

CHAPTER 25. SUBSTANTIVE RULES APPLICABLE TO ELECTRIC SERVICE PROVIDERS.

Subchapter S. WHOLESALE MARKETS.

§25.517. Exemption Process for ERCOT Reliability Requirements.

- (a) **Purpose and applicability.** This section outlines a process at the Electric Reliability Council of Texas (ERCOT) for a resource entity to request an exemption from an ERCOT reliability requirement that applies to existing resources. This section does not modify or otherwise preempt existing exemptions or exemption processes contained in commission rules or ERCOT protocols, as that term is defined in §25.5 of this title (relating to Definitions). This section also does not prohibit ERCOT from adopting specific exemption processes for an individual reliability requirement that is not designated as a requirement for which an exemption under this section is available or create a presumption that any individual reliability requirement applies to an existing resource.
- (1) ERCOT must designate during the development of a reliability requirement whether the exemption process outlined in this section is available for that reliability requirement. This designation must appear in the text of the approved reliability requirement.
 - (A) A reliability requirement designated under this paragraph must include a reasonable deadline by which a resource entity must submit its exemption request to ERCOT. ERCOT may extend this deadline.
 - (B) An exemption to a reliability requirement designated under this paragraph is available only for a resource that had a resource commissioning date, as defined in the ERCOT protocols, before the date a reliability requirement takes effect. An existing load resource is one that completed Ancillary Service Qualification Testing, as defined in the ERCOT protocols, before the date a reliability requirement takes effect.
 - (2) This section also applies to a reliability requirement that is already in effect on the effective date of this section and for which ERCOT has accepted notices of intent to request an exemption, but for which ERCOT has not yet defined the standards by which those exemption requests will be evaluated.
 - (3) A threshold reliability risk described in subsection (b) of this section applies only to the assessment of an exemption request under this section and does not apply to reliability criteria in other ERCOT protocols.
- (b) **Definitions.** The following words and terms, when used in this section, have the following meanings unless the context indicates otherwise:
- (1) **Feasible** -- describes an available modification or upgrade that can be made to a resource.
 - (2) **Reliability requirement** -- a mandatory technical standard adopted by ERCOT to support the reliability of electric service that is included in the ERCOT protocols.
 - (3) **Resource** -- refers to a generation resource, load resource, or an energy storage resource, as defined and used in the ERCOT protocols.
 - (4) **Resource entity** -- an entity that owns or controls a resource.
 - (5) **Technical limitation** -- a technical restriction preventing a resource from complying with a reliability requirement, based on the resource's documented inability to comply with the reliability requirement.
 - (6) **Threshold reliability risk** -- one or more of the following:
 - (A) instability, cascading outages, or uncontrolled separation;
 - (B) loss of generation capacity equal to or greater than 500 megawatts in aggregate from one or more resources other than the resource for which the exemption is requested;
 - (C) loss of load equal to or greater than 300 megawatts; or
 - (D) equipment damage.
- (c) **Exemption Request.** If a technical limitation prevents a resource from complying with a reliability requirement, a resource entity may submit to ERCOT an exemption request in accordance with this section by the deadline established by ERCOT under subsection (a) of this section. ERCOT must treat information submitted as part of an exemption request as protected information. The exemption request

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must be submitted in a manner prescribed by ERCOT that, at a minimum, requires the following:

- (1) a description of the applicable reliability requirement from which the resource entity seeks an exemption, including cross-references to ERCOT protocols where the applicable reliability requirement is contained;
 - (2) a succinct description, with supporting documentation, of the resource entity's efforts to comply with the applicable reliability requirement, and an explanation of the resource entity's inability to comply;
 - (3) documentation describing all feasible modifications, replacements, or upgrades the resource entity could implement, but has not yet implemented, to improve the performance of the resource toward meeting the applicable reliability requirement;
 - (4) models that accurately represent expected resource performance and reflect the actual, as-built resource equipment and settings, with all technical limitations, before and after maximizing the resource's operational capability, if applicable, and if not already submitted to ERCOT. Each model must include a description of any technical limitation the resource entity cannot accurately represent in that model;
 - (5) a plan to comply with each specific element of the applicable reliability requirement to the maximum extent possible. A plan under this paragraph must include:
 - (A) a proposed completion deadline for each proposed modification, replacement, or upgrade;
 - (B) proposed dates for the resource entity to provide updates to ERCOT on its progress;
 - (C) any supporting documentation relevant to plan implementation; and
 - (D) potential mitigation options, if applicable;
 - (6) whether any other exemption request has been submitted for the resource, in accordance with this section or otherwise, including the outcome of each request;
 - (8) the resource's interconnection date, including a copy of the resource's interconnection agreement and any amendments, if not already submitted to ERCOT; and
 - (9) whether the resource entity is seeking an exemption, an extension, or both.
- (d) **ERCOT assessment of exemption requests.**
- (1) **Assessment process.** ERCOT must assess the ERCOT system to determine whether an exemption granted to one resource or several resources would result in a threshold reliability risk to the ERCOT system. ERCOT must identify the resource's interconnecting TSP and send the TSP all studies and substantive communications related to the exemption request and ERCOT's assessment and may consider input from the interconnecting TSP, as appropriate. The assessment must consider at least the following:
 - (A) steady state and dynamic stability of the ERCOT system;
 - (B) resource and system performance under a reasonable set of operating conditions (e.g., peak summer, peak winter, high wind low load, and nighttime conditions);
 - (C) reasonable and expected topology, equipment status, and dispatch used in the assessment;
 - (D) any contingencies ERCOT deems critical based on engineering judgment, including contingencies from any applicable North American Electric Reliability Corporation reliability standard, such as any allowed steady state system adjustments for contingencies, or from the ERCOT planning guide;
 - (E) any technical limitations described in the request that are not included in the models provided by the resource entity under subsection (c)(4) of this section, the effect of which will be assessed by analyzing the expected impact based on ERCOT's engineering judgment;
 - (F) ERCOT's most relevant outlook for resource adequacy;
 - (G) the potential impact to system reliability of new resources that have been approved for energization by ERCOT;

