would allow each entity to develop site-specific plans that achieve the goal of the rule, without forcing highly unique and complex machinery into broad parameters applied across the state. If

[14] *See* NPRR1131, *Controllable Load Resource Participation in Non-Spin*; NPRR1113, *Clarification of Regulation-Up Schedule for Controllable Load Resources in Ancillary Service Imbalance*; and NPRR1101, *Create Non-Spin Deployment Groups made up of Generation Resources Providing Off-Line Non-Spinning Reserve and Load Resources that are Not Controllable Load Resources Providing Non-Spinning Reserve.*

an entity has a major or repeated weather-related interruption of service, these details can be reviewed in the independent assessment and any gaps identified and addressed in that process.

Transmission Facilities. TPPA recommends that the Commission consider its policy approach to transmission facilities. Below, TPPA proposes modifying the definition of "transmission facilities" to narrow the scope and add a meaningful voltage component. TPPA's proposed definition would result in the proposed regulation of the transformers referenced in proposed **25.55(f)(1)(A)(iii)** and **25.55(f)(2)(A)(i)-(ii)** to focus on the transformers that are part of the bulk electric system. This would be consistent with an overall policy approach to regulate the bulk electric system; however, if the Commission wishes to provide more discrete regulation of the transmission system, TPPA recommends that it provide more specific information as to which transformers are encompassed in the scope of the rule and consider the number of transformers at each level of the transmission system and the associated impact on staffing needs and crew hours needed to meet those requirements.

Identifying a Violation. TPPA notes that violations of this rule are subject to administrative penalties up to $1 million per violation, per day.[15] As such, it is important to understand what behaviors constitute a violation. In particular, the proposed rule discusses several behaviors that occur in a sequence – an initial weather-related forced interruption, a repeated weather-related forced interruption after three such interruptions in three years, and then an independent engineering study required after a repeated weather-related forced interruption. The rule is not clear at what point in this sequence an entity would be considered in violation of these rules and therefore subject to a potential million-dollar administrative penalty. Given the size of the potential penalty, TPPA requests additional clarification as to what behaviors would constitute a violation of these rules.

III. Comments on Specific Provisions of the PFP

In proposed **25.55(a)(1)**, the Commission would not require a generation resource with an ERCOT-approved notice of suspension of operations (NSO)[16] for the summer or winter season to comply with weather preparedness requirements until its identified return to service date. TPPA agrees with this allowance but suggests the following change for clarity:

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[15] PURA § 15.023(b-1) and 16 TAC § 25.8(3)(A).

[16] TPPA notes that ERCOT uses the term "notification of suspension of operations," rather than "notice." *See* ERCOT Protocols § 3.14.1.1.

> A generation resource with an ERCOT-approved notice of suspension of operations for the summer season or winter season is not required to comply with the applicable season-specific requirements of this section until the return to service date identified in its notice of change of generation resource designation required under the ERCOT protocols.

In proposed **25.55(b)(5)**, the Commission would define "major weather-related forced interruption of service." Under this definition, the loss of 7,500 MWh of generation service would be considered a major interruption. Under 16 TAC § 22.5(56), "generation service" is defined as "[t]he production and purchase of electricity for retail customers and the production, purchase, and sale of electricity in the wholesale power market." TPPA believes this definition may be overbroad, as it would include not just a generator's actual production capacity, but any ancillary service purchases or trades. Instead, TPPA recommends this rule reference net generation capacity as a more precise measure of the interruption.

Further, the proposed definition should include a duration element. Without such an element, a small generation resource that experiences an interruption that requires a new part to be ordered could experience a "major" interruption simply due to delays because of supply chain constraints, regardless of the resource's effect on overall grid reliability. TPPA recommends that the rule instead focus on the loss of 7,500 MWh within a one-week time period. This duration element would focus the definition on acute, major interruptions, rather than relatively minor interruptions that take longer to be resolved.

TPPA suggests the following language:

> **Major weather-related forced interruption of service** -- The loss of 7,500 megawatt-hours of ~~generation service~~ net generation capacity or transmission capability within a one-week time period occurring as a result of a weather emergency.

In addition to these proposed changes, TPPA also strongly recommends that the Commission consider the applicability of this definition as it relates to transmission facilities. The proposed 7,500 MWh value could be unduly complicated for a TSP to calculate, as it is not clear if this is applicable to a circuit, based on rating, or whether it would be applicable to a switchyard or any of the elements therein. Additionally, at 7,500 MWh for a transmission facility, almost any outage on a transmission line or a switchyard or bus would be likely to trigger the independent assessment, simply because of the capacity of these facilities. To trigger the independent assessment at this level of outage would create a cumbersome regulatory compliance scheme that

does not meaningfully add to the contemplated strengthening of reliability in extreme hot and cold weather as contemplated by statute and the rule.

TPPA also suggests that the Commission better define the term "transmission capability." This is not a term defined in the Commission's rules, ERCOT Protocols, or by NERC. Defining this term will improve compliance and clarify which events will trigger the TSP independent assessment.

In proposed **25.55(b)(6)**, the Commission would define "repeated weather-related forced interruption of service." Under this definition, a repeated interruption would occur after three or more failures to start, forced outages, or derations of more than 50% of nameplate capacity as a result of a weather emergency in a three-year period. TPPA notes that several of these events can occur during the same weather emergency. As such, given that the Commission has repeatedly emphasized that this rule is intended to be a preparedness standard and not a performance standard, TPPA recommends that the Commission clarify that the references to "occurrences" by the rule would not be counted if they occurred as part of the same weather event. Such a change would also encourage entities to bring units and facilities back as quickly as possible after a forced outage, even if the unit or facility has to operate under a lower capacity. Under the proposed rule, such behavior could result in two strikes – first, the forced outage and then, the return under a derate would count against the operator. Additionally, the language as proposed could unduly penalize simple cycle gas plants, which are generally re-started several times after an outage in an attempt to bring the plant back to full operation. If the operator must weigh the risk of compliance issues against bringing the plant back to operational status, it could have a perverse effect on grid reliability during a weather emergency.

