

# ERCOT Demand – Peak – Natural Gas

	2022	2023	2024	2025	2026	2027	2028
Summer Peak Demand (based on normal weather)	78,084	79,857	81,239	82,408	83,574	84,506	85,391
plus: Energy Efficiency Program Savings Forecast	2,801	3,221	3,643	4,063	4,483	4,904	5,324
Total Summer Peak Demand (before Reductions from Energy Efficiency Programs)	80,884	83,079	84,882	86,471	88,057	88,520	89,686
less: Rooftop solar PV Forecast	-351	-529	-686	-827	-968	-1,108	-1,245
less: Load Resources providing Responsive Reserves	-1,591	-1,591	-1,591	-1,591	-1,591	-1,591	-1,591
less: Load Resources providing Non-Spinning Reserves	0	0	0	0	0	0	0
less: Emergency Response Service (10- and 30-min ramp products)	-895	-925	-925	-925	-925	-925	-925
less: TDSP Standard Offer Load Management Programs	-270	-270	-270	-270	-270	-270	-270
less: Energy Efficiency Program Savings Forecast	-2,801	-3,221	-3,643	-4,063	-4,483	-4,904	-5,324
Firm Peak Load, MW	74,977	76,542	77,767	78,795	79,819	79,722	80,331
Source: Dec 2021 CDR							

Year	Henry Hub	HSC	Carthage	TETCO STX	Waha
2021	3.32	3.69	3.25	3.27	3.20
2022	4.41	4.40	4.36	4.40	4.18
2023	3.47	3.44	3.39	3.45	3.09
2024	3.17	3.12	3.08	3.12	2.77
2025	3.02	2.98	2.93	2.98	2.62
2026	2.99	2.94	2.89	2.95	2.60
2027	3.01	2.96	2.92	2.97	2.62
2028	3.08	3.04	3.00	3.04	2.69



Source: ERCOT – S&P Global

# ERCOT Renewable Generation

- nFront includes wind that has an executed Interconnection Agreement (IA) and posted Sufficient Financial Security (SFS).
- nFront’s Solar buildout from 2022-2025 all have an executed IA and SFS and 2026-2028 there are several with executed IA and completed Full Interconnection Study.

Year	Fuel Type	Houston	North	South	West	Panhandle	Total
As of 1/1/2022	Wind	0	1,140	7,400	16,469	3,941	28,950
2021	Wind	0	1,140	7,400	16,469	3,941	28,950
2022	Wind	0	2,450	8,525	20,033	3,941	34,949
2023	Wind	0	2,750	9,095	21,475	3,941	37,261
2024	Wind	0	2,750	9,258	21,575	3,941	37,524
2025	Wind	0	2,950	9,258	21,830	3,941	37,979
2026	Wind	0	2,950	9,258	21,830	3,941	37,979
2027	Wind	0	2,950	9,258	21,830	3,941	37,979
2028	Wind	0	2,950	9,258	21,830	3,941	37,979

Year	Fuel Type	Houston	North	South	West	Panhandle	Total
As of 1/1/2022	Solar	122	679	463	6,753	240	8,257
2021	Solar	122	679	463	6,753	240	8,257
2022	Solar	561	1,443	1,249	7,065	240	10,557
2023	Solar	1,152	2,335	3,398	7,317	240	14,443
2024	Solar	1,473	4,185	6,142	8,032	490	20,322
2025	Solar	1,853	5,448	7,106	8,981	993	24,381
2026	Solar	1,853	6,312	7,889	9,779	993	26,827
2027	Solar	1,853	7,390	8,220	9,825	993	28,281
2028	Solar	1,853	7,390	8,220	9,825	993	28,281

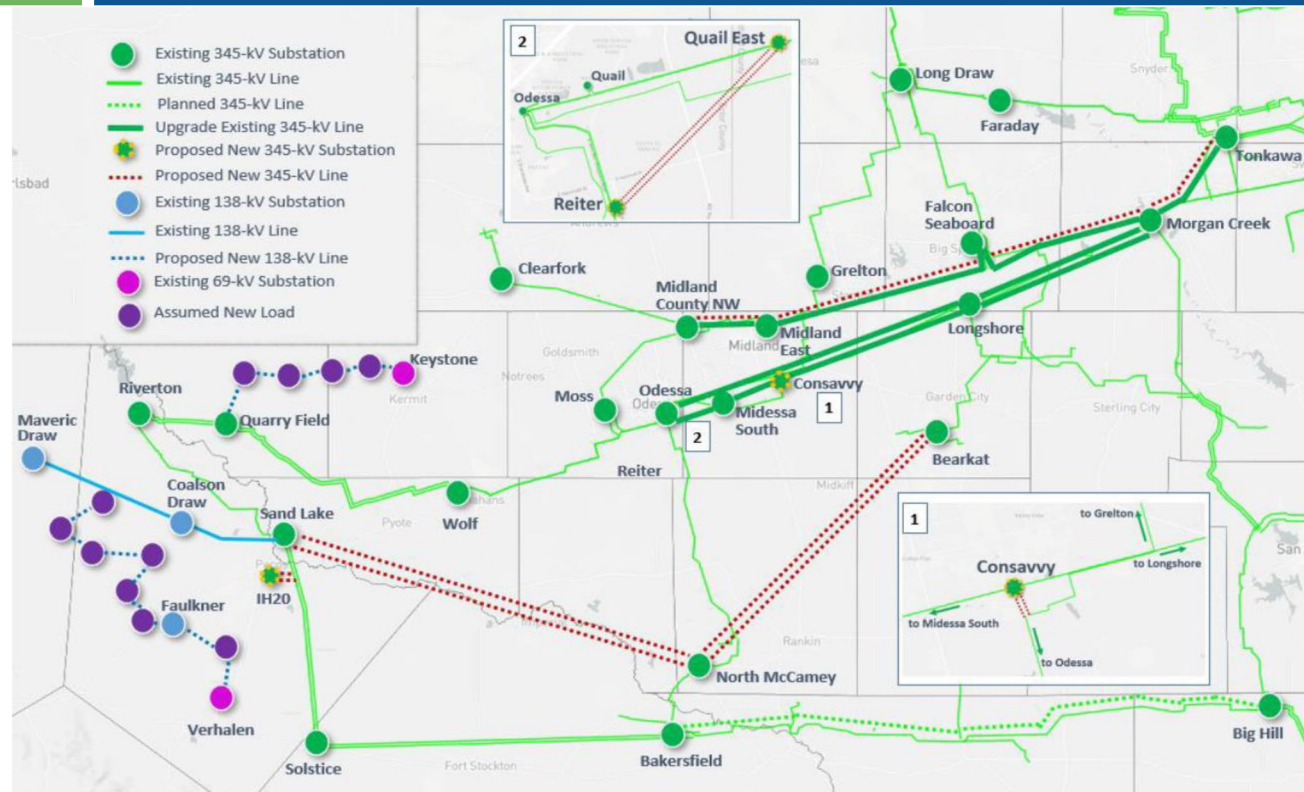
- Wind as percentage with production tax credits as the roll off through the years.

Year	Houston	North	South	West	Panhandle	Total
2019	0%	73%	68%	42%	100%	58%
2021	0%	78%	79%	73%	100%	78%
2022	0%	95%	86%	80%	100%	85%
2023	0%	90%	84%	83%	100%	85%
2024	0%	90%	79%	84%	100%	85%
2025	0%	85%	79%	83%	73%	81%
2026	0%	81%	73%	77%	37%	72%
2027	0%	81%	66%	75%	25%	68%
2028	0%	72%	55%	69%	5%	60%



Source: nFront ERCOT

# 2021 Regional Transmission Plan (RTP)



## Preferred Reliability Upgrades

- nFront assumed all proposed reliability upgrades are in-service for scenario performed in ERCOT.
- Upgrades are for load growth in ERCOT.
- ERCOT West GTC is being modeled at 12.45 GW transfer.

