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OPEN MEETING COVER SHEET

MEMORANDUM

MEETING DATE: July 20, 2023

DATE DELIVERED: July 19, 2023

AGENDA ITEM NO.: 35 & 36

CAPTION: Project No. 54455 – Rulemaking Calendar
Project No. 55156 – 88th Implementation

DESCRIPTION: Priority Rulemakings (Staff Rec) (Corrected)

Public Utility Commission of Texas

Memorandum

TO: Interim Chair Kathleen Jackson
Commissioner Will McAdams
Commissioner Lori Cobos
Commissioner Jimmy Glotfelty

FROM: David Smeltzer, Division Director, Rules and Projects

DATE: July 19, 2023¹

RE: **88th Legislative Session – Rulemaking Projects.**

This memo is identical to the July 18th memo filed in this project. It has been updated to correct clerical errors for the bill numbers in the water section.

Commission Staff recommends the following projects and rulemakings, as discussed further herein, to implement legislation passed during the 88th Session of the Texas Legislature (R.S.) and signed into law by Gov. Greg Abbott. Commission Staff plans to initiate projects or take other appropriate action on each of these projects with the objective of making material progress on each item by the end of September 2023. Additional projects may be opened to facilitate efficient implementation of additional legislative directives. Commission Staff will provide a progress report at the open meeting on September 28, 2023.

The items listed have been prioritized using multiple criteria, including explicit and implicit statutory implementation deadlines, public interest considerations, and available agency resources. Commission Staff received significant written and in-person feedback at three public Legislative Implementation and Policy Priority workshops on July 11, 2023. Commission Staff sincerely thanks stakeholders for the robust participation in these workshops. The workshop participants generally agreed with Commission Staff's initial list of priority rulemakings and offered suggestions for prioritizing the remaining pieces of legislation. Commission Staff will continue to evaluate these public comments as it updates the Commission's rulemaking calendar and will provide additional briefing on the content of these comments as it completes its review.

This memo does not reflect the entirety of Staff's rulemaking efforts. Ongoing projects already shown on the Commission's rulemaking calendar will continue as planned, as will critical Commission policy initiatives such as the development of a reliability standard for the ERCOT power region, the Aggregated Distributed Energy Resource task force, and the Energy Efficiency Implementation Project process.

[1] This memo was filed with fewer than seven days before the open meeting at which it will be considered by the Commission, because the recommendations in this memo are informed by comments due Friday, July 14.

Electric

Workshop stakeholders agreed that Commission Staff appropriately identified the rulemaking projects with implicit or explicit statutory deadlines. Of the legislative implementation items without specific statutory deadlines, workshop stakeholders placed special importance on the implementation of a rule addressing the methods the Commission will use to issue directives to ERCOT and on implementing the residential demand response provisions of HB 1699.

Commission Staff will move forward with the following electric rulemaking projects, which are listed in numerical order, and initiate additional legislative implementation projects as resources allow. Commission Staff will continue evaluating stakeholder comments to inform its recommendations for near-term electric rulemaking priorities.

Legislation, <i>Reason for Inclusion</i>	Description	Project Status
HB 1500, §9 Transmission Interconnection Allowance Effective: 9/1/23 <i>2/28/24 rule adoption deadline</i>	Requires the Commission to establish a reasonable allowance for costs incurred by transmission-owning utilities to interconnect generation resources to the ERCOT transmission system.	Commission Staff is currently scoping this rulemaking project.
HB 1500, §13 Circuit Segmentation Study Effective: 9/1/23 <i>9/1/24 deadline for utility study submissions</i>	Requires the Commission to direct each transmission and distribution utility to perform a circuit segmentation study and report the results of the study to the Commission by September 1, 2024.	Project No. 55182 – <i>Circuit Segmentation Study</i> Preparing draft order to file for public comment. Commission Staff does not presently recommend initiating a full rulemaking project on this item.
HB 1500, §§15-17 ERCOT Directives Effective: 9/1/23 <i>Necessary guidance for ERCOT on commission directives; Workshop stakeholder priority</i>	Clarifies the methods by which the Commission can issue directives to ERCOT and requires the Commission to adopt a rule outlining procedure related to issuing directives to ERCOT.	Project No. 52301, <i>ERCOT Governance and Related Issues</i> Scoping rulemaking project and possible modifications to interim processes.