Further, TPPA notes that generation resources are complicated machines with many variables, and repeated interruptions can occur after the failure of unrelated components. TPPA suggests that the definition of repeated outage be limited to the failure of the same or similar components. TPPA notes that repeated interruptions will require an independent assessment of preparation measures, and such an assessment will be of little use if the repeated interruptions are more a function of bad luck or bad timing than a failure to prepare.

Additionally, TPPA is concerned that weather-related derations would be based on a 50% loss of nameplate capacity. First, TPPA recommends that the Commission set a MW floor, which will ensure that smaller units are not unduly penalized for derates that do not have an outsize effect

on overall grid reliability. Second, TPPA recommends that the Commission base derations from 50% of seasonal maximum High Sustained Limit (HSL) rather than nameplate capacity, as the current methodology could result in intermittent generation experiencing "repeated interruptions" regardless of the preparatory measures they undergo (for instance, a snowy winter alone could result in solar installations derating below half of nameplate capacity three or more times during a single season).

Finally, TPPA recommends that forced outages or derations that occur because of unforeseeable circumstances outside the reasonable control of the resource or transmission facility owner not be counted toward the limited number of occurrences. For instance, Winter Storm Uri demonstrated that firm contracts for fuel can be broken, and generation entities should not be punished if a fuel supplier decides to declare force majeure. Similarly, the extension of an outage should not be counted toward the number of occurrences, as it is not a separate failure to prepare.

TPPA suggests the following language:

> **Repeated weather-related forced interruption of service** -- Three or more of any combination of the following occurrences as a result of a separate and discrete weather emergency within any three year period: a failure to start, a forced outage, or a deration of ~~more than fifty percent of the nameplate capacity~~ the larger of 25MW or fifty percent of the seasonal maximum high sustained limit of a generation resource or nameplate capacity of a transmission facility due to the failure of the same or similar components. The extension of an outage would not be considered a separate occurrence under this provision, nor would an unforeseeable circumstance outside the reasonable control of the owner, such as a fuel supplier declaring force majeure.

In proposed **25.55(b)(9)**, the Commission would define "Transmission facility." TPPA believes this definition lacks clarity as to what infrastructure is contemplated in the scope of the rule and relies on industry jargon like "inside the fence." TPPA recommends replacing the propose definition with the language below that references specific voltage levels and mirrors language currently found within the ERCOT Protocols:

> **Transmission facility** – Substation facilities on the high voltage side of the transformer, in a substation where power is transformed from a voltage higher than 60 kV to a voltage lower than 60 kV or is transformed from a voltage lower than 60 kV to a voltage higher than 60 kV.

In proposed **25.55(b)(10)**, the Commission would define "weather critical component." Under this definition, a weather critical component would be one that, if it fails for a generation resource, is likely to lead to a trip, derate, or failure to start. TPPA notes that many components can cause minor derates, and the proposed language could result in far more components being labelled as critical than the Commission likely intends. TPPA recommends that the Commission narrow this provision, such that only a component that could cause a significant derate be considered critical.[17] This suggestion is in line with other language in the definition, which indicates that a component is critical if its failure is "likely to significantly hinder the ability of the resource or transmission facility to function as intended."

Moreover, consistent with TPPA's suggestion above regarding requiring load resources providing ancillary services to implement weather preparation measures, TPPA recommends that the rule include failure to provide any ancillary service for which the resource is obligated to provide, in addition to trips, derates, or failures to start.

In proposed **25.55(b)(11)**, the Commission would define "weather emergency" as situations resulting from weather conditions. TPPA believes this definition may be overbroad for the purposes of this rule, which focuses on summer and winter weather preparedness, as weather emergencies can result from hurricanes and tornadoes, which often do not coincide with summer and winter seasonal weather and would therefore be outside the scope of this rule. Moreover, the Commission should delete a criterion that would establish a weather emergency when there is significant risk for firm load shed, as this non-specific activation criterion is heavily subjective and fact-based. Instead, the scope of the proposed definition should be limited to circumstances when ERCOT issues a notice regarding extreme hot or cold weather risks to the reliability of the grid. This change will provide clarity and improve both compliance and communications. TPPA recommends the revised language as follows:

> (11) **Weather emergency** – A situation ~~resulting from weather conditions that produces significant risk for a TSP that firm load must be shed or a situation~~ for which ERCOT issues ~~provides~~ advance notice to market participants of extreme hot or cold weather ~~involving weather related~~ risks to the reliability of the ERCOT power region.

[17] Alternatively, TPPA would support language limiting the definition of critical components to those that could cause a derate of 50% of the resource's seasonal maximum high sustained limit, in line with the discussion of "repeated weather-related forced interruption of service" above.

In proposed **25.55(b)(12)**, the Commission would define "weather emergency preparation measures" as measures that a generation entity or TSP takes to support the function of a resource or transmission facility during a weather emergency. Given that the ERCOT grid is heavily interconnected, with the efforts of a generation entity affecting the function of a TSP and vice versa, TPPA recommends that the Commission modify this definition to instead focus on measures that a generation entity or TSP takes to support the function of its own resource or transmission facility during a weather emergency.

In **25.55(b)(13)**, the Commission defines the "winter season" as December 1 to March 31 each year. For clarity, TPPA recommends the Commission modify this definition to instead read "the season beginning December 1 of each year and ending March 31 of the following year."

In proposed **25.55(c)(1)**, the Commission would require a generation entity to update its winter weather preparation measures no later than one year after ERCOT files a historical weather study report. Should the Commission retain the requirement that ERCOT produce a historical weather study report, in addition to TPPA's comments below regarding Commission approval of that report, TPPA recommends that the Commission confirm that a generation entity would only be required to update its weather preparation measures if necessary to comply with ERCOT's revised report. This clarification would encourage generation entities to implement weather preparation measures above and beyond what ERCOT's report would normally require by allowing an entity to update its weather preparation measures only when ERCOT's weather report would require compliance beyond the entity's current readiness. TPPA also recommends that consistent edits be applied to proposed **25.55(c)(2)**, proposed **25.55(f)(1)**, and proposed **25.55(f)(2)**.

