

Hill Country Energy Sub-Regional Planning Commission

October 21, 2025 Meeting Minutes

A meeting of the Hill Country Energy Sub-Regional Planning Commission (HCESRPC) took place in the Kimball County Courthouse on October 21, 2025. It was declared in session by Commissioner Paces at 1:02 pm, and a prayer was offered by Commissioner Chad Carpenter, followed by the pledges of allegiance to the American and Texas flags.

The following members of the Board were in attendance:

Rich Paces, Kerr County Commissioner, Precinct 2,
Jeff Holt, Kerr County Commissioner, Precinct 3, via TEAMS
Jennifer McCall, Kendall County Commissioner, Precinct 1,
Chad Carpenter, Kendall County Commissioner, Precinct 4,
Linda Bullard, Landowner Representative.
Texas State Representative, Wes Virdell, was unable to attend.

Commissioner Paces welcomed Gillespie County Judge Daniel Jones and Commissioner Keith Kramer to the meeting, who should be joining us soon officially.

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

NOTE: These Minutes are a record of Motions voted upon, decisions taken, and agreements reached in the meeting. For content of reports, information, announcements, discussion, and public comment, reference is made to the video recording of the meeting, posted at HCESRPC.com and hereby made part of these Minutes.

1. Approval of Meeting Minutes

A motion was made by Commissioner Carpenter to adopt the Draft Minutes of the HCESRPC meeting on September 3rd, 2025 and seconded by Commissioner McCall. The motion was adopted 5-0, and **the Minutes were approved**.

2. Board Member Input on their Activities and Developing Information

Commissioner Carpenter reported on the status of the Flat Rock Creek BESS. They have a meeting set for Oct. 29th with East Point Energy. They have hired outside counsel, and are demanding an alternate route. They are having a Town Hall at the Lobby Coffee Shop in Comfort on Oct. 23rd at 6:30 p.m.

Commissioner Paces gave an update on BESS in Kerr County. The one at Mountain Home is moving forward, and he understands that the one at Turtle Creek is also making some progress, but we haven't seen detailed plans for either of these, so we haven't engaged yet with the State Fire Marshall's office to review those plans. There has recently been some

discussion on the Kerr County Commissioners Court about trying to engage a part-time Fire Marshall to assist in reviewing BESS projects. The Center Point project trail has gone cold.

Commissioner McCall reported that Kendall County is looking at hiring another consultant to help address development rules, fire regulations, and internal readiness to deal with BESS,

Ms. Bullard invited Don Miller of Kendall County to report on what had transpired at the annual meeting of State Association of Soil and Water Conservation Districts regarding a BESS Resolution, which the Commission had authorized her to work in support of. Mr. Miller reported that the SWCD Directors of Texas' 254 Counties passed the resolution unanimously.

DECISION: Ms. Bullard will get together with Mr. Miller to write a news item for the Website about the SWCD Resolution.

Commissioner Holt provided a detailed description of a significant incident that he personally witnessed and reported to 911 at the Comfort substation off Flat Rock Creek Road (not the LCRA substation, but the smaller one). It had been reported as a BESS fire by the Harper, Texas Community Bulletin Board, but it was in fact a transformer that blew up. Commissioner McCall commented that their Fire Marshall said that it involved a line coming from West Texas, and the power it carries will be stored in the future BESS facility. Commissioner Carpenter noted that Kendall County's Fire Marshall went to the scene and could not get into the site, demonstrating the importance of having information available for first responders.

DECISION: A video was made of the incident which we will try to obtain and post to our Website. Commissioner Holt explained the factors which can cause such incidents, which often occur when it's really hot and there's a lot of wind. A member of the public who lives near that substation reported that he has over the years often observed balls of fire there, and that nobody shows up.

Gillespie County Judge Jones and Commissioner Kramer reported on the BESS projects in their area: There is a private group that has a law suit against Peregrine Energy. 11 acres have been cleared and a house demolished, but there hasn't been any activity for 2 or 3 months. Last week LCRA started digging holes on the property, but nothing was done by Peregrine.

At the other end of the Gillespie County an approximately 800-acre solar farm and BESS have been proposed just off Highway 16 north of Fredericksburg, commonly referred to as Marshall Springs or Willow City, but no plans have been received. A member of the public stated that the developer submitted quite a few documents and met with Judge Jones, the County Engineer, and the Fire Marshall. The Judge said that he has never met with that group, but that there was a concern about drainage and flooding with the solar panels, which is somewhat different from the BESS concerns.

Commissioner Paces commented that federal subsidies for wind and solar power will be drying up under the current administration, and hopefully BESS as well.

3. BESS Facilities

Ms. Bullard stated that she requested this standalone agenda item on BESS facilities, because she thinks it needs to be separated from Board Member updates, and be treated as an action item. She explained her view that after nearly 9 months of focusing almost exclusively on getting the State agencies to meet with us, it is time to pivot to BESS facilities

themselves, while not abandoning the Stage agency track entirely. She noted that where most progress has been made in the State, it has been through direct action on the BESS and not through planning coordination, such as in Van Zandt County, and she would like to try that approach. Toward that end, we must first obtain information about the facilities. She noted that ERCOT's GIS Report for September indicated that the Screening Study and Interconnection Agreement with LCRA have been finalized for the Mountain Home BESS, named the East West BESS, with the Final Interconnection Study still in process, so she proposed making a formal request to ERCOT for those two documents. A member of the public pointed out that the change of names for the facilities and the developers can make it difficult to find what you're looking for. Another member of the public explained that the owner of the Mountain Home BESS is Solar EIT 2-A-3 LLC, which is a foreign limited liability company. He said they set these things up so that if there's a disaster, the small LLC will have liability and can just go bankrupt, while the big company is not affected much. Ms. Bullard added that she had checked the address of that company, which looked like a shell company, and there were 6 other companies with the same agent at the same address. Commissioner Carpenter remarked that this is all being pushed by the State of Texas. A member of the public recommended that it would be most effective to first make a formal request for information to ERCOT and then call, and he pointed out that ERCOT also has a portal for requesting information. **DECISION: Ms. Bullard will draft a request for information to ERCOT.**

