

CHAPTER 25. SUBSTANTIVE RULES APPLICABLE TO ELECTRIC SERVICE PROVIDERS.

Subchapter C. INFRASTRUCTURE AND RELIABILITY.

§25.56. Temporary Emergency Electric Energy Facilities (TEEEF).

- (a) **Applicability.** This section establishes the requirements for a transmission and distribution utility (TDU) to lease, operate, and recover costs associated with a temporary emergency electric energy facility (TEEEF). This section applies to a TDU that operates facilities in the Electric Reliability Council of Texas (ERCOT) region to serve distribution customers.
- (b) **Definitions.** The following terms, when used in this section, have the following meanings unless the context indicates otherwise.
- (1) **Affected generator or load resource** -- a generator or load resource that:
 - (A) is registered with ERCOT for purposes of settlement; and
 - (B) is located within the portion of the grid that is isolated from the bulk power system and where a TEEEF is energized to restore power.
 - (2) **Significant power outage** -- an event that:
 - (A) causes ERCOT to order a TDU to shed load;
 - (B) the Texas Division of Emergency Management, ERCOT, or the executive director of the commission determines is a significant power outage; or
 - (C) results in a loss of electric power that:
 - (i) affects a significant number of a TDU's distribution customers, and has lasted, or is expected to last, for at least six hours;
 - (ii) affects distribution customers of a TDU in an area for which the governor has issued a disaster or emergency declaration;
 - (iii) affects distribution customers served by a radial transmission or distribution facility, creates a risk to public health or safety, and has lasted, or is expected to last for, at least 12 hours; or
 - (iv) creates a risk to public health or safety because it affects a critical infrastructure facility that serves the public such as a hospital, health care facility, law enforcement facility, fire station, or water or wastewater facility.
 - (3) **Temporary Emergency Electric Energy Facility (TEEEF)** -- a facility that provides electric energy to distribution customers on a temporary basis.
- (c) **Authorization to lease TEEEF.** Except as authorized under subsection (d) of this section, a TDU must not enter into, renew, or extend any lease involving a TEEEF without receiving prior commission authorization. Authorization under this subsection applies to a TDU's TEEEF fleet. A TDU may enter into one or more leases for TEEEF, simultaneously or consecutively, provided that the capacity and characteristics of its leased TEEEF fleet complies with the authorization provided under this subsection at all times.
- (1) **Contents of application.** An application under this subsection must include the following:
 - (A) The TDU's history with TEEEF, including:
 - (i) Whether the TDU is currently or has previously been authorized by the commission to lease TEEEF, the details of existing or prior authorizations, and each docket number in which the authorization was granted;
 - (ii) A description of all TEEEF the TDU has under lease at the time of the application, including the total capacity the TDU has under lease, the length of the lease or leases, a description of the capacity, intended functions, and relevant characteristics of each leased unit, and whether each leased unit has been energized to aid in restoring power during a significant power outage;
 - (iii) A description of any previous emergency leases of TEEEF or prior use of another TDU's TEEEF under a mutual assistance agreement or program. A