In proposed **25.55(c)(1)(A)**, the Commission would require generation entities to implement measures that are reasonably expected to ensure sustained operations. TPPA notes that the Commission appears to have replaced the term "intended," as found in the current version of 16 TAC § 25.55(c)(1)(A), with "reasonably expected." This change seems to indicate the new standard will rely on a reasonability standard as opposed to an intention or design standard. TPPA requests clarification as to whether the Commission has modified its compliance standard for Phase II of this rulemaking, or whether these two terms should be read relatively synonymously. TPPA requests similar clarification for proposed **25.55(c)(2)(A)**, as well as proposed **25.55(f)(1)(A)**, and proposed **25.55(f)(2)(A)** as applied to TSPs.

In proposed **25.55(c)**, the Commission would require generation entities to complete certain preparation measures for its resources. For winter, these measures must be completed by December 1, and for summer, these measures must be completed by June 1. In proposed **25.55(c)(1)(A)(i)**, the Commission would require the installation of adequate wind breaks. Similarly, proposed **25.55(c)(1)(A)(ii)** would require the installation of insulation and enclosures, while proposed **25.55(c)(1)(A)(vii)** would require the installation of monitoring systems. Because the rule requires entities to "complete" the "installation" by a certain date, it is unclear whether the Commission intends a new installation to occur each year, or whether an entity can instead inspect and maintain existing installations.[18] TPPA recommends that these provisions be refocused to require the inspection and maintenance of these preparation measures, with installation only being required if the measures are not sufficient.

In proposed **25.55(c)(1)(A)(iv)**, the Commission would require generation entities to assure the availability of sufficient chemicals, auxiliary fuels, and other materials necessary for sustained operation. TPPA requests clarification as to whether this criterion requires an on-site stockpile or whether supplier availability with a delivery guarantee or mutual aid agreements would be sufficient. TPPA also asks for similar clarification regarding proposed **25.55(f)(2)(A)(iv)**, which requires TSPs to confirm the availability of sufficient chemicals, coolants, and other materials necessary for sustained operations. TPPA notes that, for some chemicals, fuels, and materials, an on-site stockpile of certain materials will be challenging for generation entities and TSPs to manage. Generation entities and TSPs are not chemical storage facilities, and it would be important consider the impact of all on-site chemical storage on employee safety and management of the plant.

In proposed **25.55(c)(1)(A)(iv)**, the Commission would require generation entities to conduct monthly testing on freeze protection equipment from November 1 through March 31. The rule also requires, however, that this preparation measure, along with every other preparation measure, be completed by December 1. As such, it is impossible to comply with the rule as proposed. TPPA recommends that this provision instead require annual testing prior to December 1, in line with the other preparation measures required by the rule.[19] TPPA makes a similar

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[18] By comparison, TPPA notes that the proposed rule requires TSPs to undergo "confirmation of the operability" of certain preparation measures. *See* proposed 25.55(f)(1)(A)(i)-(iii).

[19] *See* proposed 25.55(f)(1)(A)(ii): A TSP must "perform annual maintenance that tests sulfur hexafluoride breaker heaters and supporting circuitry to assure that they are functional."

recommendation for proposed **25.55(c)(2)(A)(v)**, which requires generation entities to conduct testing on all hot weather critical components monthly from May 1 through September 30, to be accomplished by June 1.

TPPA also recommends that the Commission clarify the meaning of "testing" of the components in **25.55(c)(2)(A)(v).** It is not clear if this intended to refer to a performance test to calculate an efficiency or cleanliness factor or verifying pump flows and discharge pressures. This level of testing is not possible for every device on a power plant, and testing at this level on a monthly basis would be a difficult task to accomplish. If this is not the level of "testing" contemplated in the rule, TPPA believes that the Commission should better clarify the meaning of the word "testing." A possible modification would be to clarify that "testing" can be accomplished through a visual inspection if it is contemplated to be done on a monthly basis. If the Commission does not further clarify the meaning of "testing" and adopts the language as proposed, this could have the effect of uneven compliance across the fleet as each entity will be responsible for determining the meaning of "testing."

TPPA also makes a similar recommendation for proposed **25.55(f)(2)(A)(i)**, which requires TSPs to test transformer coolers monthly from May 1 through September 30, to be accomplished by June 1, as well as proposed **25.55(f)(2)(A)(ii)**, which requires a TSP to clean transformer coolers on a regular basis during the summer season by June 1. TPPA notes that the proposed rule already requires both generation entities and TSPs to maintain the specified measures throughout the summer and winter seasons, so requiring annual testing and cleaning would not preclude maintenance during the winter or summer seasons.

In proposed **25.55(c)(1)(B)**, the Commission would require generation entities to implement preparation measures that are reasonably expected to ensure sustained operation during the lesser of a) the minimum ambient temperature at which the resource was able to sustain operations or b) the 95th percentile minimum average 72-hour temperature reported in ERCOT's historical weather study. In the event that the Commission retains proposed 25.55(c)(1)(B) given the concerns TPPA raises above with respect to the climatologist's role, TPPA recommends that the Commission only require compliance with the second criterion.

First, the ERCOT fleet is aging, and this provision could require generation entities to conduct a multi-decadal survey of operating temperature, with a significant number of entities looking back 50 years or more to discover the minimum ambient temperature at which they have

historically been able to operate. This data also may not be available in some cases. Second, older resources would be required to comply with a wider range of temperatures, placing a higher compliance burden on units that are less efficient. This could accelerate retirements and threaten resource adequacy. Moreover, with design changes over time and changing environmental regulations, a resource that may have been able to sustain operations 50 years ago under certain temperatures might not be able to replicate the same level of efficiency under those same temperatures today. Third, temperature alone would not reflect the conditions under which the resource was run – for example, a resource may be able to operate at a certain temperature below freezing only if it started at temperatures above freezing – nor does it reflect other conditions that may affect operations beyond temperature, including ice accumulation from freezing rain.

