

Subchapter M. PROCEDURES AND FILING REQUIREMENTS IN PARTICULAR COMMISSION PROCEEDINGS.

§22.252. Procedures for Approval of ERCOT Fees and Rates.

- (a) **Procedures.** Except to the extent modified in this section, the commission's procedural rules concerning contested cases will govern the conduct of hearings, discovery, burden of proof, and resolution of disputes relating to Electric Reliability Council of Texas (ERCOT) fees and rates.
- (b) **Interim approval.** ERCOT may request interim approval of a fee or rate, or a change in a fee or rate, based on a showing of good cause. A request for interim relief shall be filed no later than 60 days before the interim relief is proposed to take effect. A fee or rate charged on an interim basis shall be subject to refund if it exceeds the final fee or rate set by the commission, unless a refund would harm ERCOT's ability to efficiently perform its required functions.
- (c) **Filing package.** The fee and rate application shall be in substantial compliance with a fee-filing package approved by the commission.
- (d) **ERCOT notice.** Once a docket number has been assigned to the fee and rate application, ERCOT shall provide notice of the application to all entities subject to the fees and rates (as identified through the current information available to ERCOT) and to all parties that intervened in its most recent fee and rate application docket. This notice may be made by electronic mail. ERCOT will also post the notice and a copy of its fee and rate application on its web site. ERCOT shall file an affidavit to evidence that notice has been provided in accordance with this subsection. The notice shall contain the following information:
 - (1) the docket number of the fee and rate application;
 - (2) in dollars per megawatt hour, the amount of the current fee and rate, the amount of the proposed fee and rate increase or decrease, and the total fee and rate amount after the increase or decrease goes into effect;
 - (3) the effect the proposed fee and rate is expected to have on ERCOT's revenues;
 - (4) the effective date of the proposed fee and rate;
 - (5) a description of the entities affected by the proposed fee and rate;
 - (6) a brief explanation of the need for the proposed fee and rate;
 - (7) the deadline for intervention in the proceeding; and
 - (8) the following language: "Persons who wish to intervene in or comment in this proceeding should notify the Public Utility Commission of Texas within 30 days of the date of this notice. A request to intervene or for further information should be mailed to the Public Utility Commission of Texas, P.O. Box 13326, Austin, Texas 78711-3326. A request to intervene shall include a statement of position containing a concise statement of the requestor's position on the application, a concise statement of each question of fact, law, or policy that the requestor considers at issue and a concise statement of the requestor's position on each issue identified."
- (e) **Commission notice.** The commission shall publish notice of the fee and rate application in the *Texas Register*. This notice shall contain the same information required in subsection (d) of this section.
- (f) **Schedule.** If ERCOT seeks to change its fees and rates, it shall file an application not less than 120 days before the new rate and fee is to become effective. The deadline for parties to intervene in a fee and rate application proceeding shall be 30 days after the date notice is issued by ERCOT pursuant to subsection (d) of this section.

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- (g) **Processing of the application.** If no motion to intervene is filed by the intervention deadline, and no statement of position objecting to the fee and rate application is filed by the commission staff, the fee and rate application shall be presented to the commission for consideration of approval.
- (1) If a motion to intervene objecting to the fee and rate application is filed, the commission shall review the motion to determine whether it raises any disputed issues of fact, law or policy. If the motion does not raise factual issues, the commission may resolve any disputed issues of law or policy on the basis of briefing, if briefing is requested by the commission.
 - (2) If factual issues must be resolved, the matter shall be referred to the State Office of Administrative Hearings for the making of all necessary factual determinations and the preparation of a proposal for decision, including findings of fact and conclusions of law, unless the commission or a commissioner serves as the finder of facts.
 - (3) The commission shall endeavor to render a final decision approving or denying a fee application under this section within 120 days of the date of filing of the application, unless, for good cause, the commission or the administrative law judge extends the date for final decision. If the commission does not rule regarding a fee application before the date for final decision, the fee application shall be deemed denied. No fee or rate change shall be effective until approved by the commission.
- (h) **Review of fees based on a complaint.** On its own initiative, or upon complaint by an affected person, the commission may enter an order changing the fees and rates charged by ERCOT, after reasonable notice and hearing, if it finds that the existing fees and rates are unreasonable, are not competitively neutral, are insufficient to cover ERCOT's costs, or are in violation of law. The presiding officer shall establish the procedures for processing such complaints in accordance with the commission's procedural rules.