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# OPEN MEETING COVER SHEET

## MEMORANDUM

**MEETING DATE:** June 29, 2023

**DATE DELIVERED:** June 22, 2023

**AGENDA ITEM NO.:** 46

**CAPTION:** Project No. 55156 – Implementation Activities  
88th Legislature (R.S.)

**DESCRIPTION:** Memorandum

# *Public Utility Commission of Texas*

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## **Memorandum**

TO: Commissioner Kathleen Jackson  
Commissioner Will McAdams  
Commissioner Lori Cobos  
Commissioner Jimmy Glotfelty  
Commissioner Peter Lake

FROM: Jess Heck  
Director of Governmental Relations

DATE: June 22, 2023

SUBJECT: June 29 Open Meeting; Summary of the 88<sup>th</sup> Legislative Session

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During the 88<sup>th</sup> Legislative Session, there were 8,046 bills filed, 490 with expected impacts on the Commission's operations and regulated entities.

By the end of session, 72 agency-relevant bills passed including the Commission's Sunset bill, HB 1500. The Sunset bill included many different provisions meant to streamline the Commission's processes, eliminate unnecessary reports, and increase public engagement which are listed below. Additionally, the Sunset bill extended the Commission through 2029.

The Legislature maintained the Commission's baseline appropriation request with the addition of eight exceptional items totaling \$19 million. The exceptional items included funding for additional staff and current staff retention, the launch of the new Office of Public Engagement, and increased efforts around market data analytics and energy efficiency.

After her appointment to the Commission in August of 2022, Kathleen Jackson was confirmed by the Texas Senate to the Commission.

Project No. 55156, *Implementation Activities 88<sup>th</sup> Legislature (R.S.)* has been created to track updates related to implementation of legislation passed this session. Additionally, the governmental relations team will continue to update legislative leadership and staff throughout the rulemaking and implementation process.

### PUC Legislative Recommendations

The Commission recommended six legislative changes in its January 2023 Biennial Report. Of those six recommendations, five passed the legislature and four were signed into law. One legislative recommendation did not pass the second chamber, and another passed both chambers but was subsequently vetoed by the Governor. See below for a list of the recommendations:

- ***Improve Consumer Response Time on Small Claims - HB 4106*** by Representative Dean streamlines the complaint resolution process for claims under \$500. **Vetoed**

- **Background Checks for PUCT Personnel - SB 1112** by Senator Schwertner gives the Commission explicit authority to conduct background checks on personnel with direct access to critical information relating to the Texas electric grid. **Effective 9/1/23**
- **Texas Energy Efficiency Council (TEEC) - HB 4811** by Representative Anchia creates a council to foster collaboration, coordination, and communication to enhance the state's energy efficiency performance.
- **Require Registration of Large Flexible Loads - SB 1929** by Senator Johnson allows for the registration of virtual currency mining facilities in the ERCOT power region. **Effective 9/1/23**
- **Aggregate Distributed Energy Resources (ADER) - SB 1699** by Senator Johnson allows for the Commission to establish rules and registration requirements for the aggregation of distributed energy resources ensuring customer protections. **Effective 9/1/23**
- **Electricity Supply Chain Map - SB 1093** by Senator Schwertner bolsters the electricity supply chain map by adding the Texas Department of Transportation to the supply chain mapping committee, including water and wastewater facilities to the map, and providing certain entities view-only access to specific portions of the map. **Effective 5/19/23**

### Sunset Bill

HB 1500 by Representative Holland continues the Commission, Electric Reliability Council of Texas (ERCOT), and the Office of Public Utility Counsel (OPUC) for six years and removes the Sunset date of the agencies' enabling statutes. The bill reflects agency governance and organizational best practices, electricity and water reforms, improvements to public communication, and enhanced contract and data management. Key statutory Commission requirements below:

- **Verbal Directives:** Requires the Commission to direct ERCOT official actions through a contested case, a rulemaking, or a written order adopted by a majority vote.
- **ERCOT Board:** In addition to the Chairman, one other Commissioner is added as a non-voting member of the ERCOT Board of Directors. The Commissioners' presence in ERCOT executive sessions may be limited during discussion of contested case or personnel matters.
- **Commissioner Training:** Requires annual training for Commissioners.
- **Firming:** Directs the Commission to establish firming requirements for certain entities. The Commission is required to produce an annual report to the legislature regarding the costs associated with firming generation and building out transmission.
- **Voluntary Mitigation Plan (VMP):** Requires the Commission to review VMPs once every two years.
- **Grid Reliability Legislative Oversight Committee:** Creates a legislative committee to oversee the Commission's implementation of legislation related to the electric market.
- **Guardrails on Market Design Program:**
  - Places an annual net cost cap of \$1 billion for a new market design program.
  - Requires performance credits associated with a new market design program to be procured centrally on a seasonal basis.
  - Discontinues any bridge solutions after the first anniversary of a new market design program.
  - Instructs ERCOT to begin implementation of real time co-optimization of energy and ancillary services before implementation of any new market design program.