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- TDU must include an explanation for the necessity of each use of TEEEF under an emergency lease or mutual assistance agreement or program;
- (iv) A copy of every after-action report submitted by the TDU to the commission under this section during the five years prior to the date on which the application was filed, including a cover page with summary statistics on significant power outages and TEEEF energizations in the TDU's service territory; and
 - (v) The interchange item number of the TDU's most recently filed emergency operations plan filed in project no. 53385.
- (B) The total capacity of TEEEF the TDU is requesting authorization to lease, each function the requested TEEEF will serve (e.g. to restore power to individual facilities, to restore power to feeders to assist in load rotation, etc.) and how much of the requested capacity is requested for each function, and the length of time for which the TDU is requesting authorization. In support of its request, the TDU must include the following:
- (i) A description of any necessary characteristics a TEEEF unit must have to perform each of the functions for which authorization is requested. These characteristics should be identified with enough specificity to allow the commission to evaluate, in a subsequent proceeding, whether the TDU's leased TEEEF fleet complies with the commission's authorization. These characteristics should include, as applicable, the capacity or range of capacities of individual units, the mobility of individual units, the types of connections the units must be compatible with, such as mid-span or point-of-use, fuel type, and whether the units can fulfill the function individually or with multiple units working in tandem;
 - (ii) An explanation with any necessary supporting documentation that the functions the TEEEF is being requested to perform are reasonable and necessary to aid in the restoration of power under this section. This supporting documentation must include, at minimum, historical data on significant power outages that occurred in the TDU's service territory and would have qualified for TEEEF deployment for the five-year period preceding the date of the application, including:
 - (-a-) the start and end date of the outage and information on how long customers were affected by the outage;
 - (-b-) a description of the events that caused the outage;
 - (-c-) the number of affected distribution customers and amount of load, in megawatts, that were affected by the outage; and
 - (-d-) the number and type of critical load, critical care customers, or other critical infrastructure facilities as defined in §25.497 of this title (relating to Critical Load Industrial Customers, Critical Load Public Safety Customers, Critical Care Residential Customers, and Chronic Condition Residential Customers) affected by the outage.
 - (iii) A description of any additional measures being implemented or scheduled for implementation that may mitigate the need for TEEEF, such as the TDU's implementation of a resiliency plan measure under §25.62 of this chapter, relating to Transmission and Distribution System Resiliency Plans.
- (C) As appropriate, data provided under this section must be filed in a format native to Microsoft Excel and must permit basic data manipulation functions, such as copying and pasting of data.

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- (2) The application will be processed in a contested case proceeding as follows.
- (A) **Sufficiency.** An application is sufficient if it includes the information required by paragraph (1) of this subsection and the TDU has filed proof that notice has been provided in accordance with this subsection.
- (i) Within 30 calendar days of the TDU filing its application, commission staff must file a recommendation on sufficiency of the application. If commission staff recommends the application be found deficient, commission staff must identify the deficiencies in its recommendation. The TDU will have five working days to file a response, which may include an amendment to the application to attempt to cure the deficiency.
- (ii) If the presiding officer determines the application is deficient, the presiding officer will file a notice of deficiency and cite the particular requirements with which the application does not comply. The presiding officer must provide the TDU an opportunity to amend its application. Commission staff must file a recommendation on sufficiency within 10 working days after the filing of an amended application, when the amendment is filed in response to a notice of deficiency.
- (iii) If the presiding officer has not filed a written order concluding that the application is deficient within 10 working days after a deadline for a recommendation on sufficiency, the application is deemed sufficient.
- (B) **Notice and intervention.** Within one working day after the TDU files its application, the TDU must provide notice of its filed application, including the docket number assigned to the application and the deadline for intervention in accordance with this paragraph. The intervention deadline is 30 days from the date service of notice is complete. The notice must be provided using a reasonable method of notice to:
- (i) all municipalities in the TDU's service area that have retained original jurisdiction;
- (ii) all parties in the TDU's last base-rate proceeding;
- (iii) each retail electric provider that provides service in the TDU's service area; and
- (iv) the Office of Public Utility Counsel.
- (3) **Commission evaluation and final determination.** The commission will authorize a TDU to lease TEEEF under this subsection if it determines that leasing the requested TEEEF is reasonable and necessary to aid in restoring power to the TDU's distribution customers during a significant power outage that qualifies for TEEEF energization. The commission's final order will include the total TEEEF capacity the TDU is authorized to lease, the capacity of TEEEF the TDU is authorized to lease for each function the TEEEF fleet will perform, and the date or dates the authorization expires (i.e., TEEEF leases must not extend past this date). The commission may include additional requirements related to the characteristics the TEEEF the TDU is authorized to lease.
- (d) **Emergency TEEEF lease.**
- (1) A TDU may enter into a lease for TEEEF without prior commission approval if the TDU lacks the leased TEEEF generating capacity necessary to aid in restoring power, consistent with subsection (f) of this section.
- (2) The amount of TEEEF generating capacity leased by a TDU under this subsection must not exceed the amount of megawatts or length of time necessary to restore electric service to the TDU's distribution customers by more than a reasonable amount.
- (3) The TDU must provide sufficient documentation to support the reasonableness, necessity, and prudence of any generating capacity and costs of TEEEF leased by a TDU under this subsection during the TDU's next base-rate proceeding.

