

Public Utility Commission of Texas

Memorandum

TO: Interested Persons

FROM: David Smeltzer, Division Director, Rules and Projects

DATE: July 6, 2023

RE: **Legislation Implementation and Policy Priority Workshop Agenda**

Consistent with the discussion at the June 29th Open Meeting, Commission Staff will host a public workshop to receive input on the implementation of legislation passed by the 88th Texas Legislature (R.S.). This workshop will be open to the public and will be broadcast live on AdminMonitor.

Workshop Details

Tuesday, July 11, 2023

Commissioners' Hearing Room

7th Floor, William B. Travis Building

This workshop will consist of three sessions.

Morning Sessions

10:00-11:00: Telecommunications

11:00-12:00: Water and Sewer

Afternoon Session

2:00-4:00: Electric

Workshop Objectives

In each session, Commission Staff will seek input on the following questions:

- Has Commission Staff properly identified the legislation that requires immediate rulemaking action due to explicit or implied statutory deadlines?
- How should the Commission prioritize the remaining legislation?
- Has Commission Staff listed any items for rulemaking that should be implemented using a different method, such as an order or directive?
- What, if any, efficiencies can be gained by grouping specific topics together for the purpose of a given rulemaking?
- What other significant, time-sensitive, or sequencing issues should the Commission consider as it develops its rulemaking priorities?

If feasible, this workshop will be conducted in an open discussion format. To facilitate this approach, Commission Staff requests that participants keep their oral comments concise and that organizations or other stakeholder groups with aligned interests designate a spokesperson

to present their policy recommendations. Written comments in advance of the workshop are welcome, but not required. Written comments can be filed under Project No. 55156. *Implementation Activities 88th Legislature (R.S)*

Telecommunications (10:00-11:00 AM)

In accordance with Sunset Management Action 5.4, the Commission has redesigned its rule review process. Consistent with this new process, in Project No. 54589, *Rule Review of Chapter 26*, Commission Staff is preparing proposed language to amend or repeal over 20 sections of Chapter 26, Telecommunications Substantive Rules. For efficiency, Commission Staff is also evaluating whether to implement all or some of telecommunications-related legislation from the 88th Texas Legislative Session as part of the Chapter 26 rule review. The following pieces of legislation are currently being evaluated for implementation in Project No. 54589:

HB 1597 – 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.

SB 1425 – 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.

SB 1710 – 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.

Commission Staff welcomes feedback on the viability of implementing the listed pieces of legislation as part of the Chapter 26 rule review process. Commission Staff will also accept recommendations on what other significant or time-sensitive issues the Commission should consider as it develops its rulemaking priorities in this area. To facilitate this discussion, Commission Staff will separately file a memo in Project No. 54589 prior to the workshop identifying which commenter amendment and rule repeal proposals are being prepared for inclusion in the Project No. 54589 Chapter 26 rule review.

Water (11:00 AM-12:00 PM)

Commission Staff has not identified any water and sewer related legislation from the 88th Legislative Session with an imminent statutory deadline. The Commission's current rulemaking efforts in the water and sewer space are focused on the following projects:

Project No. 53924, *Water and Sewer Utility Rates After Acquisition*

- Implements **HB 1484** (87th Session) – Allows an acquiring water and sewer utility to apply an existing tariff to the customers of an acquired utility.

Project No. 54932, *Water Rate Appeals*

- Implements **SB 387** (87th Session) – 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.
- Implements **HB 3689** (87th Session) - Clarifies that in a water rate appeal, the commission must ensure that every appealed rate is just and reasonable.

Commission Staff welcomes input on how the Commission should prioritize the implementation of water- and sewer-related legislation. Commission Staff will also accept recommendations on what other significant or time-sensitive issues the Commission should consider as it develops its rulemaking priorities in this area.

Electric (2:00 PM – 4:00 PM)

The Commission has already proposed rule amendments in the following project:

Project No. 55153, *Review of §22.52*

- Implements **SB 365** – 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.
- Facilitates implementation of **SB 1076** – This legislation reduces the time the Commission has to consider electric certificate of convenience and necessity applications from 360 to 180 days. This rulemaking proposes amending procedural requirements to enable the Commission to meet this condensed evaluation timeframe.

Commission Staff currently recommends prioritizing the implementation of the following pieces of electric-related legislation, due to statutory deadlines or timing issues related to other Commission objectives:

HB 2555 – Resiliency Plans: 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.

HB 5066 – Reliability Plans: 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. Commission Staff is currently evaluating whether a rulemaking must proceed the Permian Basin reliability plan and welcomes discussion on this point.

HB 1500 §9 – Transmission Interconnection Allowance: Requires the Commission to establish a reasonable allowance for transmission-owning utility costs incurred to interconnect generation resources to the ERCOT transmission system.

