

Hill Country Energy Sub-Regional Planning Commission

March 14, 2025 Meeting Minutes

A meeting of the Hill Country Energy Sub-Regional Planning Commission (HCESRPC) took place in the Kerr County Courthouse on March 14th, 2025, and was opened at 2:03 pm with the pledge of allegiance to the American Flag. Commissioner McCall then offered a prayer for a productive meeting.

The following members of the Board, as appointed by the Kendall and Kerr County Commissioners Courts, were in attendance:

Rich Paces, Kerr County Commissioner, Precinct 2,

Jeff Holt, Kerr County Commissioner, Precinct 3,

Jennifer McCall, Kendall County Commissioner, Precinct 3,

Chad Carpenter, Kendall County Commissioner, Precinct 4, via Teams online streaming,

Linda Bullard, Landowner Representative.

Texas State Representative, Wes Virdell, was unable to attend.

A quorum being present, the Commission considered, discussed and took action as described below for each item on the posted meeting agenda.

1. **Approval of the Feb. 28th Meeting Minutes**

The draft Minutes from the Feb. 28th meeting as posted on our website were considered for approval. Commissioner Holt made a motion to approve the minutes; Commissioner McCall seconded the motion. The motion passed by a vote of 5 – 0, and the Minutes were approved. The President will post the same on our website.

2. **Discussion of Amended Interlocal Agreement**

There was a single discrepancy which has now been corrected so that the effective date of the Agreement is changed from February 10th to February 11th, 2025, the date on which Kendall County Commissioners' Court initially approved it. Kendall County has already signed the amended Interlocal Agreement, and at its next meeting, the Kerr County Commissioners' Court will consider the same amendment to the Interlocal Agreement.

3. **Adoption of Corrected Bylaws**

A clerical error was found in the previously adopted Bylaws: In order to correct this, Commissioner Paces made a motion to rescind the existing version of the HCESRPC Bylaws; it was seconded by Commissioner Holt. The motion carried by 5-0, and the earlier version of the Bylaws was rescinded. Commissioner Paces then moved to adopt the corrected version of the HCESRPC Bylaws, which were before the Board. Commissioner McCall seconded the motion. The motion carried 5-0, and the amended Bylaws were adopted.

4. **Update on Coordination Notices sent to PUCT, LCRA, and TCEQ**

Linda Bullard reported on her follow-up with LCRA and PUCT. She spoke to Hondo Powell, the Senior Regulatory Case Manager. Although it was a friendly, positive discussion, Mr. Powell stated that the LCRA

is not bound by the 391 requirement to coordinate with our Planning Commission, because LCRA is not a state agency. He also stated that LCRA had very little to do with BESS, because they only come in when a BESS is complete and requests interconnection via an LCRA substation in accordance with ERCOT procedures. He said that he had responded to Commissioner Paces' notice to coordinate and provided a one-page explanation of the role of LCRA. He suggested that we might find it useful to speak with John Palacio, the former City Manager of Mason, who is now the Government Affairs Representative in his department and has jurisdiction over our bounties. There was a discussion about whether LCRA is a state agency, where they derive their authority, and how they fit into the ERCOT process, Barbara Ferguson, District Director for Representative Wes Virdell, was asked to help clarify the matter and stated that while it is true that LCRA is not strictly-speaking a state agency, the definitions make it appear that the 391 obligation would apply to them.

At PUCT Ms. Bullard spoke twice with the Executive Assistant to Chairman Gleeson, and with the Director of Government Affairs, who was not familiar with 391 Commissions. She was eventually told that our contact person will be Mike Hoke in the Public Engagement department, which she considers an incorrect assignment. Commissioner Paces will prepare and send a second letter to PUCT. Ms. Bullard was asked to follow up with Mike Hoke.