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- (e) **Competitive bidding process.** Except for an emergency lease under subsection (d) of this section, a TDU must use a competitive bidding process to lease TEEEF under this section.
- (1) In any proceeding in which the commission is reviewing the reasonableness, necessity, or prudence of the costs associated with leasing a TEEEF under this section, the commission may also consider whether the contracts the TDU entered into to lease TEEEF were reasonable relative to other bids that were available to the TDU, if any.
 - (2) In any proceeding in which a TDU is requesting recovery of costs associated with TEEEF that was not leased using a competitive bidding process, the TDU must demonstrate that the TEEEF was leased under an emergency lease consistent with subsection (d).
 - (3) A TDU may not enter into a lease for TEEEF with a competitive affiliate of the TDU unless that lease was subject to a competitive bidding process.
 - (4) If requested by a commissioner or commission staff, a TDU must allow for the inspection of any lease entered into under this section. If the commissioner or commission staff retains a copy of the lease, the lease will be treated as a confidential document if so requested by the TDU.
- (f) **Energization of TEEEF.**
- (1) A TDU may energize TEEEF to aid in restoring power to its distribution customers during an event that a TDU reasonably determines is a significant power outage in which:
 - (A) ERCOT has ordered the TDU to shed load; or
 - (B) the TDU's distribution facilities are not being fully served by the bulk power system under normal operations.
 - (2) A TDU may loan its leased TEEEF to other TDUs or otherwise utilize its leased TEEEF in another TDU's service territory under a mutual assistance agreement or program, provided that all costs and reimbursements associated with such a loan or utilization are properly accounted for and reconciled.
 - (3) A TDU that leases a TEEEF must not sell energy or ancillary services from the facility.
 - (4) A TEEEF must:
 - (A) be operated in isolation from the bulk power system; and
 - (B) not be included in locational marginal price calculations, pricing, or reliability models developed by ERCOT.
 - (5) **Notice.** A TDU must issue notices under subparagraphs (A), (B), (C), and (D) of this paragraph to ERCOT and all operators of affected generators or load resources. Notice under this paragraph is not required if the area isolated from the bulk power system does not contain any affected generators or load resources.
 - (A) **Prior to isolation.** For an isolation from the bulk power system due to circumstances within a TDU's control in which TEEEF will be energized, a TDU must issue notice at least 10 minutes prior to isolation of an affected area from the bulk power system. For an isolation from the bulk power system due to circumstances beyond a TDU's control in which TEEEF will be energized, a TDU must issue notice as soon as is reasonably practicable. Notices prior to isolation of an affected area from the bulk power system must include:
 - (i) identification of each substation and modeled load associated with customer load that will be served by TEEEF;
 - (ii) the total amount of load expected to be served by TEEEF;
 - (iii) the time the affected area is anticipated to be isolated from the bulk power system;
 - (iv) the time the affected area is anticipated to be reconnected to the bulk power system;
 - (v) identification of each generator or load resource that will be an affected generator or load resource following the energization of TEEEF; and