TPPA instead recommends that the Commission provide one baseline for compliance – ERCOT's weather study as approved or modified by the Commission.[20] TPPA makes a similar recommendation for proposed **25.55(c)(2)(B)**, regarding summer preparedness measures for generation entities. TPPA also makes similar recommendations for proposed **25.55(f)(1)(B)** and **25.55(f)(2)(B)**, regarding winter and summer preparedness measures for TSPs, as transmission facilities should also be measured against one compliance baseline, rather than factoring in historical performance, given that the load served by most transmission facilities in Texas has dramatically changed as Texas has grown.

Alternatively, the Commission could consider striking language to require compliance to a specific temperature standard. Transmission facility and power plant performance in extreme weather conditions is dependent on many aspects of weather outside temperature, including humidity, atmospheric pressure, and wind chill, as well as resource- and facility-specific factors including age, type, and location. As such, temperature standards alone cannot provide meaningful expectations of resource or transmission facility performance. However, it would be impractical for the Commission to enact meaningful weather-based standards for each power plant and transmission facility in the ERCOT power region. Additionally, the Commission may wish to clarify what additional measures are expected in the event that there is a shortfall between the contemplated standard and the resource or facility's ability to comply with that shortfall. It is not inconceivable that there is an outcome in which to attain the delta between the resource or facility's

[20] The process by which the Commission should approve or modify ERCOT's historical weather study is discussed in greater detail below.

performance is a sizable amount of investment. These potential consequences of the Commission's proposed language further highlight the need for the good cause exception provisions as well as additional clarification from the Commission as to how it intends to manage regulation of the fleet and transmission facilities to temperature standards. In light of these issues, instead of establishing temperature-based standards, TPPA believes that the Commission could reduce the complexity of the rule without decreasing its effectiveness by instead focusing on the plain language of SB3, which requires the Commission to adopt rules for weather emergency preparation measures to be taken by resource entities and TSPs. This rule can be informed by engagement with the climatologist, as TPPA discusses above, to ensure robust, rigorous outcomes in compliance with SB3.

In proposed **25.55(c)(1)(D)**, the Commission would require generation entities to train operational personnel on winter weather preparations and operations by December 1 each year. Proposed **25.55(c)(2)(D)** likewise would require generation entities to train employees on summer weather preparedness by June 1 of each year. As written, the rule is not clear whether these trainings can be combined or if they must be separate trainings. To allow additional flexibility, TPPA recommends that these provisions instead require generation entities to ensure that relevant personnel are trained by December 1 and June 1, allowing entities to determine how that training is best accomplished. TPPA makes a similar recommendation for proposed **25.55(f)(1)(D)** and proposed **25.55(f)(2)(D)**, regarding training for TSP operational personnel.

In proposed **25.55(c)(2)(A)(ii)**, the Commission would require a generation entity to implement measures to assure adequate water supplies. TPPA notes that water supply can be affected by a number of factors outside a generation entity's control, including drought conditions. TPPA recommends that the rule instead require generation entities implement measures that ensure the use of available and reasonable methods to maintain adequate water supplies for cooling towers, reservoirs, heat exchangers, and adequate cooling capacity of the water supplies used in the cooling towers, reservoirs, and heat exchangers.

In proposed **25.55(c)(2)(A)(vi)**, the Commission would require "installation of monitoring systems for all hot weather critical components." While TPPA believes that most generation entities would have systems, temperature indicators, and alarms on most critical components, there may be equipment that does not have real-time temperature indicators that are able to be monitored from the control room in real-time. TPPA requests the Commission clarify the definition of a

"monitoring system." The proposed language could be read to suggest that an engineering study would be required to identify all the weather-critical components and determine if monitoring systems would be available for all of them. TPPA requests that the Commission clarify if that is its intent.

In proposed **25.55(c)(3)**, the Commission would require generation entities to submit a declaration of preparedness. These declarations will likely contain a great deal of confidential information, as well as information that could be used by bad actors. TPPA would appreciate the Commission confirming that these reports could be submitted confidentially to ERCOT as well as adding a requirement in the rule that ERCOT would be required to maintain confidentiality for these declarations.

Proposed **25.55(c)(3)(A)(iii)** would require the declaration to include the minimum ambient temperature at which the resource was able to sustain operations, while proposed **25.55(c)(3)(B)(iii)** would require similar reporting for the maximum ambient temperature at which the resource was able to sustain operations. Consistent with TPPA's recommendation above, TPPA recommends deleting these provisions to provide one baseline for compliance rather than several individual ones. TPPA makes similar recommendations for proposed **25.55(f)(3)(A)(iii)** and proposed **25.55(f)(3)(B)(iii)**.[21]

TPPA also notes that ERCOT is currently sponsoring NPRR1132, *Communicate Operating Limitations during Cold and Hot Weather Conditions*, which appears to provide requirements which conflict and overlap with the proposed rule's requirements. For cold weather, this revision request would require generation entities to report to ERCOT not only the minimum historical ambient dry bulb temperature at which the resource has operated without experiencing a Forced Outage, Startup Loading Failure, or Forced Derate due to cold weather after at least one complete winter Peak Load Season following the resource's commercial operations date (which roughly parallel's the proposed rule's requirement), but also the minimum ambient dry bulb temperature at which the resource was designed to operate or the minimum ambient dry bulb temperature at which the resource can operate, as determined by an engineering analysis. This information would be required to be reported to ERCOT by October 1 for cold weather data and April 1 for hot weather data. The proposed rule, meanwhile, would require reporting to ERCOT

[21] TPPA notes that the proposed rule appears to include two separate proposed 25.55(f)(3)(B)(iii). The reference above is to the first (iii).

between November 1 and December 1 for cold weather data and May 1 and June 1 for hot weather data. Taken together, the proposed rule and NPRR1132 would require generation entities to report to ERCOT the same information in two filings made a month apart. Should the Commission retain the reporting requirements found in the proposed rule, TPPA recommends that the Commission immediately sunset the conflicting and overlapping portions of NPRR1132 when the proposed rule is made effective, consistent with its complete authority over ERCOT's operations.[22]

TPPA recommends that the Commission delete proposed **25.55(c)(3)(iv)**, which requires the generation entity and transmission service provider to submit "any additional information required by the ERCOT protocols." TPPA is concerned that this delegation of the Commission's rulemaking powers could result in splitting the requirements for these declarations between two different regulatory bodies' rules, making compliance more difficult. To the extent that these declarations are insufficient for ERCOT's purposes, TPPA recommends that such insufficiency be addressed via a notice-and-comment rulemaking at the Commission. TPPA makes the same recommendation for proposed **25.55(f)(3)(iv)**.