Commissioner Paces reported that he had sent a coordination letter to TCEQ. He received a call from Kelly Cook, the Deputy Director of Critical Infrastructure, and Frank Fitzloff, Director of the Office of Compliance and Enforcement. They acknowledged receipt of the coordination letter and provided some background on TCEQ's permitting authority. Commissioner Paces reminded them of the Kerr County BESS Resolution which was sent to them last August 26th and their response of Sept. 11th, 2024, wherein at that stage they claimed that TCEQ had no role to play in permitting anything, because the developers aren't asking for an air quality permit. It was quite a constructive discussion, and they assured Commissioner Paces that they are going to send a formal response. Commissioner Paces suggested that TCEQ needed to be more proactive concerning the worst-case scenario, which would be a thermal runaway fire. He thought they seemed receptive and informed, and they said they have been tracking all the BESS developments statewide and would be willing to share a list of those that they are aware of in Kerr and Kendall Counties. Commissioner Holt pointed out that ERCOT maintains a master list of all BESS planned, cancelled and in operation. At the last Kerr County Commissioners' Court meeting, Commissioner Jones reported that a new BESS is coming into Precinct 1.

Commissioner Holt recommended that we do a Case Study on Moss Landing, including videos, compilations, going through the sequence of actions, impacts of exposure, and concluding with a Call to Action. The state agencies would be invited to attend, either in person or by streaming. The proposal was welcomed, and Commissioner Holt will take the lead on this.

It was also agreed that a letter should be sent to ERCOT giving notice of the formation of the HCESRPC and requesting a planning coordination meeting. Commissioner Holt said that he thinks ERCOT has a full subgroup that deals with BESS, and he will track what meetings are already happening. As far as other state agencies should be contacted, the State Fire Marshall was mentioned, as was TX-DOT if a roadway permit would be required. A member of the public, Bruce Neitzke, from Gillespie County, noted that the proposed Harper BESS will be next to two state highways. Commissioner McCall will be meeting next week with the TX-DOT Area Engineer for both Kerr and Gillespie Counties, Mr. Gonzales, and can ask him about roadway issues.

5. Potential Experts for Coordination Meeting Testimonies

The following experts were suggested to testify at the planning coordination meetings:

- People who have carried out Moss Landing studies on the fires that have occurred there. They would need to join the meeting via Microsoft Teams to avoid travel costs.
- State Fire Marshall, Kendall County Fire Marshall, one of our Fire Chiefs, Brian Alexander, the current President of KARFA, which includes all of the Fire Chiefs of the Volunteer Fire Departments in Kerr County;
- Chris Dyer, homeowner from Mason, on the impact of having a BESS built right next to his property. Commissioner Holt will ask his permission to put the video where he speaks about his experience on our website.
- Annalisa Peace of the Greater Edwards Aquifer Alliance, proposed by Bruce Neitzke, who is aware of the issue. Commissioner McCall also has a contact there she will reach out to.

6. Bills in the Texas Legislature Relevant to BESS

Ms. Bullard reviewed her reason for asking that this topic be added to the agenda, which was to explore the extent to which we want to be involved in the BESS legislative process. She noted that there are now at least 16 bills related in some way to BESS which are in various stages of the Texas legislative process in the current session. She made a list of the bills being proposed which can be added to the list already posted on our website. One in particular, HB 1343, would set up a permitting procedure for BESS, and such a permitting procedure will determine what the State agencies are required by law to do or don't have to do before a BESS is allowed, so it would behoove us to review the Bill and try to ensure that it contains all of the provisions which are important to us, such as a requirement for an Environmental Impact Assessment, and for the Developer to seek approval from the local Commissioners' Court, as examples.

Bruce Neitzke commented that the developers and regulators skip past the fact that the batteries catch fire. He stated that compliance should be required with UL battery standard 1973, which stipulates that "no battery shall burn". He also mentioned UL 9540 and a 9540A, which are associated with the standard.

Barbara Ferguson was asked how to best support the Bills by Troxclair and Virdell. She replied that phone calls to the legislators' offices are the most effective and are tracked in detail and quickly. She recommended calling one's own Representative and Senator, as well as the people on a list she provided, and generally explained this approach. Today was the last day to file a bill, so there won't be any new ones, but sponsorship is still open and amendments will be allowed as the bills go through the process. A hearing in the State Affairs Committee was requested today for Rep. Virdell's bill HB 1378. Barbara provided a list of bills that can be posted with the others on the Website.