## ERCOT Gas Forecast – S&P Global

- nFront utilizes the Gas forecast released quarterly from S&P Global.

Year	Henry Hub	HSC	Carthage	TETCO STX	Waha
2021	3.32	3.69	3.25	3.27	3.20
2022	4.41	4.40	4.36	4.40	4.18
2023	3.47	3.44	3.39	3.45	3.09
2024	3.17	3.12	3.08	3.12	2.77
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2026	2.99	2.94	2.89	2.95	2.60
2027	3.01	2.96	2.92	2.97	2.62
2028	3.08	3.04	3.00	3.04	2.69

# EPE Demand – Peak – Natural Gas

**Table 5: El Paso Electric Company's amended 2021 Integrated Resource Plan Energy Demand Forecast**

	2021	2022	2023	2024	2025	2026	2027	2028
System Peak (MW)	2,121	2,155	2,177	2,190	2,216	2,240	2,269	2,292
Energy Demand (GWh)	8,772	8,905	8,989	9,058	9,131	9,221	9,325	9,435

Henry Hub	1	2	3	4	5	6	7	8	9	10	11	12	Annual Average
2022	6.07	5.95	5.52	4.00	3.82	3.86	3.90	3.90	3.88	3.91	3.99	4.14	4.41
2023	4.22	4.14	3.82	3.21	3.13	3.18	3.23	3.24	3.23	3.27	3.38	3.58	3.47
2024	3.69	3.63	3.39	2.95	2.91	2.95	2.99	3.00	2.99	3.02	3.13	3.35	3.17
2025	3.46	3.39	3.20	2.82	2.79	2.83	2.87	2.89	2.88	2.91	3.02	3.23	3.02
2026	3.34	3.30	3.13	2.78	2.76	2.81	2.86	2.87	2.87	2.91	3.02	3.24	2.99
2027	3.35	3.31	3.16	2.82	2.81	2.85	2.89	2.89	2.89	2.92	3.04	3.27	3.01
2028	3.40	3.36	3.22	2.88	2.87	2.91	2.96	2.96	2.97	3.00	3.12	3.35	3.08

GDel:New Mexico	1	2	3	4	5	6	7	8	9	10	11	12	Annual Average
2022	4.30	4.11	3.81	3.10	2.97	3.01	3.19	3.22	3.18	3.08	3.28	3.60	3.40
2023	3.75	3.63	3.31	2.72	2.66	2.71	2.91	2.91	2.81	2.78	3.09	3.33	3.05
2024	3.43	3.36	3.17	2.59	2.56	2.61	2.78	2.81	2.73	2.70	3.06	3.33	2.93
2025	3.42	3.35	3.18	2.60	2.58	2.61	2.82	2.82	2.74	2.70	3.05	3.30	2.93
2026	3.41	3.34	3.16	2.61	2.57	2.62	2.82	2.84	2.74	2.72	3.10	3.36	2.94
2027	3.47	3.40	3.23	2.65	2.62	2.66	2.85	2.85	2.78	2.74	3.11	3.38	2.98
2028	3.51	3.43	3.24	2.68	2.64	2.70	2.89	2.89	2.84	2.79	3.18	3.44	3.02

Source: EPE IRP – S&P Global

# EPE Renewables

- EPE system includes growth from the EPE IRP for Solar and Wind.

Queue Number	County	State	Physical BA	Ownership BA	MW	ISD	Status	2027 Base
Hatch Solar Energy Center: PV1	Doña Ana	NM	EPE BA	EPE BA	5	IS	IS	5
Las Cruces Centennial Solar Farm: PV	Doña Ana	NM	EPE BA	EPE BA	12	IS	IS	12
Macho Springs Solar Facility	Luna	NM	EPE BA	EPE BA	50	IS	IS	50
Roadrunner Solar Electric Facility: PV1	Doña Ana	NM	EPE BA	EPE BA	20	IS	IS	20
SunE EPE1: PV1	Otero	NM	EPE BA	EPE BA	11	IS	IS	11
SunE EPE2: PV	Doña Ana	NM	EPE BA	EPE BA	13	IS	IS	13
EPE_LG-19-9 -1	Doña Ana	NM	EPE BA	EPE BA	100	1/2024	GIA	100
EPE_LG-19-9-2	Doña Ana	NM	EPE BA	EPE BA	50	1/2024	GIA	50
EPE_LG-21-9-3	Bernalillo	NM	EPE BA	EPE BA	150	1/2023	Early	100
EPE_LG-21-9-5	Bernalillo	NM	EPE BA	EPE BA	150	1/2025	Early	150
EPE_SG-19-11-1	Dona Ana	NM	EPE BA	EPE BA	20	1/2023	GIA	20

Queue Number	County	State	Physical BA	Ownership BA	MW	ISD	Status	2027 Base
Gen_Pinal2		NM	SRP BA	EPE BA	NA	1/2025	NA	203

# **ATTACHMENT 8a**

## **NOTICE – UTILITIES APPLICATION PACKET\***

\*Excluding the copy of this Application, which was provided as an enclosure under cover of this notice letter

July 5, 2022

<Name>  
<Title>  
<Address>  
<City, State, Zip>

**RE: PUC Docket No. 53758 - *Application of Grid United Texas LLC for Partial Certificate of Convenience and Necessity Rights Pursuant to PURA §§ 37.051(c-1) and 37.056(b)(2) to Interconnect an HVDC Facility to the ERCOT Transmission Grid***

Dear <Greeting>:

Enclosed is an application packet containing the Application of Grid United Texas LLC for Partial Certificate of Convenience and Necessity Rights Pursuant to PURA §§ 37.051(c-1) and 37.056(b)(2) to Interconnect an HVDC Facility to the ERCOT Transmission Grid (Application). The Application seeks findings related to the proposed Pecos West Intertie Project (Proposed Project), which is a proposed 1,500 MW high voltage direct current (HVDC) interconnection between ERCOT and the Western Electricity Coordinating Council (WECC).

The Proposed Project is proposed to connect at the LCRA Transmission Services Corporation (LCRA TSC) Bakersfield Switching Station in Pecos County, Texas, and at an El Paso Electric Company (EPE) Station in El Paso County, Texas. Grid United Texas has evaluated interconnection at EPE's Caliente Station and Newman Station, but the specific station alternatives and routes will be addressed in a subsequent application by Grid United Texas for the Proposed Project. An approximately 250 to 300 mile  $\pm$ 525 kilovolt (kV) overhead HVDC tie line (Tie Line) will connect the HVDC converter stations at each end of the Proposed Project. The Proposed Project's HVDC technology allows ERCOT to maintain electrical isolation from the WECC system.

In this application, Grid United Texas is requesting a finding by the Public Utility Commission of Texas (PUC or Commission) that the public convenience and necessity require, or will require, the interconnection of facilities from an EPE Station to the LCRA TSC Bakersfield Station by Grid United Texas to allow the import of power into, and the export of power out of, the ERCOT transmission grid. Further, Grid United Texas seeks a finding that the Proposed Project is in the public interest. The PUC's findings will be limited to the interconnection and will not grant rights to Grid United Texas to construct and operate the Proposed Project at this time. Rather, the PUC's order will require Grid United Texas to file a subsequent application, satisfying all requirements of PURA § 37.056 (especially related to routing and environmental impacts), and obtain full CCN rights from the PUC prior to constructing and operating the Proposed Project.



