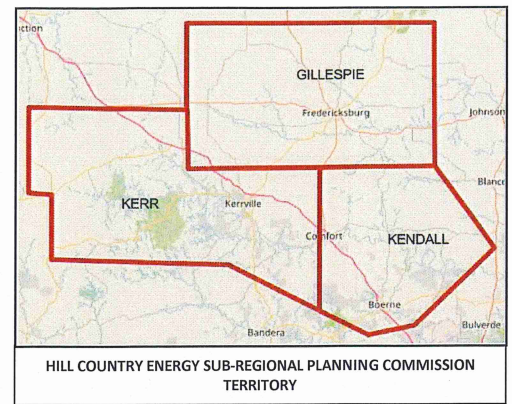


HILL COUNTRY ENERGY SUB-REGIONAL PLANNING COMMISSION

October 23, 2025

Board of Directors
Public Utilities Commission of Texas



Public Input Statement regarding BESS Planning and Coordination

My name is Rich Paces. I am speaking today as Kerr County Commissioner, Precinct 2 and as President of the Hill Country Energy Sub-Regional Planning Commission.

On February 11, 2025, the Hill Country Energy Sub-Regional Planning Commission (HCESRPC) was created, under Chapter 391 of the Texas Local Government Code, to provide for special planning needs as it pertains to Kendall and Kerr Counties.

On February 14th 2025, the HCESRPC requested the Public Utilities Commission of Texas (PUCT) that they must coordinate the planning for any development, installation or operation of Battery Energy Storage System facilities in Kendall County or Kerr County, and that such coordination shall be conducted in a meaningful way and to the greatest extent feasible with the HCESRPC at the regional level as required by the Section 391.009(c) of the Local Government Code. Section 391.009(c) states:

"In carrying out their planning and program development responsibilities, state agencies shall, to the greatest extent feasible, coordinate planning with commissions to ensure effective and orderly implementation of state programs at the regional level."

It is our understanding that the Electric Reliability Council of Texas (ERCOT) has identified a need for over 900 BESS facilities throughout the State of Texas, and that several facilities are currently being considered for installation in Gillespie, Kendall and Kerr Counties which lie within an environmentally sensitive, priority groundwater management area prone to severe drought and frequent wildfires. which could be greatly exacerbated by the installation of lithium battery energy storage systems that have an alarming history of thermal runaway fires, the spread of which could be disastrous for our residents.

I am here today, because despite having served four coordination notices, PUCT has refused to meet with our sub-regional planning commission as required by Texas law.

We believe that in addition to the legal obligation as a governmental agency subject to Chapter 391 of the Texas Local Government Code, PUCT has a moral obligation to coordinate planning for BESS with our HCESRPC to ensure the health, safety, and welfare of our constituents first and foremost.

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By delaying the coordination of BESS development plans with us, PUCT is implicitly supporting the unwanted and largely unregulated installation of these potentially hazardous facilities for which there is no oversight. The consequences of thermal runaway lithium battery fires, which cannot be controlled nor extinguished, and which release extremely toxic and harmful chemicals into the air, contaminate the surrounding soil, and eventually would likely contaminate our precious surface water and groundwater on which we depend, are dire indeed.

The Crabapple wildfire in Gillespie County earlier this year is just one example of how easily wildfires spread out of control in our semi-arid and drought prone hill country. Approximately 10,000 acres of land burned taking with it over 30 buildings including 9 homes and destroying the lives of many.

BESS also pose a cybersecurity risk because they are unmanned, controlled remotely and many have CATL batteries and various circuit boards and control equipment made in China. Our DOD has realized the threat associated with battery and control system components made in China and removed them from all US military facilities.

In July 2023 the San Antonio grid infrastructure was taken over for 4 hours by Volt Typhon as a result of the Chinese made cameras that were connected.

The Lone Star Infrastructure Protection Act of 2021 was transposed as Chapter 117 of the Texas Business and Commerce Code. Its aim is to protect Texas' critical infrastructure by prohibiting contracts with, or access by companies or government entities from China, Iran, North Korea, and Russia. The electric grid is specifically named as infrastructure covered by the statute. Further in the 89th Legislative Session the Code was amended to include components made in China. While the Code is not specific to BESS, we believe that the intent of our State legislators is that the amended Code would apply to all systems and components that are connected to our critical infrastructure.

The Governor's Executive Order GA 48 dated November 19, 2024 specifically requires all state agencies to require any company that submits a bid or proposal with respect to a contract for goods or services to the agency to certify that the company and any of its holding companies or subsidiaries is not listed in Section 889.

We would like to know what PUCT and ERCOT are doing to enforce Chapter 117 of the Texas Business and Commerce Code and the Governor's executive orders to ensure that the grid is protected from cybersecurity threats associated with China made batteries, circuit boards and other components internal to BESS facilities.

The ongoing ERCOT investigation into 300+ missing attestations underscores the need for scrutiny, as BESS failures mirror these oversight gaps.

The last thing that any state governmental agency should do is place our citizens at risk from potentially hazardous facilities that have little positive economic impact and would never have been contemplated without the former administration's false climate crisis narrative and the federal funding for unreliable wind and solar energy.

PUCT's Director of Public Engagement, Mike Hoke, stated in an email dated May 8, 2025 that "Formation and participation in these 391 Commissions is dependent on the jurisdiction of the state agencies involved." And "In this situation relating to battery projects, we are not aware of any existing state programs related to battery storage facilities that involve PUCT administration." We disagree with Mr. Hoke's statements.