Under proposed **25.55(c)(3)(A)(v)**, the declaration would require an attestation from the generation entity's highest-ranking representative, official, or officer with binding authority attesting to the completion of all activities described by the declaration. It is unclear who the Commission would consider the highest-ranking representative of a MOU would be. Reasonable interpretations of this requirement as written could require the attestation of a utility general manager, a city mayor, or a city council acting as a whole. For non-MOUs, this requirement could be read to require the signature of a CEO of a corporate parent which may not be located within Texas.

Further, the Commission should allow for affidavits to be based on personal knowledge or by reliance on others with personal knowledge due to the broad nature of the attestation.

On all points above, TPPA makes similar recommendations for the relevant portions of proposed **25.55(f)(3)**, regarding TSP declarations of preparedness.

In proposed **25.55(c)(3)(C)**, the Commission would require a generation entity to submit the declaration of preparedness to ERCOT prior to returning a mothballed or decommissioned resource to service during the winter or summer season. TPPA requests that the Commission modify this language to clarify that, in the event of an anticipated weather emergency, a generation

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[22] Public Utility Regulatory Act § 39.151(d).

entity would not need to file this declaration of preparedness and may resume operations when approved to do so by ERCOT. If the Commission retains the language as proposed, given the extent of the weather preparation measures contemplated in this rule, a generation entity with a mothballed or decommissioned resource may not be able to return to service in time to serve the grid in a potential emergency.

In proposed **25.55(c)(4)** and **(5)**, the Commission would require ERCOT to file with the Commission a compliance report that addresses whether each generation entity has filed the appropriate declaration. Given the public's great interest in understanding the overall reliability of the grid, TPPA recommends that these provisions explicitly require ERCOT to make this a public filing and to host the report on the frontpage of ERCOT's website. TPPA makes the same recommendation for proposed **25.55(f)(4)** and **(5)**, regarding ERCOT reporting on TSP declarations.

In addition, this provision requires ERCOT to report on whether a generation entity has submitted a declaration for each entity under its control. TPPA believes this provision could be read to require a separate declaration for each resource, which runs contrary to language found elsewhere in the proposed rule that states that declarations may be submitted on behalf of multiple resources.[23] TPPA recommends that the report address whether the declaration was filed for all resources under the generation entity's control. This recommendation mirrors the proposed rule's language for TSPs, found in proposed 25.55(f)(4) and (5).

In proposed **25.55(d)**, the Commission would provide parameters for ERCOT inspections of generation resources, including that every resource must be inspected at least once every three years. A three-year inspection cycle could prove to be a herculean task, as there are more than 1,030 generation units currently operating in ERCOT, and new resources come online every month. TPPA believes that the Commission would benefit from more detailed inspections, even if a longer cycle is required. A longer cycle would also allow ERCOT to inspect critical resources more directly, including those with repeated or major interruptions. TPPA recommends a seven-year inspection cycle. TPPA believes that the requirements for an independent assessment for repeated or major failures from SB3 support a seven-year inspection cycle, as the independent

[23] *See* Proposed 25.55(c)(3)(A)(i): "a generation entity must submit a declaration of winter weather preparedness that identifies every resource under the entity's control for which the declaration is being submitted" (emphasis added, cleaned up).

assessment will capture resources that are failing while ERCOT also conducts more thorough inspections.

In addition, the provision would require ERCOT to develop inspection checklists to use for summer and winter inspections. TPPA suggests that ERCOT be required to publicly post the checklist used for an inspection cycle, to promote the public's understanding of the detailed nature of these inspections. TPPA makes a similar recommendation for proposed **25.55(g)(1)**, regarding checklists for TSP inspections.

In proposed **25.55(d)(1)(A)**, the Commission would require ERCOT to provide advance notice of any inspections. For security purposes, TPPA recommends that this notice include the names of all ERCOT employees, Commission Staff, or designated contractors[24] expected to conduct, oversee, or observe the inspection. This disclosure would ensure that only authorized individuals are performing inspections, better ensuring the physical security of generation assets. TPPA makes a similar recommendation for proposed **25.55(g)(1)(A)**, regarding the notice for TSP inspections.

In proposed **25.55(d)(1)(B)**, the Commission would require a generation entity to make its staff available to answer questions. Given that resources often operate on shifts, TPPA requests clarification as to whether this requirement could be met by having representative staff on site for questions, or whether the generation entity would be required to ensure that all staff would be available for questions. Requiring that every member of the resource's operational personnel be on site for potential questions from the inspection team would be costly and likely unhelpful, as the multiple shifts are designed to operate in tandem.

In addition, the provision would require a generation entity to allow ERCOT or Commission Staff to take photographs or video recordings of any part of the facility. TPPA opposes this provision, unless the rule contains a requirement ERCOT and Commission Staff would only utilize pictures and videos taken during an inspection if necessary for the inspection and all pictures and video recordings would be considered confidential, protected, and critical energy infrastructure information under Commission rules and ERCOT Protocols, alongside a requirement that these materials be deleted after the inspection is concluded, unless strictly

[24] TPPA also notes that in the definition of "Inspection" in proposed 25.55(b)(4), the Commission refers to "agents," and in providing detail about the process of inspections in these sections, the Commission refers to "contractors." TPPA recommends harmonizing these terms.

necessary for an enforcement investigation. TPPA recommends the Commission allow the personnel of the generation entity or TSP to capture the appropriate photographs or video and send to ERCOT and Commission staff after an internal safety and security review.

On both points above, TPPA makes similar recommendations for proposed **25.55(g)(1)(B)**, regarding access during TSP inspections.