If you have questions about the Proposed Project, you can call the Project Director, Ben Semmes, at (346) 206-1674 or email the project at [info@pecoswest.com](mailto:info@pecoswest.com). Maps showing the locations of the stations being considered for interconnection for the Proposed Project are enclosed for your convenience.

If you wish to fully participate in the PUC's decision regarding whether to grant the requested approvals related to the Proposed Project you must intervene in the docket. It is important for an affected person to intervene because the utility is not obligated to keep affected persons informed of the PUC's proceedings. Enclosed with this letter is an intervention form that may be used if you wish to intervene in this docket.

Due to the COVID-19 pandemic, requests for intervention should be filed electronically and requestors will be required to serve the request on other parties by email. Therefore, those wishing to intervene should include an email address on the intervention form. Instructions for electronic filing via the "PUC Filer" on the Commission's website can be found here: <https://interchange.puc.texas.gov/filer>.

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For assistance with electronic filings, please contact the Commission's Help Desk at (512) 936-7100 or [helpdesk@puc.texas.gov](mailto:helpdesk@puc.texas.gov). You can review materials filed in this docket on the PUC Interchange at: <http://interchange.puc.texas.gov>.

The PUC has a brochure titled "Landowners and Transmission Line Cases at the PUC." Copies of the brochure are available from Grid United Texas by emailing the project at [info@pecoswest.com](mailto:info@pecoswest.com), calling Ben Semmes at (346) 206-1674, or may be downloaded from the PUC's website at [www.puc.state.tx.us](http://www.puc.state.tx.us). In addition to the contacts listed in the brochure, interested persons may call the PUC's Customer Assistance Hotline at (888) 782-8477. Hearing- and speech-impaired individuals with text telephones (TTY) may contact the PUC's Customer Assistance Hotline at (512) 936-7136 or toll free at (800) 735-2989. If a person wishes to participate in this proceeding by becoming an intervenor, they should submit an electronic filing or letter requesting intervention to the PUC.

While the preferred method for requesting intervention is to submit a request electronically, if a person is unable submit an electronic request, they can still request intervention by mailing 10 copies of the request to:

Public Utility Commission of Texas  
Central Records  
Attn: Filing Clerk  
1701 N. Congress Ave.  
P.O. Box 13326  
Austin, Texas 78711-3326

Persons who wish to intervene in the docket must also mail or email a copy of their request for intervention to all parties in the docket and all persons that have pending motions to intervene, at or before the time the request for intervention is mailed to the PUC. In addition to the intervention deadline, other important deadlines may already exist that affect participation in this docket.

Sincerely,

A handwritten signature in black ink that reads "Ben Semmes". The signature is fluid and cursive, with the first name "Ben" and last name "Semmes" clearly distinguishable.

Ben Semmes  
Project Development Director  
Grid United LLC  
1717 West Loop South Suite 1800  
Houston, TX 77027

Enclosure: Application

# **ATTACHMENT 8b**

## **NOTICE – LIST OF UTILITIES SERVED**

Grid United Texas Pecos West Intertie Project  
Neighboring Utilities Within Five Miles Contact List

**AEP Texas Inc.**

Gilbert Hughes  
Director Regulatory Services  
400 West 15th Street  
Suite 1520  
Austin, TX 78701

**City of Garland d/b/a Garland Power & Light**

Darrell Cline  
General Manager & CEO  
P O Box 469002  
Garland, TX 75046

**Electric Transmission Texas, LLC**

Barry Smith  
Manager, Regulatory Services  
400 West 15th Street  
Suite 800  
Austin, TX 78701

**El Paso Electric Company**

James Schichtl  
Vice President, Regulatory Affairs  
PO Box 982  
El Paso, TX 79960-0982

**LCRA Transmission Services Corporation**

Don Kiser  
Director, Regulatory Affairs  
3700 Lake Austin Blvd.  
Austin, TX 78703

**Oncor Electric Delivery Company**

Michael Sherburne  
Vice President, Regulatory Affairs  
1616 Woodall Rodgers Frwy  
Dallas, TX 75202-1234

**Texas-New Mexico Power Company**

Stacy Whitehurst  
Vice President, Regulatory Affairs  
577 N. Garden Ridge Blvd.  
Lewisville, TX 75067

**Wind Energy Transmission Texas**

Travis Leverett  
Regulatory Manager  
1901 Capital Parkway  
Suite 200  
Austin, TX 78745

# **ATTACHMENT 9a**

## **NOTICE – COUNTY, MUNICIPAL, AND OTHER GOV'T AUTHORITIES APPLICATION PACKET\***

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Ben Semmes  
Project Development Director  
Grid United LLC  
1717 West Loop South Suite 1800  
Houston, TX 77027

Enclosure: Application



# **ATTACHMENT 9b**

## **NOTICE – LIST OF COUNTY, MUNICIPAL AND OTHER GOV'T OFFICIALS SERVED**

Grid United Texas Pecos West Intertie Project  
County, Municipal, and Other Governmental Authorities Contact List

**EL PASO COUNTY**

The Honorable Ricardo A. Samaniego  
El Paso County Judge  
500 E. San Antonio  
Suite 301  
El Paso, Texas 79901

The Honorable Carlos Leon  
El Paso County Commissioner, Precinct 1  
500 E. San Antonio  
Suite 301  
El Paso, Texas 79901

The Honorable David Stout  
El Paso County Commissioner, Precinct 2  
500 E. San Antonio  
Suite 301  
El Paso, Texas 79901

The Honorable Iliana Holguin  
El Paso County Commissioner, Precinct 3  
500 E. San Antonio  
El Paso, Texas 79901

The Honorable Carl L. Robinson  
El Paso County Commissioner, Precinct 4  
500 E. San Antonio  
El Paso, Texas 79901

The Honorable Oscar Leeser  
Mayor  
City of El Paso  
300 N. Campbell  
El Paso, TX 79901

**PECOS COUNTY**

The Honorable Joe Shuster  
Pecos County Judge  
Pecos County Courthouse  
103 West Callaghan  
Fort Stockton, TX 79735

The Honorable Tom Chapman  
Pecos County Commissioner, Precinct 1  
Box 1624  
Fort Stockton, Texas 79735

The Honorable Robert Gonzales  
Pecos County Commissioner, Precinct 2  
P.O.Box 220  
Fort Stockton, Texas 79735

The Honorable Mickey Jack Perry  
Pecos County Commissioner, Precinct 3  
P.O.Box 456  
Iraan, Texas 79744

The Honorable Santiago Cantu, Jr.  
Pecos County Commissioner, Precinct 4  
P.O.Box 10  
Fort Stockton, Texas 79735

**ERCOT DIRECT NOTICE**

Chad V. Seely  
Vice President, General Counsel,  
and Corporate Secretary  
ERCOT  
8000 Metropolis Drive (Building E)  
Suite 100  
Austin, TX 78744

# **ATTACHMENT 10**

## **NOTICE – PROPOSED ERCOT MARKET AND *TEXAS REGISTER* FORM**

**PUBLIC NOTICE**

Notice is given to the public that Grid United Texas LLC (Grid United Texas) has filed an application with the Public Utility Commission of Texas (PUC or Commission) in Docket No. 53758 - *Application of Grid United Texas LLC for Partial Certificate of Convenience and Necessity Rights Pursuant to PURA §§ 37.051(c-1) and 37.056(b)(2) to Interconnect an HVDC Facility to the ERCOT Transmission Grid* (Application). By its Application, Grid United Texas seeks findings from the Commission related to the proposed Pecos West Intertie Project (Proposed Project), which is a proposed 1,500 MW high voltage direct current (HVDC) interconnection between ERCOT and the Western Electricity Coordinating Council (WECC).