As Commissioners of the PUCT, you must be aware that ERCOT, who is subject to oversight by the PUCT, is planning for the addition of 15.8 MW of battery energy storage capacity by 2029 as shown in ERCOT's recent publication entitled "Advancing Reliability 2024 State of the Grid" in the graph on page 6 titled "By the Numbers". The footnote states that "*2029 accounts for forecasted planned projects expected to be in-service between 2025 to 2029 that have reached the signed interconnection agreement (SGIA) interconnection milestone from the February 2025 file of the Resource Capacity Trend Charts."

Further, according to the letter from PUCT dated March 31, 2025, a company that wants to sell power in the wholesale market must register with the PUCT as a power generation company, including contact information and corporate ownership structure.

Hence Mr. Hoke's statement that "in this situation relating to battery projects, we are not aware of any existing state programs related to battery storage facilities that involve PUCT administration" does not appear accurate. If you are not aware of ERCOT's plans and/or programs considering battery storage facilities, you absolutely should be in your oversight role.

The state may not be the entity actually developing or installing the BESS facilities, but PUCT in its oversight role is clearly involved in the development of a plan for future generation capacity and the mix of supply thereof and it is clearly involved in the registration of all companies that want to sell power in the wholesale market. We understand that power generation is largely deregulated, which is precisely the problem and the reason that our commission was formed.

PUCT has allowed Texas to become overly reliant on unreliable wind and solar energy with over 44% of our electric generation capacity from wind and solar sources and ERCOT is now trying to stabilize our unreliable grid by installing over 900 federally subsidized, high-risk BESS facilities across Texas. To make matters worse, wind, solar and BESS developers rely on the massive federal subsidies that pay up to 70% of their project's capital costs. Without these federal subsidies, loans and grants; these projects would not exist. Thankfully our current administration is eliminating federal subsidies for these unreliable power projects. Where does that leave your plans to meet the growing need for power in Texas?

We have made you aware of very serious vulnerabilities and threats that BESS represent. Failure to take action to address these concerns or to ignore your statutory responsibilities could be considered gross and willful negligence of your duty of care as commissioners of the PUCT for which you may be held personally liable should a thermal runaway fire or cybersecurity attack take place at any BESS facility installed in Texas and connected to our critical grid infrastructure.

I close by reiterating our belief that in addition to the legal obligation as a governmental agency subject to Chapter 391 of the Texas Local Government Code, PUCT has a moral obligation to coordinate planning for BESS with our HCESRPC to ensure the health, safety, and welfare of our constituents first and foremost.

I also bring your attention to the December 16, 2024 decision, in the 250th District Court located in Austin, Texas, Judge Karin Crump presiding. She adjudicated the 391.009(c) statute in a Final Judgement in WALLER COUNTY SUB-REGIONAL PLANNING COMMISSION v. MARC D. WILLIAMS, in his official capacity as Executive Director of the TEXAS DEPARTMENT OF TRANSPORTATION (copy attached).

So I ask you as Commissioners of the PUCT to direct the appropriate personnel from PUCT to meet with our Sub-Regional Planning Commission Board at the earliest as required under Section 391.009(c) of the Local Government Code which requires all state agencies to coordinate development planning with commissions to the greatest extent feasible. It would also be beneficial if PUCT would bring its subordinate system operator, ERCOT, to our coordination meeting so that they might provide their unique insights as well as benefit from hearing our concerns.

Thank you for your attention.

Sincerely,



Rich Paces

Kerr County Commissioner, Precinct 2

President of the Hill Country Energy Sub-Regional Planning Commission

Attachment: *Final Judgement in Waller County Sub-Regional Planning Commission v. Executive Director of the Texas Department of Transportation*

CAUSE NO. D-1-GN-16-005374

WALLER COUNTY SUB-REGIONAL
PLANNING COMMISSION,
Plaintiff,

v.

MARC D. WILLIAMS, in his official
capacity as Executive Director of the TEXAS
DEPARTMENT OF TRANSPORTATION,
Defendant.

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IN THE DISTRICT COURT

TRAVIS COUNTY, TEXAS

201st JUDICIAL DISTRICT

FINAL JUDGMENT

On January 5, 2017, the Court granted the Plaintiff's December 14, 2016 motion for partial summary judgment and ruled that Plaintiff was entitled to a judgment making certain declarations; and

On June 18, 2024, Plaintiff nonsuited without prejudice all other claims it asserted against the Defendant in this lawsuit.

After careful consideration of the pleadings, the relevant cases, and arguments of counsel, the Court enters Final Judgment in this cause as follows:

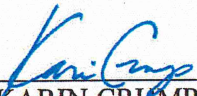
IT IS ORDERED, ADJUDGED, DECREED, and DECLARED that the Texas Department of Transportation has a duty to coordinate planning, to the greatest extent feasible, with Plaintiff Waller County Sub-Regional Planning Commission with respect to the implementation of the high-speed railway that is being planned to run between Dallas and Houston, Texas.

IT IS FURTHER ORDERED, ADJUDGED, DECREED, and DECLARED that Defendant Marc. D. Williams, in his official capacity as executive director of the Texas Department of Transportation, has acted outside his powers and authority by refusing to direct the Texas Department of Transportation to perform its statutory duty to coordinate planning, to the greatest extent feasible, with Plaintiff Waller County Sub-Regional Planning Commission with

respect to the implementation of the high-speed railway that is being planned to run between Dallas and Houston, Texas.

IT IS FURTHER ORDERED, ADJUDGED and DECREED that any relief requested in this Cause and not expressly granted in this Final Judgment is denied.

SIGNED this 16th day of December, 2024



KARIN CRUMP
JUDGE PRESIDING
250TH DISTRICT COURT