In a broader context, the rule should affirmatively require all members of the inspection team to comply with all safety practices and requirements of the sites they are visiting. Not only does this help limit liability from the site owners, but it would also better protect the inspection team personally.

In proposed **25.55(d)(2)(A)**, the Commission would require ERCOT to provide a report on its inspection to a generation resource after the inspection has been performed. While TPPA would support ERCOT providing immediate verbal feedback where necessary, TPPA recommends that the Commission require ERCOT to ultimately provide a written report on its inspection. A written report would ensure that all parties are operating under the same knowledge base, avoiding confusion where it comes to the seasonal preparedness of ERCOT's generating capacity. TPPA made a similar suggestion for Phase I of this rule, and the Commission opted against adopting it because the inspection timeframe was prohibitive and the Commission had already decided to proceed in a multi-phased approach.[25] Given that Phase II is intended to be a more permanent rule, TPPA believes that a written report would be valuable to ensuring consistency and accountability going forward. TPPA makes a similar recommendation for proposed **25.55(g)(2)**, regarding reports following TSP inspections.

In proposed **25.55(d)(2)(B)**, the Commission would require ERCOT to provide a reasonable period to cure any deficiencies discovered during the inspection. An entity would be allowed to request a longer cure period, and ERCOT would be required to consult with Commission Staff before issuing a "final" cure period. TPPA recommends that the Commission modify this provision to remove any references to a "final" cure period, as neither ERCOT nor the Commission Staff has the authority to bind the Commission, and ultimately, the final determination of this cure period should be a decision made by the Commissioners themselves. TPPA would, however, support allowances for a "revised" cure period, if the generation entity can

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[25] *Rulemaking to Establish Election Weatherization Standards*, Project No. 51840, Order Adopting New 16 TAC § 25.55 as Approved at the October 21, 2021 Open Meeting at 51-52 (Oct. 26, 2021).

adequately provide documentation supporting the request. TPPA would also request clear language that states that a generation entity may appeal the "revised" cure period to the Commission itself.

Secondly, TPPA recommends that the Commission disallow any Commission Staff that would be involved in any enforcement action stemming from weather preparation inspections from participating in the setting of a "revised" cure period. Because these members of Staff would be parties in a contested case, TPPA believes it would be inappropriate for these same members of Staff to weigh in on what the appropriate cure period ought to be, as this would unreasonably mix the Commission's policymaking and enforcement functions.

Third, TPPA recommends that the Commission set a firm timeline for when the "revised" cure period must be established. TPPA recommends requiring a response within five business days from the receipt of the request for a modified cure period from the generation entity. A set timeline would ensure that these decisions are made expeditiously, which would better allow generation entities to cure any deficiencies as expected.

For all points above, TPPA makes similar recommendations for proposed **25.55(g)(2)(B)**, regarding TSP cure periods.

In proposed **25.55(e)**, the Commission would require a generation entity with repeated or major weather-related forced interruptions of service to contract with a qualified professional engineer to assess the resource's weather preparation measures. Under the proposed rule, the engineer must not have "participated" in previous assessments. While TPPA understands the Commission's interest in ensuring that these studies are performed from an independent perspective, TPPA believes that one report could disqualify entire engineering firms based on the broadness of the term "participated," as participation could be read to include both managerial review and preliminary drafting work by junior staff. It is important to recognize that there is only a narrow subset of qualified expertise in power plant and transmission facility engineering and retaining a broad umbrella of individuals together with a 5-year stayout period may create a situation where there are no qualified personnel to conduct this assessment who meet the requirements of the rule. As such, TPPA recommends that the rule require a generation entity to identify a qualified professional engineer that is responsible for the contents of the assessment, and the rule's requirements relating to barring future assessments be applied to the identified engineer.

In addition, TPPA notes that this provision does not include any timeframe for the report to be submitted to the Commission and ERCOT. Given the depth of analysis expected, TPPA recommends that the Commission require the report to be submitted not later than nine months after the repeated or major weather-related forced interruption that obligated the assessment to be performed. This period would ensure that the report is provided before the next winter or summer season following the interruption, while still allowing sufficient time for the engineer to perform a detailed assessment.

TPPA recommends the following language:

> (e) Weather-related failures by a generation entity to provide service. A generation entity with a resource that experiences repeated or major weather-related forced interruptions of service must contract with a qualified professional engineer to assess its weather emergency preparation measures, plans, procedures, and operations. A generation entity must identify a ~~The~~ qualified professional engineer that is not ~~must not be~~ an employee of the generation entity or its affiliate and is responsible for the assessment's findings. The identified qualified professional engineer must not have been responsible for ~~participated in~~ previous assessments for the resource for at least five years prior, unless the generation entity provides documentation that no other qualified professional engineers are reasonably available for engagement. The qualified professional engineer must conduct a root cause analysis of the failure and develop a corrective action plan to address any weather-related causes of the failure. The generation entity must submit the qualified professional engineer's assessment to the commission and ERCOT no later than nine months after the occurrence of the repeated or major weather-related forced interruption of service. A generation entity to which this subsection applies may be subject to additional inspections by ERCOT. ERCOT must refer to commission staff for investigation any generation entity that does not comply with a provision of this subsection.

TPPA makes a similar recommendation for proposed **25.55(h)**, regarding assessments of TSPs after repeated or major weather-related forced interruptions.

In proposed **25.55(g)**, the Commission would require ERCOT to develop a methodology for inspecting at least 10% of TSP substations or switchyards at least once every three years. TPPA interprets this provision to require ERCOT to select at least 10% of TSP facilities that will undergo regular inspections on a three-year cycle, with up to 90% not receiving regular inspections. TPPA

believes that a better approach would be a longer inspection cycle that looks at more facilities. TPPA also notes that the current ERCOT fee schedule requires TSPs to pay an inspection fee of $3,000 for each facility that is inspected, and if only 10% of TSP facilities are inspected, this fee structure would likely burden a relative few TSPs with significant recurring costs that would ultimately be collected from customers. TPPA recommends that the Commission instead require ERCOT to inspect 30% of facilities on a seven-year cycle. As mentioned above with respect to generation entities, the requirement from SB3 for an independent assessment in the event a TSP has major or repeated failures to provide service support a lengthier inspection cycle, as the assessment will identify and provide information on failing facilities while allowing a broader, more meaningful inspection cycle.