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In this application, Grid United Texas is requesting a finding by the Commission that the public convenience and necessity require, or will require, the interconnection of facilities from an EPE Station to the LCRA TSC Bakersfield Station by Grid United Texas to allow the import of power into, and the export of power out of, the ERCOT transmission grid. Further, Grid United Texas seeks a finding that the Proposed Project is in the public interest. The PUC's findings will be limited to the interconnection and will not grant rights to Grid United Texas to construct and operate the Proposed Project at this time. Rather, the PUC's order will require Grid United Texas to file a subsequent application, satisfying all requirements of PURA § 37.056 (especially related to routing and environmental impacts), and obtain full CCN rights from the PUC prior to constructing and operating the Proposed Project.

Persons with questions about the Proposed Project may contact Project Director Ben Semmes at (346) 206-1674 or email the project at [info@pecoswest.com](mailto:info@pecoswest.com).

Persons who wish to intervene in this proceeding may do so via electronic filing through the "PUC Filer" on the Commission's website found here: <https://interchange.puc.texas.gov/filer>. Instructions for using the PUC Filer are available at <http://www.puc.texas.gov/industry/filings/E-Filing%20Instructions.pdf>. For assistance with your electronic filing, please contact the Commission's Help Desk at (512) 936-7100 or [helpdesk@puc.texas.gov](mailto:helpdesk@puc.texas.gov). Interested persons can review materials filed in this docket on the PUC Interchange at: <http://interchange.puc.texas.gov/>.

If you are unable to file a request for intervention electronically, you may file with the PUC by mailing an original and 10 copies of your request to:

Public Utility Commission of Texas  
Central Records  
Attn: Filing Clerk  
1701 N. Congress Avenue  
P. O. Box 13326  
Austin, Texas 78711-3326

Persons who wish to intervene in the docket must also mail or email a copy of their request for intervention to all parties in the docket and to all persons who have pending motions to intervene at or before the time the request for intervention is filed with the PUC.

The PUC emphasizes that the only way to fully participate in the PUC's decision on this application is to intervene in the docket. It is important for an affected person to intervene because the utility is not obligated to keep affected persons informed of the PUC's proceedings.

The PUC has a brochure titled "Landowners and Transmission Line Cases at the PUC." Copies of the brochure are available from Grid United Texas by emailing the project at [info@pecoswest.com](mailto:info@pecoswest.com), calling Ben Semmes at (346) 206-1674, or may be downloaded from the PUC's website at [www.puc.state.tx.us](http://www.puc.state.tx.us). To obtain additional information about this docket, you may contact the PUC's Customer Assistance Hotline at (512) 936- 7120 or (888) 782-8477. Hearing-and speech-impaired individuals with text telephones (TTY) may contact the PUC's Customer Assistance Hotline at (512) 936-7136 or toll free at (800) 735-2989.

# **ATTACHMENT 11**

## **NOTICE – OFFICE OF PUBLIC UTILITY COUNSEL\***

\*Excluding the copy of this Application, which was provided as an enclosure under cover of this notice letter

July 5, 2022

Chris Ekoh  
Interim Public Counsel  
Office of Public Utility Counsel  
1701 North Congress Avenue, Suite 9-180  
P.O. Box 12397  
Austin, Texas 78711-2397

**RE: PUC Docket No. 53758 - *Application of Grid United Texas LLC for Partial Certificate of Convenience and Necessity Rights Pursuant to PURA §§ 37.051(c-1) and 37.056(b)(2) to Interconnect an HVDC Facility to the ERCOT Transmission Grid***

Dear Mr. Ekoh:

Enclosed is an application packet containing the Application of Grid United Texas LLC for Partial Certificate of Convenience and Necessity Rights Pursuant to PURA §§ 37.051(c-1) and 37.056(b)(2) to Interconnect an HVDC Facility to the ERCOT Transmission Grid (Application). The Application seeks findings related to the proposed Pecos West Intertie Project (Proposed Project), which is a proposed 1,500 MW high voltage direct current (HVDC) interconnection between ERCOT and the Western Electricity Coordinating Council (WECC).

The Proposed Project is proposed to connect at the LCRA Transmission Services Corporation (LCRA TSC) Bakersfield Switching Station in Pecos County, Texas, and at an El Paso Electric Company (EPE) Station in El Paso County, Texas. Grid United Texas has evaluated interconnection at EPE's Caliente Station and Newman Station, but the specific station alternatives and routes will be addressed in a subsequent application by Grid United Texas for the Proposed Project. An approximately 250 to 300 mile  $\pm$ 525 kilovolt (kV) overhead HVDC tie line (Tie Line) will connect the HVDC converter stations at each end of the Proposed Project. The Proposed Project's HVDC technology allows ERCOT to maintain electrical isolation from the WECC system.

In this application, Grid United Texas is requesting a finding by the Public Utility Commission of Texas (PUC or Commission) that the public convenience and necessity require, or will require, the interconnection of facilities from an EPE Station to the LCRA TSC Bakersfield Station by Grid United Texas to allow the import of power into, and the export of power out of, the ERCOT transmission grid. Further, Grid United Texas seeks a finding that the Proposed Project is in the public interest. The PUC's findings will be limited to the interconnection and will not grant rights to Grid United Texas to construct and operate the Proposed Project at this time. Rather, the PUC's order will require Grid United Texas to file a subsequent application, satisfying all requirements of PURA § 37.056 (especially related to routing and environmental impacts), and obtain full CCN rights from the PUC prior to constructing and operating the Proposed Project.

If you have questions about the Proposed Project, you can call the Project Director, Ben Semmes, at (346) 206-1674 or email the project at [info@pecoswest.com](mailto:info@pecoswest.com). Maps showing the locations of the stations being considered for interconnection for the Proposed Project are enclosed for your convenience.

If you wish to fully participate in the PUC's decision regarding whether to grant the requested approvals related to the Proposed Project you must intervene in the docket. It is important for an affected person to intervene because the utility is not obligated to keep affected persons informed of the PUC's proceedings. Enclosed with this letter is an intervention form that may be used if you wish to intervene in this docket.

Due to the COVID-19 pandemic, requests for intervention should be filed electronically and requestors will be required to serve the request on other parties by email. Therefore, those wishing to intervene should include an email address on the intervention form. Instructions for electronic filing via the "PUC Filer" on the Commission's website can be found here: <https://interchange.puc.texas.gov/filer>.

Instructions for using the PUC Filer are available here: <http://www.puc.texas.gov/industry/filings/E-Filing%20Instructions.pdf>.

For assistance with electronic filings, please contact the Commission's Help Desk at (512) 936-7100 or [helpdesk@puc.texas.gov](mailto:helpdesk@puc.texas.gov). You can review materials filed in this docket on the PUC Interchange at: <http://interchange.puc.texas.gov>.

The PUC has a brochure titled "Landowners and Transmission Line Cases at the PUC." Copies of the brochure are available from Grid United Texas by emailing the project at [info@pecoswest.com](mailto:info@pecoswest.com), calling Ben Semmes at (346) 206-1674, or may be downloaded from the PUC's website at [www.puc.state.tx.us](http://www.puc.state.tx.us). In addition to the contacts listed in the brochure, interested persons may call the PUC's Customer Assistance Hotline at (888) 782-8477. Hearing- and speech-impaired individuals with text telephones (TTY) may contact the PUC's Customer Assistance Hotline at (512) 936-7136 or toll free at (800) 735-2989. If a person wishes to participate in this proceeding by becoming an intervenor, they should submit an electronic filing or letter requesting intervention to the PUC.