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- (vi) a statement that any energy produced by an affected generator during the time it is isolated from the bulk power system will not be settled through ERCOT.
- (B) **Upon isolation.** For an isolation from the bulk power grid due to circumstances within a TDU's control in which TEEEF will be energized, a TDU must issue notice immediately upon isolation of an affected area from the bulk power system. For an isolation from the bulk power system due to circumstances beyond a TDU's control in which TEEEF will be energized, a TDU must issue notice as soon as is reasonably practicable. A notice issued under this subparagraph must state the time an affected area's isolation from the bulk power system was completed.
- (C) **Prior to reconnection.** A TDU must issue notice at least 10 minutes prior to the reconnection of an affected area to the bulk power system. A notice issued under this subparagraph must state the anticipated time that an affected area will be reconnected to the bulk power system.
- (D) **Upon reconnection.** A TDU must issue notice immediately after the reconnection of an affected area to the bulk power system has been completed. A notice issued under this subparagraph must state the time the reconnection of an affected area to the bulk power system was completed.
- (E) If a TDU has issued notice under subparagraphs (A) or (C) of this paragraph, and coordination with ERCOT under paragraph (6) of this subsection results in a delay in the anticipated time of isolation or reconnection, the TDU must notify operators of affected generators and load resources of such delay.
- (6) **Coordination with ERCOT.**
 - (A) **TDUs.** The requirements of this subparagraph apply only to energizations of TEEEF that occur outside of an energy emergency declared by ERCOT. A TDU's isolation or reconnection of load associated with an energization of TEEEF must be coordinated with ERCOT according to the following timeframes if the total amount of load at any single substation that would be isolated or reconnected exceeds 20 megawatts.
 - (i) For isolations of load from the bulk power system due to circumstances within a TDU's control, a TDU should coordinate with ERCOT within a period of 10 minutes.
 - (ii) For isolations of load from the bulk power system due to circumstances beyond a TDU's control, a TDU should coordinate with ERCOT as soon as is reasonably practicable.
 - (B) **Affected generators and load resources.**
 - (i) Upon receiving notice from a TDU that an affected area will be isolated from the bulk power system, an operator of an affected generator or load resource that is required by ERCOT protocols to provide status telemetry to ERCOT must, at the expected time of isolation as indicated in the TDU's notice, update its real-time status telemetry and current operating plan information to reflect that the affected generator or load resource is disconnected from the ERCOT system, is unavailable for dispatch by ERCOT, and will be unavailable for dispatch by ERCOT for the time period specified by the TDU in its notice.
 - (ii) Upon receiving notice from a TDU that an affected area has been reconnected to the bulk power system, the operator of any affected generator or load resource must update its real-time status telemetry and current operating plan information to reflect the appropriate status of the affected generator or load resource.