- Requires all elements of a new market design program to begin on a single starting date.
- Ensures that collateral requirements are adopted to hold participating market participants responsible for nonpayment or noncompliance.
- Directs the Commission and ERCOT to consider comments and recommendations from the Technical Advisory Committee established at ERCOT prior to the Commission adopting a new market design program.
- Instructs ERCOT and the Independent Market Monitor (IMM) to submit an assessment on the costs and benefits of the market design program prior to the Commission adopting a new market design program.
- Prohibits generators who receive credits from decommissioning or removing service until after September 1, 2028 - barring federal law or significant financial hardship.
- Requires the IMM to submit a biennial report on the reliability benefits of the new market design compared to the cost to consumers.
- **Reasonable Allowance for Interconnection:** Instructs the Commission to establish a reasonable allowance for costs incurred by transmission-owning utilities to interconnect. That allowance may be reviewed and adjusted every five years.
- **Circuit Segmentation Study:** Directs transmission and distribution utilities to perform a circuit segmentation study and directs the Commission to review the studies.
- **Renewable Energy Credit (REC) Program:** Repeals and phases out the REC program. Requires ERCOT to create an accreditation system.
- **Independent Market Monitor Contract:** Prohibits the Commission from restricting the IMM from appearing, speaking, or providing analysis to the Legislature. It also requires that changes or modifications to the IMM contract must be approved by the Commission.
- **Ancillary Service:** Requires ERCOT to establish a new ancillary service, the Dispatchable Reliability Reserve Service.
- **Federal Energy Regulatory Commission (FERC) Outside Counsel:** Extends the Commission's ability to contract outside counsel for FERC matters.

#### Low Interest Loan and Completion Bonus Grants for Dispatchable Energy

SB 2627 by Senator Schwertner creates a low interest loan program to support the construction, maintenance, modernization, and operation of electric generating facilities. There are prescribed deadlines for awarding funding and there is a sunset date for the ERCOT power region loan program of September 1, 2050. Below are the three general categories of funding:

- Outside ERCOT Power Region Grants – not more than \$1 billion.
- Low Interest Loans for ERCOT Power Region and Completion Bonuses - not more than \$7.2 billion.
  - 3% interest loans for ERCOT Power Region to finance upgrades or generation capacity of at least 100 MW.
  - Completion bonus amounts are based on amount of MW capacity provided as follows:
    - \$120,000 per megawatt interconnected in the ERCOT Power Region before June 1, 2026.
    - \$80,000 per megawatt interconnected in the ERCOT Power Region on or after June 1, 2026 or before June 1, 2029.

- Texas Power Promise: Backup Power Package – not more than \$1.8 billion.

SJR 93 proposes a constitutional amendment creating the Texas Electricity Fund and must be approved by voters during election on November 7, 2023. Currently \$5 billion has been allocated toward this program.

Below is a breakdown of bills relevant to the areas the Commission regulates. This is not an exhaustive list but reflects key legislation by subject matter.

#### Electricity

- **HB 5** by Representative Hunter encourages energy and water infrastructure development, including new and expanded dispatchable electric generation facilities through tax incentives.
- **HB 2073** by Representative Price provides for the timely inclusion in rates of a utility's incurred fuel and purchased power costs that the commission determines are eligible for recovery.
- **HB 2555** by Representative Metcalf authorizes electric utilities to file a resiliency plan with the Commission, as well as a rider to cover the costs of implementing the plan.
- **HB 5066** by Representative Geren requires the Commission to consider additional factors prior granting transmission CCNs, directs new transmission studies and decreases the timeline for application review to 180 days.
- **SB 947** by Senator King creates a criminal offense for intentional attacks on critical infrastructure.
- **SB 1015** by Senator King increases the authorized number of distribution cost recovery factor (DCRF) filings per year from one to two; sets a 60-day deadline for DCRF review.
- **SB 1094** by Senator Schwertner authorizes a utility to apply for approval of a purchased-power agreement if Commission approval is a pre-condition to the effectiveness of the electric utility's right or obligation to purchase power under the agreement.
- **SB 2011** by Senator Schwertner updates provisions governing VMPs.
- **SB 2013** by Senator Schwertner updates the Lonestar Infrastructure Protection Act.

#### Water/Wastewater

- **HB 2373** by Representative Harris repeals the substantial similarity requirement to consolidate more than one water or sewer utility system under a single tariff.
- **SB 893** by Senator Zaffirini authorizes the Commission to correct non substantive errors in a CCN.
- **SB 1965** by Senator Alvarado expedites the sale, transfer and merger process for abandoned utilities and authorizes future recovery of O&M and capital expenses.

#### Telecom

- **SB 1425** by Senator Perry extends the small company Universal Service Fund (USF) sunset date to 2033 and makes some data that small companies submit in their annual reports to the Commission publicly available.
- **SB 1710** by Senator Perry defines "high cost rural area" to ensure that clearly defined rural areas throughout the state receive USF support.

- **SB 2119** by Senator Schwertner requires the Commission to create and annually update a map on USF and broadband information throughout the state in coordination with the Comptroller's office.