While the preferred method for requesting intervention is to submit a request electronically, if a person is unable submit an electronic request, they can still request intervention by mailing 10 copies of the request to:

Public Utility Commission of Texas  
Central Records  
Attn: Filing Clerk  
1701 N. Congress Ave.  
P.O. Box 13326  
Austin, Texas 78711-3326

Persons who wish to intervene in the docket must also mail or email a copy of their request for intervention to all parties in the docket and all persons that have pending motions to intervene, at or before the time the request for intervention is mailed to the PUC. In addition to the intervention deadline, other important deadlines may already exist that affect participation in this docket.

Sincerely,

A handwritten signature in black ink that reads "Ben Semmes". The signature is fluid and cursive, with the first name "Ben" and last name "Semmes" clearly distinguishable.

Ben Semmes  
Project Development Director  
Grid United LLC  
1717 West Loop South Suite 1800  
Houston, TX 77027

Enclosure: Application



# **ATTACHMENT 12**

## **PROPOSED STANDARD PROTECTIVE ORDER**

**PUC DOCKET NO. 53758**

**APPLICATION OF GRID UNITED  
TEXAS LLC FOR PARTIAL  
CERTIFICATE OF CONVENIENCE  
AND NECESSITY RIGHTS PURSUANT  
TO PURA §§ 37.051(C-1) AND 37.056(B)  
(2) TO INTERCONNECT AN HVDC  
FACILITY TO THE ERCOT  
TRANSMISSION GRID**

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§

**BEFORE THE  
PUBLIC UTILITY COMMISSION OF  
TEXAS**

**PROTECTIVE ORDER**

This Protective Order shall govern the use of all information deemed confidential (Protected Materials) or highly confidential (Highly Sensitive Protective Materials), including information whose confidentiality is currently under dispute, by a party providing information to the Public Utility Commission of Texas (Commission) or to any other party to this proceeding.

It is ORDERED that:

1. **Designation of Protected Materials.** Upon producing or filing a document, including, but not limited to, records on a computer disk or other similar electronic storage medium in this proceeding, the producing party may designate that document, or any portion of it, as confidential pursuant to this Protective Order by typing or stamping on its face “PROTECTED PURSUANT TO PROTECTIVE ORDER ISSUED IN DOCKET NO. 53758” (or words to this effect) and consecutively Bates Stamping each page. Protected Materials and Highly Sensitive Protected materials include the documents so designated, as well as the substance of the information contained in the documents and any description, report, summary, or statement about the substance of the information contained in the documents.

2. **Materials Excluded from Protected Materials Designation.** Protected Materials shall not include any information or document contained in the public files of the Commission or any other federal or state agency, court, or local governmental authority subject to the Public Information Act.<sup>1</sup> Protected Materials also shall not include documents or information which at the time of, or prior to disclosure in, a proceeding is or was public knowledge, or which becomes public knowledge other than through disclosure in violation of this Protective Order.
3. **Reviewing Party.** For the purposes of this Protective Order, a “Reviewing Party” is any party to this docket.
4. **Procedures for Designation of Protected Materials.** On or before the date the Protected Materials or Highly Sensitive Protected Materials are provided to the Commission, the producing party shall file with the Commission and deliver to each party to the proceeding a written statement, which may be in the form of an objection, indicating: (a) any exemptions to the Public Information Act claimed to apply to the alleged Protected Materials; (b) the reasons supporting the producing party's claim that the responsive information is exempt from public disclosure under the Public Information Act and subject to treatment as protected materials; and (c) that counsel for the producing party has reviewed the information sufficiently to state in good faith that the information is exempt from public disclosure under the Public Information Act and merits the Protected Materials designation.
5. **Persons Permitted Access to Protected Materials.** Except as otherwise provided in this Protective Order, a Reviewing Party may access Protected Materials only through its

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<sup>1</sup> TEX. GOV'T CODE §§ 552.001–552.353 (West 2012 & Supp. 2015).

“Reviewing Representatives” who have signed the Protective Order Certification Form (see Attachment A). Reviewing Representatives of a Reviewing Party include its counsel of record in this proceeding and associated attorneys, paralegals, economists, statisticians, accountants, consultants, or other persons employed or retained by the Reviewing Party and directly engaged in this proceeding. At the request of the PUC Commissioners, copies of Protected Materials may be produced by Commission Staff. The Commissioners and their staff shall be informed of the existence and coverage of this Protective Order and shall observe the restrictions of the Protective Order.

6. **Highly Sensitive Protected Material Described.** The term “Highly Sensitive Protected Materials” is a subset of Protected Materials and refers to documents or information that a producing party claims is of such a highly sensitive nature that making copies of such documents or information or providing access to such documents to employees of the Reviewing Party (except as specified herein) would expose a producing party to unreasonable risk of harm. Highly Sensitive Protected Materials include but are not limited to: (a) customer-specific information protected by § 32.101(c) of the Public Utility Regulatory Act;<sup>2</sup> (b) contractual information pertaining to contracts that specify that their terms are confidential or that are confidential pursuant to an order entered in litigation to which the producing party is a party; (c) market-sensitive fuel price forecasts, wholesale transactions information and/or market-sensitive marketing plans; and (d) business operations or financial information that is commercially sensitive. Documents or information so classified by a producing party shall bear the designation “HIGHLY SENSITIVE PROTECTED MATERIALS PROVIDED PURSUANT TO PROTECTIVE

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<sup>2</sup> Public Utility Regulatory Act, Tex. Util. Code §§ 11.001–66.016 (West 2007 & Supp. 2015).

ORDER ISSUED IN DOCKET NO. 53758” (or words to this effect) and shall be consecutively Bates Stamped. The provision

7. Is of this Protective Order pertaining to Protected Materials also apply to Highly Sensitive Protected Materials. In particular, the procedures herein for challenging the producing party’s designation of information as Protected Materials also apply to information that a producing party designates as Highly Sensitive Protected Materials.

8. **Restrictions on Copying and Inspection of Highly Sensitive Protected Material.**

Except as expressly provided herein, only one copy may be made of any Highly Sensitive Protected Materials. Up to five additional work copies, for authorized representatives for purpose of access to such highly sensitive protected materials may be made of highly sensitive protected materials. Additional copies may be made in order to have sufficient copies for introduction of the material into the evidentiary record if the material is to be offered for admission into the record. Highly Sensitive Protected Material shall be made available for inspection only at the location or locations provided by the producing party, except as specified by Paragraph 9. Limited notes may be made of Highly Sensitive Protected Materials, and such notes shall themselves be treated as Highly Sensitive Protected Materials unless such notes are limited to a description of the document and a general characterization of its subject matter in a manner that does not state any substantive information contained in the document.

9. **Restricting Persons Who May Have Access to Highly Sensitive Protected Material.**

With the exception of Commission Staff, the Office of Public Utility Counsel (“OPUC”), and the Office of the Attorney General (“OAG”) when the OAG is representing a party to the proceeding, and except as provided herein, the Reviewing Representatives for the

purpose of access to Highly Sensitive Protected Materials may be persons who are: (1) outside counsel for the Reviewing Party; (2) outside consultants for the Reviewing Party working under the direction of Reviewing Party's counsel; or (3) employees of the Reviewing Party or its members working with and under the direction of Reviewing Party's counsel who have been authorized by the producing party or by the presiding officer to review Highly Sensitive Protected Materials. The Reviewing Party shall limit the number of Reviewing Representatives that review each Highly Sensitive Protected document to the minimum number of persons necessary. The Reviewing Party is under a good faith obligation to limit access to each portion of any Highly Sensitive Protected Materials to two Reviewing Representatives (other than outside counsel) whenever possible. Reviewing Representatives for Commission Staff, OPUC, and OAG, for the purpose of access to Highly Sensitive Protected Materials, shall consist of their respective counsel of record in this proceeding and associated attorneys, paralegals, economists, statisticians, accountants, consultants, or other persons employed or retained by them and directly engaged in these proceedings.