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- (7) A TDU's liability related to the provision of service using a TEEEF is governed by §25.214 of this title (relating to Terms and Conditions of Retail Delivery Service Provided by Investor-Owned Transmission and Distribution Utilities).
- (8) A TDU will ensure, to the extent reasonably practicable, that:
 - (A) A retail distribution customer's usage during the TDU's operation of a TEEEF is excluded or removed from the electric usage reported to ERCOT for final settlement and to retail electric providers (REPs) for customer billing; and
 - (B) Energy generated in an area isolated from the bulk power system in accordance with this section, including any energy generated by an affected generator, is excluded or removed from the generation reported to ERCOT for final settlement purposes.
- (9) During an energy emergency declared by ERCOT, the amount of any load shed by a TDU for the area operated in isolation from the bulk power system during TEEEF energization must be accounted for net of any generation in the affected area that was online and producing before the area was isolated from the bulk power system.
- (10) **After-action report.** After each significant power outage in a TDU's service territory that meets the criteria for TEEEF energization under paragraph (1) of this subsection, a TDU that has leased TEEEF must file an after-action report with the commission. The report must be filed within 30 days from the last day of the significant power outage. The report must include, as applicable:
 - (A) A description of the events that resulted in the significant power outage within the TDU's service territory, including the dates and times the significant power outage began and ended;
 - (B) The estimated number of affected distribution customers and estimated amount of load, in megawatts, that were affected by the significant power outage in the TDU's service territory and the estimated number of which that were served by TEEEF;
 - (C) The estimated number and type of critical load, critical care customers or other critical infrastructure facilities as defined in §25.497 of this title, affected by the significant power outage and the estimated number that were served by TEEEF. A TDU must also include available details on the duration of service interruptions for these customers;
 - (D) The total nameplate generating capacity in megawatts and the total number of affected generators or load resources that were isolated from the bulk power system for TEEEF energization.
 - (E) A description of any TEEEF energizations, including the capacity, fuel type, connection configuration, and mobile capability of each TEEEF unit that was energized, the function each TEEEF unit was performing, the date and time each TEEEF unit was energized, and the duration that the affected area was isolated from the bulk power system;
 - (F) A list of TEEEF that was not energized, including the capacity, fuel type, connection configuration, and mobile capability of each TEEEF unit that was not energized and a brief summary explaining why each TEEEF unit was not energized.
 - (G) A description of any TEEEF units that were leased under subsection (d) of this section or utilized under a mutual assistance agreement or program. A TDU must include an explanation for the necessity of the emergency lease or utilization of the mutual assistance agreement or program;
- (g) **Emergency operations annex.** A TDU that leases TEEEF under this section must include a detailed plan on the use of the TDU's leased TEEEF in the TDU's emergency operations plan filed with the commission, as required by §25.53 of this title (relating to Electric Service Emergency Operations Plans), that is updated, as necessary, on an ongoing basis.

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- (h) **Eligible costs.**
- (1) **Costs to obtain, and operate a TEEEF.** Reasonable and necessary costs of leasing, and operating a TEEEF, including the present value of future payments required under the lease, are eligible for recovery under this section. A lease involving a TEEEF must be treated as a capital lease or finance lease for ratemaking purposes, regardless of its classification under generally accepted accounting principles or other accounting frameworks.
 - (2) **Return.** Reasonable and necessary costs under this section include a return on investment, including the present value of future payments required under the lease, using the rate of return on investment established in the commission's final order in a TDU's most recent comprehensive base-rate proceeding.
- (i) **Deferred recovery of certain eligible costs.** A TDU may create a regulatory asset to defer the following for recovery in a future ratemaking proceeding:
- (1) The reasonable and necessary incremental operations and maintenance expenses, not otherwise included in any of the TDU's rates; and
 - (2) The return, not otherwise included in any of the TDU's rates.
- (j) **Cost recovery.** Eligible costs under this section may be recovered as follows.
- (1) **Ratemaking proceedings.** A TDU may request recovery of eligible costs, including any deferred expenses, through a standalone TEEEF rider proceeding, a proceeding under §25.243 of this title (relating to Distribution Cost Recovery Factor (DCRF)), or in another ratemaking proceeding where it is appropriate to recover distribution invested capital and associated costs. A river authority may request recovery of eligible costs, including any deferred expenses, through a ratemaking proceeding where it is appropriate to recover distribution invested capital and associated costs or through a standalone TEEEF rider proceeding.
 - (A) A TDU must provide notice to REPs of the approved rates not later than the 45th day prior to the effective date of the approved.
 - (B) TEEEF costs must not be allocated to, or collected from, retail transmission service customers or wholesale transmission service at transmission voltage customers.
 - (C) Notwithstanding the provisions of §25.243 of this title, an allocation of TEEEF costs among distribution-level rate classes, based on substation-level class non-coincident peak demand, regardless of the time at which the class demand occurs, from the TDU's current or most recent base-rate proceeding, is presumed to be reasonable.
 - (D) TEEEF rates may not be established on a per-kilowatt-hour basis for any customer class that includes demand charges.
 - (E) Upon any amendment to a lease under this section that would reduce the rate of cost recovery necessary for a TEEEF, a TDU must submit an application to reflect the reduced rate of cost recovery necessary, by the earlier of three months from the lease amendment or the TDU's next DCRF proceeding.
 - (F) TEEEF costs must not be included in base rates. All TEEEF costs must be recovered through a single rider associated with TEEEF. A TDU with a previously established TEEEF rider may recover additional TEEEF costs by updating the existing TEEEF rider.
 - (G) TEEEF costs will not be reviewed for reasonableness, necessity, or prudence in a proceeding other than a base-rate proceeding, unless the presiding officer finds good cause to review them in another proceeding.
 - (H) In any proceeding in which TEEEF costs are reviewed for reasonableness, necessity, or prudence, the application must include the after-action reports for significant power outages during the period for which costs are being reviewed. The application must also include the leases, filed confidentially, for any leased TEEEF for which costs are being reviewed.