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- (H) any mitigation options included in the exemption request under subsection (c)(5)(D) of this section; and
 - (I) any other information ERCOT deems necessary to assess the reliability impact of an exemption based on ERCOT's engineering judgment.
 - (2) **Process to determine mitigation options.** Before making a final decision to grant an exemption or extension with conditions or deny an exemption or extension, ERCOT must make a reasonable effort to work with the resource entity that made the request to identify any technical or operational options that are mutually acceptable to ERCOT and the resource entity to mitigate any threshold reliability risk caused by the resource's continued operation. ERCOT may request and consider additional information from the resource entity during this process, including costs of an individual option. Failure to identify a mutually acceptable option does not prevent ERCOT from making a final decision on the requested exemption or extension based on its assessment.
 - (3) **Assessment outcomes.** ERCOT may grant an exemption, grant an exemption with conditions, grant an extension, or deny an exemption. ERCOT must provide the resource entity with a written explanation for its decision that includes information on its assessment, including which models ERCOT used in the assessment, a list of assumptions that were used in the assessment, and which factors were varied to run any sensitivities.
 - (A) ERCOT must grant an exemption if its assessment identifies that no threshold reliability risks would result from granting the exemption or, if applicable, granting several exemptions requested by multiple resource entities.
 - (B) ERCOT may grant an exemption with conditions (e.g., curtailment of the resource's output under certain circumstances, a congestion management plan, or other remedial action) if doing so would no longer result in a threshold reliability risk.
 - (C) ERCOT may grant an extension or an extension with conditions if it determines that a feasible solution acceptable to both it and the resource entity will become available within a reasonable time.
 - (D) ERCOT must deny the exemption request if its assessment identifies that a threshold reliability risk would result from granting the exemption or, if applicable, granting several exemptions requested by multiple resources entities, that cannot be eliminated by imposing conditions.
 - (4) An exemption under this section may be limited to a period identified by ERCOT in granting the exemption.
 - (5) If ERCOT denies an exemption request, ERCOT may specify in its written explanation a reasonable amount of time for the resource to come into compliance with the reliability requirement from which the resource entity was seeking an exemption.
- (e) **ERCOT inspections.** ERCOT may inspect a resource owned and operated by a resource entity to verify the need for an exemption or perform field verification of modeling parameters, using employees or ERCOT-designated contractors.
- (1) ERCOT must provide the resource entity at least 72 hours' written notice of a field visit unless otherwise agreed by that resource entity and ERCOT. The written notice must identify each ERCOT employee, commission staff member, or designated contractor participating in the inspection. Within 24 hours of receiving notice of inspection, a resource entity must provide ERCOT, commission staff, and designated contractors all resource entity requirements for facility access. Upon provision of the required written notice, a resource entity must grant access to its facility to ERCOT and to commission staff, including an employee of a contractor designated by ERCOT to conduct, oversee, or observe the inspection.
 - (2) During the inspection, a resource entity must provide ERCOT, commission staff, or designated contractors access to any part of the facility upon request. ERCOT, commission staff, and designated contractors must comply with all applicable safety and security regulations,

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including those maintained by the resource entity, during the inspection. A resource entity must provide access to inspection, maintenance, and other records associated with the applicable reliability requirement and must make the resource entity's staff available to answer questions. A resource entity may escort ERCOT, commission staff, and designated contractors at all times during an inspection. During the inspection, ERCOT, commission staff, or designated contractors may take photographs or video recordings of any part of the facility, except control rooms, and may conduct interviews of facility personnel designated by the resource entity. Documents, photographs, and video recordings collected or generated by ERCOT, commission staff, or designated contractors during or related to the inspection will be treated as confidential information under applicable state or federal laws and regulations. ERCOT may require additional documentation from the resource or conduct its own verifications, as ERCOT deems necessary.