10. **Copies Provided of Highly Sensitive Protected Material.** A producing party shall provide one copy of Highly Sensitive Protected Materials specifically requested by the Reviewing Party to the person designated by the Reviewing Party who must be a person authorized to review Highly Sensitive Protected Material under Paragraph 8. Representatives of the Reviewing Party who are authorized to view Highly Sensitive Protected Material may review the copy of Highly Sensitive Protected Materials at the office of the Reviewing Party's representative designated to receive the information. Any Highly Sensitive Protected Materials provided to a Reviewing Party may not be copied

except as provided in Paragraph 7. The restrictions contained herein do not apply to Commission Staff, OPUC, and the OAG when the OAG is representing a party to the proceeding.

11. **Procedures in Paragraphs 10-14 Apply to Commission Staff, OPUC, and the OAG**

**and Control in the Event of Conflict.** The procedures in Paragraphs 10 through 14 apply to responses to requests for documents or information that the producing party designates as Highly Sensitive Protected Materials and provides to Commission Staff, OPUC, and the OAG in recognition of their purely public functions. To the extent the requirements of Paragraphs 10 through 14 conflict with any requirements contained in other paragraphs of this Protective Order, the requirements of these Paragraphs shall control.

12. **Copy of Highly Sensitive Protected Material to be Provided to Commission Staff,**

**OPUC and the OAG.** When, in response to a request for information by a Reviewing Party, the producing party makes available for review documents or information claimed to be Highly Sensitive Protected Materials, the producing party shall also deliver one copy of the Highly Sensitive Protected Materials to the Commission Staff, OPUC (if OPUC is a party), and the OAG (if the OAG is representing a party) in Austin, Texas. Provided however, that in the event such Highly Sensitive Protected Materials are voluminous, the materials will be made available for review by Commission Staff, OPUC (if OPUC is a party), and the OAG (if the OAG is representing a party) at the designated office in Austin, Texas. The Commission Staff, OPUC (if OPUC is a party) and the OAG (if the OAG is representing a party) may request such copies as are necessary of such voluminous material under the copying procedures specified herein.

13. **Delivery of the Copy of Highly Sensitive Protected Material to Commission Staff and Outside Consultants.** The Commission Staff, OPUC (if OPUC is a party), and the OAG (if the OAG is representing a party) may deliver the copy of Highly Sensitive Protected Materials received by them to the appropriate members of their staff for review, provided such staff members first sign the certification specified by Paragraph 15. After obtaining the agreement of the producing party, Commission Staff, OPUC (if OPUC is a party), and the OAG (if the OAG is representing a party) may deliver the copy of Highly Sensitive Protected Materials received by it to the agreed, appropriate members of their outside consultants for review, provided such outside consultants first sign the certification in Attachment A.
14. **Restriction on Copying by Commission Staff, OPUC, and the OAG.** Except as allowed by Paragraph 7, Commission Staff, OPUC and the OAG may not make additional copies of the Highly Sensitive Protected Materials furnished to them unless the producing party agrees in writing otherwise, or, upon a showing of good cause, the presiding officer directs otherwise. Commission Staff, OPUC, and the OAG may make limited notes of Highly Sensitive Protected Materials furnished to them, and all such handwritten notes will be treated as Highly Sensitive Protected Materials as are the materials from which the notes are taken.
15. **Public Information Requests.** In the event of a request for any of the Highly Sensitive Protected Materials under the Public Information Act, an authorized representative of the Commission, OPUC, or the OAG may furnish a copy of the requested Highly Sensitive Protected Materials to the Open Records Division at the OAG together with a copy of this Protective Order after notifying the producing party that such documents are being



furnished to the OAG. Such notification may be provided simultaneously with the delivery of the Highly Sensitive Protected Materials to the OAG.

16. **Required Certification.** Each person who inspects the Protected Materials shall, before such inspection, agree in writing to the following certification found in Attachment A to this Protective Order:

I certify my understanding that the Protected Materials are provided to me pursuant to the terms and restrictions of the Protective Order in this docket, and that I have been given a copy of it and have read the Protective Order and agree to be bound by it. I understand that the contents of the Protected Materials, any notes, memoranda, or any other form of information regarding or derived from the Protected Materials shall not be disclosed to anyone other than in accordance with the Protective Order and, unless I am an employee of the Commission or OPUC, shall be used only for the purpose of the proceeding in Docket No. 53758. I acknowledge that the obligations imposed by this certification are pursuant to such Protective Order. Provided, however, if the information contained in the Protected Materials is obtained from independent public sources, the understanding stated herein shall not apply.

In addition, Reviewing Representatives who are permitted access to Highly Sensitive Protected Material under the terms of this Protective Order shall, before inspection of such material, agree in writing to the following certification found in Attachment A to this Protective Order:

I certify that I am eligible to have access to Highly Sensitive Protected Material under the terms of the Protective Order in this docket. A copy of each signed certification shall be provided by the Reviewing Party to Counsel for the producing party and served upon all parties of record.

17. **Disclosures between Reviewing Representatives and Continuation of Disclosure Restrictions after a Person is no Longer Engaged in the Proceeding.** Any Reviewing Representative may disclose Protected Materials, other than Highly Sensitive Protected Materials, to any other person who is a Reviewing Representative provided that, if the person to whom disclosure is to be made has not executed and provided for delivery of a

signed certification to the party asserting confidentiality, that certification shall be executed prior to any disclosure. A Reviewing Representative may disclose Highly Sensitive Protected Material to other Reviewing Representatives who are permitted access to such material and have executed the additional certification required for persons who receive access to Highly Sensitive Protected Material. In the event that any Reviewing Representative to whom Protected Materials are disclosed ceases to be engaged in these proceedings, access to Protected Materials by that person shall be terminated and all notes, memoranda, or other information derived from the protected material shall either be destroyed or given to another Reviewing Representative of that party who is authorized pursuant to this Protective Order to receive the protected materials. Any person who has agreed to the foregoing certification shall continue to be bound by the provisions of this Protective Order so long as it is in effect, even if no longer engaged in these proceedings.

18. **Producing Party to Provide One Copy of Certain Protected Material and Procedures for Making Additional Copies of Such Materials.**

Except for Highly Sensitive Protected Materials, which shall be provided to the Reviewing Parties pursuant to Paragraphs 9 and 11, and voluminous Protected Materials, the producing party shall provide a Reviewing Party one copy of the Protected Materials upon receipt of the signed certification described in Paragraph 15. Except for Highly Sensitive Protected Materials, a Reviewing Party may make further copies of Protected Materials for use in this proceeding pursuant to this Protective Order.

19. **Procedures Regarding Voluminous Protected Materials.** 16 TEX. ADMIN. CODE § 22.144(h) will govern production of voluminous Protected Materials. Voluminous Protected Materials will be made available in the producing party's voluminous room, in

Austin, Texas, or at a mutually agreed upon location, Monday through Friday, 9:00 a.m. to 5:00 p.m. (except on state or Federal holidays), and at other mutually convenient times upon reasonable request.