HB 1500 §13 – Circuit Segmentation Study: 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. Commission Staff currently plans to release a draft Commission order for public comment, rather than initiating a full rulemaking on this item. (Project No. 55182, *Circuit Segmentation Study*)

HB 1500 §17 – ERCOT Directives: Clarifies the methods by which the Commission can issue directives to ERCOT and requires the Commission to adopt a rule outlining procedures related to issuing directives to ERCOT. (Project No. 52301, *ERCOT Governance and Related Issues*)

HB 1500 §22 – Dispatchable Reliability Reserve Services: The Commission must require ERCOT to develop and implement an ancillary services program to procure dispatchable reliability reserve services. Commission Staff is currently evaluating whether this can be implemented by directive.

HB 1500 §40 – Significant Power Outage: 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. (Project No. 53404, *Restoration of Power After a Widespread Outage*)

HB 1500, Multiple Sections – Renewable Energy Credits: 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. In the immediate term, Commission Staff is evaluating how to handle the current compliance year for this program.

SB 3 §18 (87th Session) – Emergency Pricing Program: Requires the creation of an emergency pricing program for the wholesale electric market. (Project No. 54585, *Emergency Pricing Program*)

SB 2627 – Texas Energy Fund: Establishes the Texas Energy Fund pending the approval of a corresponding constitutional amendment by voters. Commission Staff currently plans to publish a draft rule prior to the November election on the constitutional amendment and adopt the final rule following the results of the election. (Project No. 54999, *Texas Energy Fund*)

List of Rulemakings – 88th Legislative Session – 2023

S No.	Bill	Short Description of Requirements	Industry	Effective Date
1	HB 1500	Omnibus bill that includes statutory direction to the Commission related to agency Sunset, other issues pertaining to regulation of electric, water and telecom services	Electric, Water, Telecom	Effective 9/1/23
HB1500 Sections				
	7	Revises the Voluntary Mitigation Plan requirements	Electric	9/1/2023
	8	Requires an electric generation service provider to provide the reason for each unplanned service interruption to ERCOT	Electric	9/1/2023
	9, 48	Transmission Interconnection Allowance: Requires the Commission to establish a reasonable allowance for transmission-owning utility costs incurred to interconnect generation resources to the ERCOT transmission system. Requires the Commission to adopt rules as necessary to implement changes in PURA under the Provisions of Transmission Service (35.004) within 180 days	Electric	9/1/2023
	10,11,12, 14, 26, 37, 41, 42	Amends the Renewable Energy Credits Program. Requires the Commission to adopt rules requiring renewable power facilities to have reactive power control capabilities and directs other amendments related to renewable energy.	Electric	-
	13	Circuit Segmentation Study: 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.	Electric	9/1/2023
	15, 16	Requirement related to ERCOT Governance and Commission approval of ERCOT actions	Electric	9/1/2023
	17	ERCOT Directives: Clarifies the methods by which the Commission can issue directives to ERCOT and requires the Commission to adopt a rule outlining procedures related to issuing directives to ERCOT. (Project No. 52301, ERCOT Governance and Related Issues)	Electric	9/1/2023
	18	Amendment to the Independent Market Monitor contractual arrangements	Electric	9/1/2023
	21, 22	Dispatchable Reliability Reserve Services: Requires the Commission to direct ERCOT to develop and implement an ancillary services program to procure dispatchable reliability reserve services.	Electric	9/1/2023

	23	Rulemakings to establish PCM Guardrails, generation reliability requirements, cost allocation of reliability service, and reliability program. Requires the Commission to also file with the legislature an annual report by December 1, each year on dispatchable and non-dispatchable generation facilities.	Electric	9/1/2023
	24,25	Commission to require retail electric providers to submit a Retail Sales report to it.	Electric	January 15, odd-numbered years and annual reporting from retail electric providers
	38	Adds a definition of Renewable Energy Technology	Electric	9/1/2023
	39, 40	Significant Power Outage: 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. (Project No. 53404, <i>Restoration of Power After a Widespread Outage</i>)	Electric	9/1/2023
	45	Establish term of an Emergency Order for a water utility	Water	9/1/2023
2	SB 365	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.	Electric	Effective 9/1/23
3	SB 1002	Prohibits an electric utility from directly providing retail electricity charging services from EV charging stations; and recovering the cost of an EV charging station through rates approved by the PUC.	Electric	Effective 9/1/23
4	SB 1015	Amends existing legislation related to the Distribution Cost Recovery Factor (DCRF) mechanism (or “periodic rate adjustments”) for recovery of electric utilities’ investment in distribution facilities. Increases the number of DCRF filings an electric utility may make during a calendar year from one to two. It also requires the Commission to issue a final order on a request for a periodic rate adjustment not later than the 60th day after the date the request is filed.	Electric	Effective 6/18/23
5	SB 1016	Provides that the regulatory authority shall presume as reasonable and necessary an electric utility’s costs related to "employee compensation and benefits," a cost category that includes base salaries, wages, incentive compensation, and benefits.	Electric	Effective 5/5/2023