Legislation, Reason for Inclusion	Description	Project Status
<p>HB 1500, §22 Dispatchable Reliability Reserve Services</p> <p>Effective: 9/1/23</p> <p><i>12/1/24 deadline for ERCOT implementation</i></p>	<p>The Commission must require ERCOT to develop and implement an ancillary services program to procure dispatchable reliability reserve services.</p>	<p>Commission Staff does not presently recommend initiating a full rulemaking project to implement this item.</p>
<p>HB 1500, §40 Significant Power Outage</p> <p>Effective: 9/1/23</p> <p><i>Implementation efficiency; Ongoing rulemaking project</i></p>	<p>Allows a transmission and distribution utility to lease and operate facilities that provide temporary emergency electric energy to aid in restoring power in certain circumstances.</p>	<p>Project No. 53404, <i>Restoration of Power After a Widespread Outage</i></p> <p>Preparing draft redlines for consideration as a discussion draft or proposal for publication.</p>
<p>HB 1500, Multiple Sections Renewable Energy Credit Program</p> <p>Effective: 9/1/23</p> <p><i>Included to provide guidance on 2023 compliance year and to retire repealed provisions before 2024 compliance year begins</i></p>	<p>Repeals the targets for installation of generation capacity from renewable energy technologies and requires ERCOT to maintain an accreditation banking system to award and track voluntary renewable energy credits.</p>	<p>Commission Staff is currently evaluating possible guidance for compliance with the current project year and scoping out a rulemaking project.</p>
<p>HB 2555 Resiliency Plans</p> <p>Effective: 6/13/23</p> <p><i>12/10/23 rule adoption deadline</i></p>	<p>Requires the Commission to adopt a rule allowing electric utilities to file a resiliency plan to enhance the resiliency of the utility's transmission and distribution system.</p>	<p>Project No. 55250, <i>Transmission and Distribution System Resiliency Plans</i></p> <p>Scoping project and preparing a preliminary discussion draft</p>

Legislation, Reason for Inclusion	Description	Project Status
<p>HB 5066 Regional Transmission Reliability Plans</p> <p>Effective: 6/13/23</p> <p><i>1/30/24 deadline to direct ERCOT to develop Permian Basin regional reliability plan</i></p>	<p>Requires the Commission to direct ERCOT to develop reliability plans for regions with insufficient transmission capacity. Further, by January 30, 2024, the Commission must direct ERCOT to develop a reliability plan for the Permian Basin region.</p>	<p>Project No. 55249, <i>Regional Transmission Reliability Plans</i></p> <p>Scoping project. Consistent with workshop stakeholder recommendations, Commission Staff has opened a project and requested submission of studies and other reference materials to inform project direction.</p>
<p>SB 365 Notice to property owners about proposed substation</p> <p>Effective: 9/1/23</p> <p><i>Included for implementation efficiency with SB 1076 notice rulemaking</i></p>	<p>Requires an applicant for an electric certificate of convenience and necessity to provide notice of each proposed substation to provide notice of that substation to adjacent property owners.</p>	<p>Project No. 55153, <i>Review of §22.52</i></p> <p>Proposal for Publication has been filed and public comment period is open.</p>
<p>SB 1076 (partial implementation) Electric Transmission CCN evaluation timeline</p> <p>Effective: 6/2/23</p> <p><i>Addressing certain procedural requirements to enable compliance with 180- day statutory review period</i></p>	<p>Reduces the time the Commission has to consider electric certificate of convenience and necessity applications from 360 to 180 days. This rulemaking will amend procedural requirements to enable the Commission to meet this condensed evaluation timeframe.</p>	<p>Project No. 55153, <i>Review of §22.52</i></p> <p>Proposal for Publication has been filed and public comment period is open.</p>