20. **Reviewing Period Defined.** The Protected Materials may be reviewed only during the Reviewing Period, which shall commence upon entry of this Protective Order and continue until the expiration of the Commission's plenary jurisdiction. The Reviewing Period shall reopen if the Commission regains jurisdiction due to a remand as provided by law. Protected materials that are admitted into the evidentiary record or accompanying the evidentiary record as offers of proof may be reviewed throughout the pendency of this proceeding and any appeals.
21. **Procedures for Making Copies of Voluminous Protected Materials.** Other than Highly Sensitive Protected Materials, Reviewing Parties may take notes regarding the information contained in voluminous Protected Materials made available for inspection or they may make photographic, mechanical or electronic copies of the Protected Materials, subject to the conditions in this Protective Order.
22. **Protected Materials to be Used Solely for the Purposes of These Proceedings.** All Protected Materials shall be made available to the Reviewing Parties and their Reviewing Representatives solely for the purposes of these proceedings. Access to the Protected Materials may not be used in the furtherance of any other purpose, including, without limitation: (a) any other pending or potential proceeding involving any claim, complaint, or other grievance of whatever nature except appellate review proceedings that may arise from or be subject to these proceedings; or (b) any business or competitive endeavor of

whatever nature. Because of their statutory regulatory obligations, these restrictions do not apply to Commission Staff or OPUC.

23. **Procedures for Confidential Treatment of Protected Materials and Information**

**Derived from Those Materials**s. Protected Materials, as well as a Reviewing Party's notes, memoranda, or other information regarding or derived from the Protected Materials are to be treated confidentially by the Reviewing Party and shall not be disclosed or used by the Reviewing Party except as permitted and provided in this Protective Order. Information derived from or describing the Protected Materials shall be maintained in a secure place and shall not be placed in the public or general files of the Reviewing Party except in accordance with the provisions of this Protective Order. A Reviewing Party must take all reasonable precautions to ensure that the Protected Materials including notes and analyses made from Protected Materials that disclose Protected Materials are not viewed or taken by any person other than a Reviewing Representative of a Reviewing Party.

24. **Procedures for Submission of Protected Materials**. If a Reviewing Party tenders for filing any Protected Materials, including Highly Sensitive Protected Materials, or any written testimony, exhibit, brief, motion or other type of pleading or other submission at the Commission or before any other judicial body that quotes from Protected Materials or discloses the content of Protected Materials, the confidential portion of such submission shall be filed and served in sealed envelopes or other appropriate containers endorsed to the effect that they contain Protected Material or Highly Sensitive Protected Material and are sealed pursuant to this Protective Order. If filed at the Commission, such documents shall be marked "PROTECTED MATERIAL" and shall be filed under seal with the presiding officer and served under seal to the counsel of record for the Reviewing Parties.

The presiding officer may subsequently, on his/her own motion or on motion of a party, issue a ruling respecting whether or not the inclusion, incorporation or reference to Protected Materials is such that such submission should remain under seal. If filing before a judicial body, the filing party: (a) shall notify the party which provided the information within sufficient time so that the producing party may seek a temporary sealing order; and (b) shall otherwise follow the procedures in Rule 76a, Texas Rules of Civil Procedure.

25. **Maintenance of Protected Status of Materials during Pendency of Appeal of Order**

**Holding Materials are not Protected Materials.** In the event that the presiding officer at any time in the course of this proceeding finds that all or part of the Protected Materials are not confidential or proprietary, by finding, for example, that such materials have entered the public domain or materials claimed to be Highly Sensitive Protected Materials are only Protected Materials, those materials shall nevertheless be subject to the protection afforded by this Protective Order for three (3) full working days, unless otherwise ordered, from the date the party asserting confidentiality receives notice of the presiding officer's order. Such notification will be by written communication. This provision establishes a deadline for appeal of a presiding officer's order to the Commission. In the event an appeal to the Commissioners is filed within those three (3) working days from notice, the Protected Materials shall be afforded the confidential treatment and status provided in this Protective Order during the pendency of such appeal. Neither the party asserting confidentiality nor any Reviewing Party waives its right to seek additional administrative or judicial remedies after the Commission's denial of any appeal.

26. **Notice of Intent to Use Protected Materials or Change Materials Designation.** Parties intending to use Protected Materials shall notify the other parties prior to offering them

into evidence or otherwise disclosing such information into the record of the proceeding. During the pendency of Docket No. 53758 at the Commission, in the event that a Reviewing Party wishes to disclose Protected Materials to any person to whom disclosure is not authorized by this Protective Order, or wishes to have changed the designation of certain information or material as Protected Materials by alleging, for example, that such information or material has entered the public domain, such Reviewing Party shall first file and serve on all parties written notice of such proposed disclosure or request for change in designating, identifying with particularity each of such Protected Materials. A Reviewing Party shall at any time be able to file a written motion to challenge the designation of information as Protected Materials.

27. **Procedures to Contest Disclosure or Change in Designation.** In the event that the party asserting confidentiality wishes to contest a proposed disclosure or request for change in designation, the party asserting confidentiality shall file with the appropriate presiding officer its objection to a proposal, with supporting affidavits, if any, within five (5) working days after receiving such notice of proposed disclosure or change in designation. Failure of the party asserting confidentiality to file such an objection within this period shall be deemed a waiver of objection to the proposed disclosure or request for change in designation. Within five (5) working days after the party asserting confidentiality files its objection and supporting materials, the party challenging confidentiality may respond. Any such response shall include a statement by counsel for the party challenging such confidentiality that he or she has reviewed all portions of the materials in dispute and, without disclosing the Protected Materials, a statement as to why the Protected Materials should not be held to be confidential under current legal standards, or that the party

asserting confidentiality for some reason did not allow such counsel to review such materials. If either party wishes to submit the material in question for in camera inspection, it shall do so no later than five (5) working days after the party challenging confidentiality has made its written filing.

28. **Procedures for Presiding Officer Determination Regarding Proposed Disclosure or**

**Change in Designation**. If the party asserting confidentiality files an objection, the appropriate presiding officer will determine whether the proposed disclosure or change in designation is appropriate. Upon the request of either the producing or Reviewing Party or upon the presiding officer's own initiative, the presiding officer may conduct a prehearing conference. The burden is on the party asserting confidentiality to show that such proposed disclosure or change in designation should not be made. If the presiding officer determines that such proposed disclosure or change in designation should be made, disclosure shall not take place earlier than three (3) full working days after such determination unless otherwise ordered. No party waives any right to seek additional administrative or judicial remedies concerning such presiding officer's ruling.

29. **Maintenance of Protected Status during Periods Specified for Challenging Various**

**Orders**. Any party electing to challenge, in the courts of this state, a Commission or presiding officer determination allowing disclosure or a change in designation shall have a period of ten (10) days from: (a) the date of an unfavorable Commission order; or (b) if the Commission does not rule on an appeal of an interim order, the date an appeal of an interim order to the Commission is overruled by operation of law, to obtain a favorable ruling in state district court. Any party challenging a state district court determination allowing disclosure or a change in designation shall have an additional period of ten (10) days from

the date of the order to obtain a favorable ruling from a state appeals court. Finally, any party challenging a determination of a state appeals court allowing disclosure or a change in designation shall have an additional period of ten (10) days from the date of the order to obtain a favorable ruling from the state supreme court, or other appellate court. All Protected Materials shall be afforded the confidential treatment and status provided for in this Protective Order during the periods for challenging the various orders referenced in this paragraph. For purposes of this paragraph, a favorable ruling of a state district court, state appeals court, Supreme Court or other appellate court includes any order extending the deadlines in this paragraph.

30. **Other Grounds for Objection to Use of Protected Materials Remain Applicable.**

Nothing in this Protective Order shall be construed as precluding any party from objecting to the use of Protected Materials on grounds other than confidentiality, including the lack of required relevance. Nothing in this Protective Order constitutes a waiver of the right to argue for more disclosure, provided, however, that unless the Commission or a court orders such additional disclosure, all parties will abide by the restrictions imposed by the Protective Order.

31. **Protection of Materials from Unauthorized Disclosure.** All notices, applications, responses or other correspondence shall be made in a manner which protects Protected Materials from unauthorized disclosure.