6	SB 1076	Reduce the time the Commission has to evaluate electric certificate of convenience and necessity applications from 360 to 180 days	Electric	Effective 6/2/23
7	SB 1094	Provides that an electric utility may apply to the Commission for review and 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.	Electric	Effective 9/1/23
8	SB 1170	Allows a municipally owned utility that initiated customer choice to designate itself as the provider of last resort for customers in its service area, if it continues to sell electric energy to retail customers	Electric	Effective 5/19/23
9	SB 1699	Establish registration requirements for Aggregate Distributed Energy Resource (ADERS) and goals to reduce the average total residential load with parameters for demand response participation.	Electric	Effective 9/1/23
10	SB 1866	Addresses the customer-class allocation of the cost of a customer-sited dispatchable generation facility installed on the electric utility's side of the retail meter and owned and operated by the electric utility that operates solely outside of ERCOT in areas of Texas included in the Southeastern Electric Reliability Council.	Electric	Effective 05/19/2023
11	SB 1929	Requires large electrical loads to register with ERCOT and to provide certain information about the load to ERCOT to ensure grid reliability.	Electric	Effective 9/1/23
12	SB 2011	Increases the penalty for a violation of a Voluntary Mitigation Plan (VMP), requires consistent updates of VMPs and reviews by the Commission, allows intervenors in VMP-related proceedings, and eliminates the safe harbor language currently associated with VMPs.	Electric	Effective 9/1/23
13	SB 2013	Limits on remote access to critical equipment by China, Iran, North Korea, Russia; and entitles ERCOT to obtain criminal history record for certain employees/contractors.	Electric	Effective 6/9/23
14	HB 2073	Commission to adopt rules implementing procedures that provide for more timely recovery or refund of fuel and purchased power costs in an electric utility's rates.	Electric	Effective 9/1/23
15	HB 2555	-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.	Electric	Effective 6/13/23 Statutory Deadline for adopting the Rule- 12/9/2023 <i>(180 days after</i>

				<i>the legislation is effective)</i>
16	SB 2627	Texas Energy Fund: Establishes the Texas Energy Fund pending the approval of a corresponding constitutional amendment by voters. Commission Staff currently plans to publish a draft rule prior to the November election on the constitutional amendment and adopt the final rule following the results of the election. (Project No. 54999, <i>Texas Energy Fund</i>)	Electric	Effective on adoption of const. amendment Statutory Deadline-6.1.24 deadline for accepting applications
17	HB 5066	Requires the Commission to direct ERCOT to develop reliability plans for regions with insufficient transmission capacity. By January 30, 2024, the Commission must also direct ERCOT to develop a reliability plan for the Permian Basin region.	Electric	Effective 6/13/23
18	SB 317	Allows an applicant from an affected county or WSC to appeal a decision relating to any fee to be paid to obtain service, other than regular membership or tap fees, GCD fees or other governmental fees. Specifies that the fee to be paid to obtain service must be consistent with WSC's or affected county's tariff. (i.e. applicant cannot be required to pay outstanding bill of prior customer before getting service)	Water	Effective 6/18/23
19	SB 594	Amends billing provisions for providing water or sewer service to recreational vehicle parks	Water	Effective 9/1/23
20	SB 893	Establishes requirements for making certain corrections to a certificate of convenience and necessity by the PUC executive director without observing formal amendment procedures	Water	Effective 6/18/23
21	SB 1188	Commission to adopt a conditional framework for assigning a receiver to the Agua Special Utility District	Water	Effective 9/1/23
22	SB 1778	Allows a retail public utility to initiate, transfer, or terminate service when a customer requests through mail, telephone, through an Internet website, or through another electronic transmission.	Water	Effective 9/1/23
23	SB 1965	Allows for an expediting process for a temporary manager or receiver that is also a Class A or Class B utility, to acquire the stock, ownership interest, or assets of a temporarily managed and operated utility, its facilities, and its CCN area. The bill also adds a new provision to allow for O&M expenses and capital expenses to be recovered as a regulatory asset in the next general rate case or SIC.	Water	Effective 9/1/23

24	HB 2373	Repeals substantial similarity language from statute that will let utilities apply for one, single rate for all their systems without having to prove up that they are substantially similar.	Water	Effective 6/2/23
25	HB 2442	In an application filed by a municipality under TWC 13.255 to take over a WSC in its corporate boundaries, the commission is required to determine the monetary amount that is adequate and just to compensate the WSC, SUD or FWSD for any property the Commission determines is being rendered useless or valueless by the single certification to the municipality.	Water	Effective 9/1/23
26	HB 4385	Allows for exempt sewer registration for entities serving less than 15 connections and for area that is not within another entity's sewer CCN	Water	Effective 9/1/23
27	SB 1425	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.	Telecom	Effective 5/19/23
28	HB 1597	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.	Telecom	Effective 9/1/23
29	SB 1710	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.	Telecom	Effective 5/19/23