Ms. Bullard suggested that another way to support legislation could be what the Hood County Commissioners had done 3 days ago, which was unanimous adoption of two Resolutions in support of two BESS bills in the Senate and two in the House, including HB 1343 and 1378. She passed around a copy of the two Resolutions and asked whether we might recommend to our Commissioners Courts to do something similar. Commissioner Paces was concerned that time is running out for influencing legislation. Barbara Ferguson stated that we are early in the process; she had a flow chart for how a Bill proceeds

through the Legislature. It takes a long time; there will be Committee hearings, first, second and third readings before it gets passed out of Committee onto the floor for a vote. During this process amendments are allowed at various stages, and there are opportunities for us to present ourselves. Another avenue is to reach out to the members of the State Affairs Committee where all of the BESS-related bills are going to be heard. Ms. Ferguson will make some inquiries With Rep. Virdell about when the best time would be for us to present ourselves. Commissioner Paces stated that his only problem with many of these bills was just that they didn't go far enough, giving as an example the Bill which deals with reclamation requirements for *leased property*, but which says nothing about property which is owned by the BESS owner. Ms. Bullard is of the opinion that it is precisely because we find that many of the Bills don't go far enough that we need to prepare amendments to the proposed Bills which reflect what we want to see as the law.

Commissioner Carpenter noted that an appointed board, such as those of LCRA and ERCOT, does not have legislative authority or power to deny the BESS developers. The language in some of the Bills might need to be amended to include enforcement language, and it needs to happen in this Session, because two years from now it will be too late. Commissioners Paces and McCall expressed concern that bills that go too deep or demand too much may not go anywhere.

Bruce Neitzke noted that the batteries are not the end of it, there will have to be major additions to the transmission lines, and explained that they're doing this all backwards. Ms. Bullard raised a question about the fact that we are being told that the BESS are needed to stabilize the grid for extreme weather events and peak load, whereas in fact a major driver for them is to power AI and cryptocurrency mining; we are being asked to bear the risks for something that is not going to benefit us but rather is going to power big data centers. It's being marketed as something that's going to protect us from outages, and no one wants to talk about where the real demand is coming from...except they Hood County Commissioners did. Commissioner Paces said that it is solar farms which are driving the need for BESS, because they are reliably unreliable. Commissioner Holt said that it is a good question for ERCOT: What is driving the demand? Commissioner McCall said she had spoken to an engineering company in Borne, who explained that it is not possible to upload power in a power outage, so the BESS is not to help in a power outage scenario. Commissioner Paces also noted that they can only provide a maximum of 4 hours of energy. Bruce Neitzke commented that in Harper when Peregrine made their presentation, they stated openly that the BESS was not for emergency power. The Harper BESS is still on ERCOT's list as in the planning stage. There may be an event about it on the 24th.

Barbara Ferguson said that when the SREC Energy Symposium closes on March 19th in Austin, 1-sheet handouts will be distributed to participants with the information they need to approach the legislators. Information about the event is on Ms. Ferguson's Website; it is free, but reservations are required at SecureTexasGrid@proton.me.

7. Administrative Matters

In response to a question from Ms. Bullard, there was a discussion about funding for the HCESRPC and why we are not accepting any funds or services from the counties. There is nothing that legally restricts such funding of a 391 Commission, but doing so would make us subject to state or federal oversight, which Dan Byfield strongly advised against.

The Bylaws as amended and earlier adopted were signed.

8. Public Comments

There were no further comments from the public.

9. Set Next Meeting

The Board agreed to set the next meeting of the HCESRPC for 10 am on Wednesday, March 26th in the Kendall County courthouse at 700 Main Street, Kerrville, TX 78028, unless we hear from one of the agencies we're trying to coordinate with, and they ask for a different date. A meeting which had been tentatively scheduled for Friday, March 21st was cancelled. In the future, if we have difficulty finding a date convenient for all, evening meetings may be considered.

A proposal from Ms. Bullard was accepted to place a standing item at the front of the Agenda for Member Input on developments about which they wish to inform the Commission. A proposal from Ms. Bullard was accepted to have an agenda item at a future meeting in the form of an in-depth Intelligence Report in the style of Commissioner Holt about current shifts in the political landscape, both in Texas and at the federal level, and the impact that are likely to have on the regulatory and investment climate for BESS.

There being no further business before the HCESRPC, the meeting was adjourned at 3:55 pm.

Submitted by *Linda Bullard, Secretary*

Approved during 3-26-25 Board Meeting