32. **Return of Copies of Protected Materials and Destruction of Information Derived from Protected Materials.** Following the conclusion of these proceedings, each Reviewing Party must, no later than thirty (30) days following receipt of the notice described below, return to the party asserting confidentiality all Copies of the Protected



Materials provided by that party pursuant to this Protective Order and all copies reproduced by a Reviewing Party, and counsel for each Reviewing Party must provide to the party asserting confidentiality a letter by counsel that, to the best of his or her knowledge, information, and belief, all copies of notes, memoranda, and other documents regarding or derived from the Protected Materials (including copies of Protected Materials) that have not been so returned, if any, have been destroyed, other than notes, memoranda, or other documents which contain information in a form which, if made public, would not cause disclosure of the substance of Protected Materials. As used in this Protective Order, "conclusion of these proceedings" refers to the exhaustion of available appeals, or the running of the time for the making of such appeals, as provided by applicable law. If, following any appeal, the Commission conducts a remand proceeding, then the "conclusion of these proceedings" is extended by the remand to the exhaustion of available appeals of the remand, or the running of the time for making such appeals of the remand, as provided by applicable law. Promptly following the conclusion of these proceedings, counsel for the party asserting confidentiality will send a written notice to all other parties, reminding them of their obligations under this paragraph. Nothing in this paragraph shall prohibit counsel for each Reviewing Party from retaining two (2) copies of any filed testimony, brief, application for rehearing, hearing exhibit or other pleading which refers to Protected Materials provided that any such Protected Materials retained by counsel shall remain subject to the provisions of this Protective Order.

33. **Applicability of Other Law.** This Protective Order is subject to the requirements of the Public Information Act, the Open Meetings Act,<sup>3</sup> and any other applicable law, provided

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<sup>3</sup> TEX. GOV'T CODE §§ 551.001–551.146 (West 2012 & Supp. 2015).

that parties subject to those acts will notify the party asserting confidentiality, if possible under those acts, prior to disclosure pursuant to those acts. Such notice shall not be required where the Protected Materials are sought by governmental officials authorized to conduct a criminal or civil investigation that relates to or involves the Protected Materials, and those governmental officials aver in writing that such notice could compromise the investigation and that the governmental entity involved will maintain the confidentiality of the Protected Materials.

34. **Procedures for Release of Information under Order.** If required by order of a governmental or judicial body, the Reviewing Party may release to such body the confidential information required by such order; provided, however, that: (a) the Reviewing Party shall notify the producing party of the order requiring the release of such information within five (5) calendar days of the date the Reviewing Party has notice of the order; (b) the Reviewing Party shall notify the producing party at least five (5) calendar days in advance of the release of the information to allow the producing party to contest any release of the confidential information; and (c) the Reviewing Party shall use its best efforts to prevent such materials from being disclosed to the public. The terms of this Protective Order do not preclude the Reviewing Party from complying with any valid and enforceable order of a state or federal court with competent jurisdiction specifically requiring disclosure of Protected Materials earlier than contemplated herein. The notice specified in this section shall not be required where the Protected Materials are sought by governmental officials authorized to conduct a criminal or civil investigation that relates to or involves the Protected Materials, and those governmental officials aver in writing that

such notice could compromise the investigation and that the governmental entity involved will maintain the confidentiality of the Protected Materials.

35. **Best Efforts Defined.** The term “best efforts” as used in the preceding paragraph requires that the Reviewing Party attempt to ensure that disclosure is not made unless such disclosure is pursuant to a final order of a Texas governmental or Texas judicial body, the written opinion of the Texas Attorney General sought in compliance with the Public Information Act, or the request of governmental officials authorized to conduct a criminal or civil investigation that relates to or involves the Protected Materials. The Reviewing Party is not required to delay compliance with a lawful order to disclose such information but is simply required to timely notify the party asserting confidentiality, or its counsel, that it has received a challenge to the confidentiality of the information and that the Reviewing Party will either proceed under the provisions of 552.301 of the Public Information Act, or intends to comply with the final governmental or court order. Provided, however, that no notice is required where the Protected Materials are sought by governmental officials authorized to conduct a criminal or civil investigation that relates to or involves the Protected Materials, and those governmental officials aver in writing that such notice could compromise the investigation and that the governmental entity involved will maintain the confidentiality of the Protected Materials.
36. **Notify Defined.** “Notify” for purposes of Paragraphs 32, 33, and 34 means written notice to the party asserting confidentiality at least five (5) calendar days prior to release; including when a Reviewing Party receives a request under the Public Information Act. However, the Commission, OAG, or OPUC may provide a copy of Protected Materials to the Open Records Division of the OAG as provided herein.

37. **Requests for Non-Disclosure.** If the producing party asserts that the requested information should not be disclosed at all or should not be disclosed to certain parties under the protection afforded by this Protective Order, the producing party shall tender the information for in camera review to the presiding officer within ten (10) calendar days of the request. At the same time, the producing party shall file and serve on all parties its argument, including any supporting affidavits, in support of its position of nondisclosure. The burden is on the producing party to establish that the material should not be disclosed. The producing party shall serve a copy of the information under the classification of Highly Sensitive Protected Material to all parties requesting the information that the producing party has not alleged should be prohibited from reviewing the information. Parties wishing to respond to the producing party's argument for non-disclosure shall do so within five (5) working days. Responding parties should explain why the information should be disclosed to them, including why disclosure is necessary for a fair adjudication of the case if the material is determined to constitute a trade secret. If the presiding officer finds that the information should be disclosed as Protected Material under the terms of this Protective Order, the presiding officer shall stay the order of disclosure for such period of time as the presiding officer deems necessary to allow the producing party to appeal the ruling to the Commission.
38. **Sanctions Available for Abuse of Designation.** If the presiding officer finds that a producing party unreasonably designated material as Protected Material or as Highly Sensitive Protected Material, or unreasonably attempted to prevent disclosure pursuant to Paragraph 36, the presiding officer may sanction the producing party pursuant to 16 TEX. ADMIN. CODE § 22.161.

39. **Modification of Protective Order**. Each party shall have the right to seek changes in this Protective Order as appropriate from the presiding officer.
40. **Breach of Protective Order**. In the event of a breach of the provisions of this Protective Order, the producing party, if it sustains its burden of proof required to establish the right to injunctive relief, shall be entitled to an injunction against such breach without any requirements to post bond as a condition of such relief. The producing party shall not be relieved of proof of any element required to establish the right to injunctive relief. In addition to injunctive relief, the producing party shall be entitled to pursue any other form of relief to which it is entitled.

## ATTACHMENT A

### Protective Order Certification

I certify my understanding that the Protected Materials are provided to me pursuant to the terms and restrictions of the Protective Order in this docket and that I have received a copy of it and have read the Protective Order and agree to be bound by it. I understand that the contents of the Protected Materials, any notes, memoranda, or any other form of information regarding or derived from the Protected Materials shall not be disclosed to anyone other than in accordance with the Protective Order and unless I am an employee of the Commission or OPC shall be used only for the purpose of the proceeding in Docket No. 53758. I acknowledge that the obligations imposed by this certification are pursuant to such Protective Order provided. However, if the information contained in the Protected Materials is obtained from independent public sources, the understanding stated here shall not apply.

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Signature

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Party Represented

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Printed Name

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Date

I certify that I am eligible to have access to Highly Sensitive Protected Material under the terms of the Protective Order in this docket.

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Signature

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Party Represented

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Printed Name

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Date

**ATTACHMENT B**

I request to view/copy the following documents:

Document Requested	# of Copies	Non- Confidential	Protected Materials and/or Highly Sensitive Protected Materials

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Party Represented

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Date