Legislation, Reason for Inclusion	Description	Project Status
<p>SB 2627 Texas Energy Fund</p> <p>Effective on adoption of const. amendment</p> <p><i>6/1/24 deadline for accepting applications</i></p>	<p>Establishes the Texas Energy Fund pending the approval of a corresponding constitutional amendment by voters.</p>	<p>Project No. 54999, <i>Texas Energy Fund</i></p> <p>Scoping project, evaluating timelines, and identifying resources and expertise required to implement this legislation.</p>
<p>SB 415 (87th) Energy Storage for Reliability Services</p> <p><i>Implementation efficiency due to subject matter overlap with ongoing significant power outage rulemaking project</i></p>	<p>Allows a transmission and distribution utility to contract with a power generation company to provide electric energy from an electric energy storage facility to ensure reliable service to distribution customers.</p>	<p>Project No. 53404, <i>Restoration of Power After a Widespread Outage</i></p> <p>Preparing draft redlines for consideration as a discussion draft or proposal for publication. Commission Staff will restyle the existing project to reflect expanded project scope</p>
<p>SB 3, §18 (87th) Emergency Pricing Program</p> <p><i>Ongoing rulemaking project and workshop stakeholder priority</i></p>	<p>Requires the creation of an emergency pricing program for ERCOT's wholesale electric market.</p>	<p>Project No. 54585, <i>Emergency Pricing Program</i></p> <p>Preparing redline rule draft for consideration as a discussion draft or proposal for publication.</p>

Water

Workshop stakeholders generally agreed that implementation of HB 1484 from the 87th Legislative Session should be the Commission's top water and sewer policy priority. Commission Staff will continue with its current water and sewer rulemaking projects and initiate additional legislative implementation projects from the 88th Legislative Session, as resources allow. Commission Staff will continue to evaluate stakeholder comments to inform its recommendations for near-term water and sewer rulemaking priorities, with a focus on issues related to the sale, transfer, merger, and financial review provisions of the Commission's rules.

Legislation, <i>Reason for Inclusion</i>	Description	Project Status
HB 1484 (87th) Initial Acquisition Rates <i>Implementation efficiency; ongoing project.</i>	Allows an acquiring water and sewer utility to apply an existing tariff to the customers of an acquired utility.	Project No. 53924, <i>Water and Sewer Utility Rates After Acquisition</i> Evaluating comments filed by stakeholders in response to Staff's discussion draft.
HB 3689 (87th) Water Rate Appeals Significant Power Outage <i>Implementation efficiency; ongoing project.</i>	Clarifies that in a water rate appeal, the Commission must ensure that every appealed rate is just and reasonable.	Project No. 54932, <i>Review of §24.101 Water Rate Appeals</i> Commission Staff is finalizing the proposal for adoption.
SB 387 (87th) Water Rate Appeals <i>Implementation efficiency; ongoing project.</i>	Expands the Commission's appellate authority by allowing ratepayers to appeal water and sewer rates set by a municipally owned utility for ratepayers previously served by another retail public utility, in certain situations.	Project No. 54932, <i>Review of §24.101 – Water Rate Appeals</i> Commission Staff is finalizing the proposal for adoption.

Telecommunications

Commission Staff recommends implementing all of the telecommunications-related legislation from the 88th Texas Legislative Session as part of the ongoing Chapter 26 rule review. This recommendation is driven by organizational efficiency and was well-received by the stakeholder community during the July 11th Workshop.

Legislation, <i>Reason for Inclusion</i>	Description	Project Status
HB 1597 Affiliate and Trade Association Tariff Filings Effective: 9/1/23 <i>Implementation efficiency; added to ongoing project</i>	Authorizes affiliates and trade associations to file a telecommunications tariff on behalf of a public utility and establishes an expedited process for Commission review of such tariffs.	Added to Project No. 54589, <i>Rule Review of Chapter 26</i> . Commission Staff is finalizing the proposal for publication.
SB 1425 Small ILEC Adjustments under Small and Rural Plan Effective: 5/19/23 <i>Implementation efficiency; added to ongoing project</i>	Requires small incumbent local exchange companies seeking adjustments to support amounts under the Small and Rural Plan of the Texas Universal Service Fund to publicly submit operational information, such as rate of return, every calendar year.	Added to Project No. 54589, <i>Rule Review of Chapter 26</i> . Commission Staff is finalizing the proposal for publication.
SB 1710 TUSF Support Levels and Eligibility Criteria Effective: 5/19/23 <i>Implementation efficiency; added to ongoing project</i>	Amends support amounts available under the Small and Rural Plan and High Cost Plan of the Texas Universal Service Fund for eligible telecommunications providers and adds provisions relating to the expiration and relinquishment of Texas Universal Service Fund support.	Added to Project No. 54589, <i>Rule Review of Chapter 26</i> . Commission Staff is finalizing the proposal for publication.