In proposed **25.55(i)**, the Commission would require ERCOT to study historical weather data and file a report with the Commission every five years on its findings. In addition to TPPA's comments above regarding the requirement that this report include predictions from the office of the state climatologist, TPPA notes that under the proposed rule, it appears this report's findings would become binding regulations immediately upon ERCOT's filing of the report, as both generation entities and TSPs would be required to update their weather preparation measures to be consistent with the report's findings within one year of ERCOT's filing.[26] TPPA believes that this process is inconsistent with the notice-and-comment rulemaking provisions of the Administrative Procedure Act and recommends that the Commission instead affirmatively adopt, reject, or amend this report consistent with statutory requirements. Alternatively, as discussed above, the Commission may wish to remove this subsection that requires ERCOT to create a historical weather study, which does not appear to be required under the statutory requirements, and instead focus on opening a separate project to engage with the climatologist with weather predictions and qualified power plant and transmission system engineers to address the ability of the proposed rule requirements to meet the weather predictions.

Should the Commission retain subsection (i), TPPA requests that the rule provide clearer guidelines for the findings and calculation of the weather-related requirements. The rule should require statistical percentiles to be based on intervals no longer than 24 hours that span concurrent days in one-year increments. Defining a maximum interval size and requiring data for the entire

[26] *See* proposed 25.55(c)(1), (c)(2), (f)(1), and (f)(2).

year would prevent cherry-picking data during a certain season or assuming the seasonal extreme temperature occurred the entire year.

The language below is from proposed **25.55(c)(1)**,[27] but TPPA recommends that consistent edits be applied to proposed **25.55(c)(2)**, proposed **25.55(f)(1)**, and proposed **25.55(f)(2)**:

> (1) Winter season preparations. By December 1 each year, a generation entity must complete the following winter weather emergency preparation measures for each resource under its control. A generation entity must maintain these measures throughout the winter season. A generation entity must update its winter weather emergency preparation measures, if necessary, no later than one year after the Commission issues an order approving or modifying ERCOT's historical weather study report ~~ERCOT files a historical weather study report~~ under subsection (i) of this section.

TPPA also recommends that ERCOT be required to issue a market notice and solicit comments from stakeholders prior to filing the report with the Commission. In the event that the Commission retains subsection (i), TPPA recommends the following language:

> (i) ERCOT historical weather study. ERCOT must study historical weather data across each weather zone classified in the ERCOT protocols. ERCOT must file with the commission a report summarizing the results of the historical weather study at least once every five years, beginning no later than November 1, 2026. Prior to filing a report under this subsection, ERCOT must issue a market notice describing any revisions to the report and the data supporting such revisions and must provide at least 30 days for stakeholder comments on the proposed report.

IV. Meeting Request

Given the scale and scope of this rule, TPPA requests a meeting with the Commission Staff assigned to this rulemaking to discuss the above comments and answer any questions that Staff might have.

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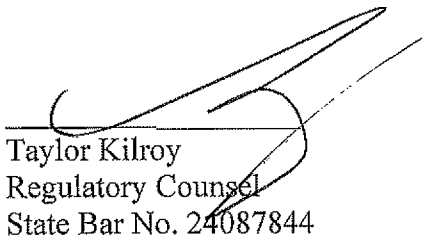
[27] The proposed redline also includes other revisions to proposed 25.55(c)(1) discussed earlier in these comments.

V. Conclusion

TPPA appreciates the opportunity to submit these comments on the PFP and appreciates the important work that has gone into this critical rule. As always, TPPA looks forward to working with the Commission, its staff, and the stakeholders on these important questions and this broader discussion in the coming months.

Dated: June 23, 2022

Respectfully,



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PROJECT NO. 53401

RULEMAKING TO ESTABLISH ELECTRIC WEATHERIZATION STANDARDS – PHASE II	**§ § §**	**PUBLIC UTILITY COMMISSION OF TEXAS**

EXECUTIVE SUMMARY OF TPPA'S COMMENTS ON PROPOSAL FOR PUBLICATION

TPPA appreciates the Commission's work on the proposal for publication and makes recommendations for several modifications and clarifications below:

General Comments

- The Commission should retain the good cause exception requirement found in the current rule.
- The Commission should require ERCOT to produce a revised weather study that is forward looking, complete, and complies with statute. Alternatively, the Commission could strike this requirement and directly consult with the office of the state climatologist.
- The Commission should require load resources that provide ancillary services to implement weather preparation measures similar to those required of generation entities.
- The Commission should consider requiring entities to develop site-specific plans rather than requiring compliance with broad parameters applied across the state.
- The Commission should provide additional clarity as to which transformers are encompassed in the scope of the rule.
- The Commission should clarify what behaviors constitute a violation under these rules.

Specific Comments

- The Commission should clarify that generation resources with an ERCOT-approved NSO only be allowed to not comply with the season-specific requirements of the rule that the NSO covers.
- In defining "major weather-related forced interruption of service," the Commission should reference net generation capacity rather than generation service. Moreover, the Commission should set a threshold for duration to ensure that the definition focuses on acute, major interruptions rather than relatively minor interruptions that take longer to be resolved. The Commission should also provide additional clarity as to how the 7,500 MWh standard would apply to transmission facilities and provide a definition for "transmission capability."
- In defining "repeated weather-related forced interruption of service," the Commission should clarify that occurrences under the rule would only be counted if they occurred in separate and distinct events and arose from the failure of the same or similar components. Moreover, the Commission should set a MW floor for what would be considered an interruption of service and base interruptions off of seasonal maximum HSL rather than nameplate capacity. Finally, the Commission should ensure that outages or derates that occur outside of the reasonable control of the resource or transmission facility, including force majeure as well as an extension of an existing outage would not be counted against the generation entity or transmission service provider (TSP).
- In defining "transmission facility," the Commission should provide additional clarity as to what infrastructure is contemplated in the scope of the rule. Further, the Commission should

remove industry jargon and replace it with language that references specific voltage levels and mirrors language found in the ERCOT Protocols.