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- (1) A TDU that, prior to the effective date of this rule, received commission approval in a contested case proceeding for an amount of TEEEF generating capacity may request approval of reductions of that capacity through a subsequent standalone TEEEF rider proceeding made in accordance with this paragraph.
- (2) **Notice.** The notice for any ratemaking proceeding in which eligible TEEEF costs are sought must specifically identify those eligible costs.
- (3) **Affiliate contracts.** For any contract between a TDU and an affiliate, the TDU bears the burden of proof to show that the terms to the TDU were reasonable and necessary and did not exceed the prices charged by the supplying affiliate to its other affiliates or divisions or to unaffiliated persons within the same market area or having the same market conditions. In addition, all affiliate payments must comply with the requirements of PURA §36.058.
- (4) **Reconciliation.** If TEEEF rates include any eligible costs that have not been reviewed for reasonableness, necessity, and prudence, any rates to recover any portion of those costs are temporary rates that must be reconciled in the TDU's next base-rate proceeding, including to determine whether the costs are reasonable, necessary, and prudent.
 - (A) In reconciling TEEEF costs, all revenues received associated with TEEEF programs, including actual rate revenues and mutual assistance reimbursements, must be applied to offset reasonable, necessary, and prudent TEEEF costs as these costs and revenues were incurred and received.
 - (B) A TDU must provide comprehensive testimony and workpapers supporting the reconciliation of all eligible costs and associated rate revenues as part of any base-rate proceeding application. Any amounts recovered through rates approved under this subsection that are found to have been unreasonable, unnecessary, or imprudent, plus the corresponding return, taxes, and carrying costs, must either be refunded or applied as an offset to any outstanding regulatory asset associated with eligible costs. In any proceeding in which the commission determines that a TDU has included in rates any amounts deemed unreasonable, unnecessary, or imprudent, or that the TDU has otherwise over-recovered costs, the commission may order a compliance proceeding to determine the amounts and manner of any necessary refunds to ratepayers or the proper accounting of over-recovered amounts as an offset to any outstanding regulatory assets associated with eligible costs. Carrying costs will be determined as follows:
 - (i) For the time period beginning with the date on which over-recovery is determined to have begun to the effective date of the TDU's base rates set in the base-rate proceeding in which the costs are reconciled, carrying costs will accrue monthly and will be calculated using an effective monthly interest rate based on the same rate of return that was applied to the TDU's rate base included in base rates in effect when the over-recovery began.
 - (ii) For the time period beginning with the effective date of the TDU's rates set in the base-rate proceeding in which the costs are reconciled, carrying costs will accrue monthly and will be calculated using an effective monthly interest rate based on the TDU's rate of return authorized in that base-rate proceeding.
- (5) As part of the reconciliation of TEEEF costs, the commission may consider whether the leased TEEEF had the characteristics required to perform the functions authorized by the commission, whether the TEEEF was properly utilized to restore power during significant power outages, including appropriate pre-outage preparations such as positioning and securing fuel or the units, or any other factor relevant to the prudence or reasonableness of the TDU's procurement or operation of TEEEF.