- (f) **Complaint to commission.** If a resource entity is not satisfied with ERCOT's determination of that resource entity's request under subsection (d) of this section, the resource entity may file a complaint under §22.251 of this title (relating to Review of Electric Reliability Council of Texas (ERCOT) Conduct).
- (g) **Validity and revocation.** An exemption may become invalid, or ERCOT may revoke or modify an exemption, under the circumstances listed in this subsection. ERCOT must notify the resource entity's interconnecting TSP of any changes to the status of an exemption.
 - (1) **Expiration.** An exemption is valid for the period identified by ERCOT in granting the exemption or the period in the commission's order ruling on an exemption under §22.251 of this title. If an exemption expires, the resource entity may request an extension of the exemption, and ERCOT may grant an extension, provided that granting the extension does not result in a threshold reliability risk. ERCOT may develop procedures to implement this provision, including establishing extension request deadlines for a group of exemptions to a reliability requirement that will expire at the same time. ERCOT may request any information reasonable and necessary to evaluate a request under this paragraph.
 - (2) **Resource modification.** An exemption is no longer valid if a modification described in this paragraph is made to the resource. After such a modification, the resource must meet the latest reliability requirements in the ERCOT protocols.
 - (A) A modification that involves changing the inverter, turbine, generator, battery modules, or power converter associated with a facility with an aggregate real power rating of ten MW or greater, unless the replacement is in kind.
 - (B) A modification that involves changing the specific equipment with the technical limitation, unless the replacement is in kind.
 - (3) **Revocation.** An exemption or extension may be revoked or modified if an anticipated or actual system disturbance or a reliability study indicates that the resource's continued operation with the exemption or extension results in a threshold reliability risk.
 - (A) If the exemption or extension was granted by ERCOT under this section, then the following provisions apply:
 - (i) If ERCOT determines that it is necessary to revoke or modify an exemption or extension, it must inform the resource entity, the resource entity's interconnecting TSP, and the commission of its determination, in writing, and this notice must include a justification for the action.
 - (ii) Before revoking or modifying an exemption or extension, ERCOT must make reasonable efforts as described under subsection (d)(2) of this section to find mutually acceptable mitigation solutions to avoid a threshold reliability risk. However, if necessary to ensure the reliability of the grid, ERCOT may temporarily suspend an exemption or extension, or impose

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- temporary mitigation measures, pending its final decision under this subparagraph.
 - (iii) After making reasonable efforts as described under subsection (d)(2) of this section, ERCOT must issue a final decision whether to revoke, modify, or continue the exemption or extension. If ERCOT revokes or modifies the exemption or extension, ERCOT must share the information required under subsection (d)(3) of this section with the resource entity, the resource entity's interconnecting TSP, and the commission, in writing, and give the resource entity a reasonable period in which to come into compliance with the reliability requirement or implement necessary mitigatory actions.
 - (iv) If a resource entity is unsatisfied with ERCOT's final decision under this subparagraph, it may contest the decision by filing a complaint with the commission consistent with the procedure in subsection (f) of this section. For purposes of this clause, the resource entity's complaint will be treated like a complaint relating to a decision made by ERCOT under subsection (d) of this section.
 - (B) If the exemption or extension was granted by the commission in response to a complaint filed under §22.251 of this title, the following provisions apply:
 - (i) If an anticipated or actual system disturbance or a reliability study indicates that continued operation of a resource with an exemption or extension results in a threshold reliability risk, ERCOT may file a petition with the commission to revoke or modify the extension or exemption. ERCOT must provide notice of this petition to all of the parties in the proceeding in which the exemption or extension was granted by the commission.
 - (ii) ERCOT may request interim relief during the pendency of the petition for good cause to ensure the reliability of the grid. ERCOT may temporarily suspend an exemption or extension, or impose temporary mitigation measures, for fifteen days or until the presiding officer rules on its request for interim relief, whichever is shorter.
 - (iii) The commission may grant ERCOT's petition if doing so is in the public interest. In making its determination, the commission may consider any relevant information, including evidence of reliability risks or operational or economic impacts to the resource entity.
 - (4) The commission may initiate a review of an exemption or extension on its own motion or in response to a filing by ERCOT.
- (h) Nothing in this section reduces or otherwise adversely affects ERCOT's authority to prudently operate the grid, regardless of whether a resource has been granted an exemption.