- In defining "weather critical component," the Commission should narrow the definition to apply to only components that could cause a significant derate, rather than potentially including minor derates within the definition. The Commission should also include components that could lead to a failure to provide any ancillary service for which the resource is obligated to provide.
- In defining "weather emergency," the Commission should limit the scope of the rule to instances when ERCOT issues a notice regarding extreme hot or cold weather risks to the grid and remove subjective activation criteria.
- In defining "weather emergency preparation measures," the Commission should clarify that such measures are those that an entity undergoes to prepare its own facilities.
- The Commission should define the winter season as December 1 to March 31 of the following year.
- The Commission should require a generation entity or TSP to update its weather preparation measures only if necessary to comply with a revised weather study from ERCOT or the Commission.
- The Commission should clarify whether the rule is being modified to require a reasonability standard instead of an intention or design standard.
- The Commission should clarify whether it intends that generation entities complete a new installation of certain weather preparation measures each year, or whether inspection and maintenance of existing measures would be sufficient to comply with the rule.
- The Commission should clarify whether a generation entity's or TSP's assurance of sufficient chemicals requires an on-site stockpile or if supplier availability with a delivery guarantee or mutual aid agreements would be sufficient to comply with the rule. Generation entities and TSPs are not chemical storage facilities, and it would be important consider the impact of all on-site chemical storage on employee safety and management of the plant.
- The Commission should require annual testing of certain weather preparation measures rather than requiring monthly testing from November-March to be completed by December 1 and monthly testing from May-September to be completed by June 1. The Commission should also clarify the meaning of "testing" to provide a clarity as to whether the term refers to a performance test or a visual inspection.
- The Commission should only require generation entities and TSPs to implement weather preparation measures that are reasonably expected to ensure operations at the 95th percentile minimum and maximum average temperature in ERCOT's weather study, rather than also requiring compliance for the minimum ambient temperature at which the resource or transmission element was able to historically sustain operations. Alternatively, the Commission could consider striking language to require compliance to a specific temperature standard.
- The Commission should remove reporting requirements for the minimum and maximum ambient temperature at which the generation resource or transmission facility was able to sustain operations. Should the Commission maintain this reporting requirement, it should affirmatively sunset conflicting and overlapping requirements that ERCOT would require should NPRR1132 be approved.
- The Commission should provide flexibility on training schedules instead of imposing specific deadlines.

- The Commission should only require a generation entity to implement measures to ensure the use of available and reasonable methods to maintain adequate water supplies, rather than requiring a generation entity to assure adequate water supplies, which could create compliance issues during droughts.
- The Commission should clarify the definition of "monitoring system."
- The Commission should explicitly allow a declaration of preparedness to be submitted confidentially and require ERCOT to maintain confidentiality for these reports. Further, the Commission should allow for affidavits to be based on personal knowledge or by reliance on others with personal knowledge due to the broad nature of the attestation. The Commission should also clarify what "highest-ranking representative, official, or officer with binding authority" would mean when applied to municipally-owned utilities.
- The Commission should delete language allowing ERCOT Protocols to add additional requirements for these declarations. If these declarations are insufficient for ERCOT's purposes, the Commission should address this issue via a notice-and-comment rulemaking to ensure that requirements for a single form are not split between two separate regulatory bodies.
- In the event of an anticipated weather emergency, the Commission should allow mothballed or decommissioned resources to return to service without a declaration, in order to avoid administrative delays before potential emergency conditions.
- The Commission should require that any general compliance reports that ERCOT files pursuant to this rule be public filings, and the Commission should clarify language that could be read to require separate declarations for each generation resource, which runs contrary to separate language that allows a generation entity to file declarations for multiple resources.
- The Commission should require ERCOT to complete inspections on a seven-year cycle and publicly post its inspection checklist.
- In ERCOT's notice of inspection, the Commission should require ERCOT to provide the names of all ERCOT employees, Commission Staff, and contractors that will be part of the inspection team to better ensure the physical security of generation resources and transmission facilities.
- The Commission should allow a generation entity and a TSP to have representative members of its staff available to answer questions, rather than requiring its entire staff present for inspections. The Commission should also only allow the inspection team to utilize photos or videos taken during the inspection if those pictures and video would be considered confidential, protected, and critical energy infrastructure information under Commission rules and ERCOT protocols, alongside a requirement that the photos and video be deleted after the inspection is concluded, unless strictly necessary for an enforcement investigation. TPPA recommends that the Commission allow personnel of the generation entity or TSP to capture the appropriate photographs or video and then send to ERCOT and Commission staff after an internal safety and security review.
- The Commission should explicitly require all members of the inspection team to comply with all safety practices and requirements of the sites they are visiting.
- The Commission should require ERCOT to provide a written report after its inspection.
- The Commission should clarify that it retains the ability to set a "final" cure period for any deficiencies discovered during an inspection. ERCOT should, however, be allowed to revise a cure period if the generation entity or TSP can adequately provide documentation supporting the request. The Commission should also explicitly disallow any Commission Staff that would participate in an enforcement action from participating in setting any "revised" cure periods

set by ERCOT. The Commission should also set a five-business-day timeline for ERCOT to establish a "revised" cure period.

- The Commission should require a generation entity or TSP to identify a qualified professional engineer for any assessment that would be required after a major or repeated weather-related forced interruption of service and bar the identified qualified professional engineer from participating in assessments within the next five years. The Commission should also require that an assessment be completed within nine months of the major or repeated weather-related forced interruption of service that prompted the assessment.
- The Commission should require ERCOT to inspect 30% on transmission facilities on a seven-year cycle, rather than 10% in a three-year cycle.
- The Commission should affirmatively approve ERCOT's weather study pursuant to the notice-and-comment requirements of the Texas Administrative Procedure Act. Further, the Commission should better clarify how ERCOT will calculate the minimum and maximum average 72-hour temperature, requiring statistical percentiles to be based on intervals no longer than 24 hours that span concurrent days in one-year increments to prevent the cherry-picking of data.