Ms. Bullard then recalled that Commissioner Tom Jones, Precinct 1 of Kerr County, had announced in Commissioners Court that he had been contacted by the developer of the Upper Turtle Creek BESS and was planning to meet with them. She moved that Commissioner Jones be invited to meet with our Commission to share with us what he had learned about their plans. Commissioner Paces noted that would require being posted as an Open Meeting of the Kerr County Commissioners but could be done, and Commissioner Jones could also report about that in a Commissioners Court meeting. He texted Commissioner Jones during the meeting, and Commissioner Jones replied that he had reached out to the company, but they had not responded, and he had not had a meeting with them.

4. Updates on Communication and/or Coordination with Relevant State Agencies and Other Government Officials

Commissioner Paces reported that basically there is no report, since we haven't heard back from either PUCT or LCRA, which are the two agencies we have been focused on, their position being that they don't need to meet with us for various reasons, despite Sen. Flores and Rep. Virdell urging them to meet with us. In view of this, Commissioner Paces has decided to attend the next meeting of the Public Utilities Commission, which is on October 23rd, and speak in the Public Comment period. Because his statement would exceed the 3-minute limit, he asked for at least two volunteers to join him in Austin as readers to complete delivery of the statement.

A member of the public reported that alarms were going off at the BESS in Fannin County, because the batteries were sent with a 30% charge, and now they're losing energy, and no one is responding. When the batteries are in this state, they're more prone to thermal runaway. A member of the public reported on a BESS fire in South Korea, which was caused by simply unplugging the batteries for maintenance. Commissioner Paces observed that,

while he hates to say it, it may take an incident to finally get the attention of our State government.

Ms. Bullard explained that one of the two new BESS laws is on fire safety standards and emergency operations plans, HB 3824. That law amends Title 4 of the Public Utilities Code, and, PUCT does not deal with Title 4, which is devoted to the Delivery of Services. The law requires the Commissioner of Insurance to adopt rules and procedures for implementing the law, so the Texas Division of Insurance will be going through a Rulemaking process analogous to PUCT's, where we can comment on the proposed rules and standards. **Ms. Bullard made a motion that Commissioner Paces send a notification letter to Cassie Brown, the Commissioner of Insurance, and invite her or her representative, such as the State Fire Marshall, to meet with us, to explain what they're doing about the new BESS fire safety law. Commissioner Paces seconded the motion, and it was adopted.**

Ms. Bullard also moved that we invite Chief Nim Kidd of the Texas Division of Emergency Management to meet with us, as TDEM is specifically named in the Governor's Executive Order, GA 49, which has been on the books for a year now, and they are required to convene a Task Force to evaluate the vulnerabilities of electrical power delivery systems, among other critical infrastructure, to cyberattacks and other threats, and to recommend policies and best practices for addressing such vulnerabilities. Chief Kidd is now well-known here for his excellent leadership during the flood response in Kerr County.

Ms. Bullard proposed that we, as a 391 Commission, request an opinion from the Attorney General regarding the application of Chapter 391. She had drafted such a question and sent it to all members of the Board. Commissioner Paces was concerned that if we ask, we might not like the answer and preferred to wait and see whether our meeting with some boards bears any fruit. Ms. Bullard pointed out that even a negative answer could help us understand what amendments might be introduced in the 90th Legislature to broaden the definition of entities which are required to engage in planning coordination, so that it would include ERCOT and LCRA. Commissioner Paces considered that it is too risky to ask the AG for a formal opinion for the time being, and that we might be better served by filing a law suit, if we want to raise the money for that. He also said that he might try to stop by the AG's office when he's in Austin on Oct. 23rd and talk to him or his Chief of Staff about it.

In response to a question from Commissioner Paces, Commissioner McCall reported that she has had no response at all to her FOIA of LCRA. **Commissioner Paces suggested that she contact LCRA and ask if they are going to give her either the requested information or the AG's ruling regarding their request to refuse the FOIA. She agreed to do so.**

5. Gillespie County's Request to Join the HCESRPC

Commissioner Paces reported that Gillespie County's Request to Join the HCESRPC is fully approved in Kerr County, and the Interlocal Agreement and Bylaws have been duly executed by the Kerr County Judge. Judge Jones of Gillespie County has signed the documents, but

he is waiting on an auditor to sign off on it before he sends it in. Commissioner McCall reported that the approval of the ILA and Bylaws will go through Kendall County Commissioners Court on October 28th, which will conclude the adhesion process.

6. PUCT Rulemaking and Potential HCESRPC Participation, in Regard to Newly-Enacted BESS Legislation, Large Loads, and Grid Resilience

Ms. Bullard stated that she has discovered that neither of the two BESS laws which were enacted are actually under the authority of the PUCT, so there will be no Rulemaking for them. As mentioned, the Fire Safety Standards law, HB 3824, is under the Texas Department of Insurance, and the other, which relates to decommissioning requirements on leased land, is under Title 6, which regulates private power agreements. PUCT only deals with laws under Title 2, which is the Public Utility Regulatory Act, or PURA. The reclamation requirements for BESS on leased land is not assigned to any State agency, so there's no one to do any Rulemaking there, and it will be enforced directly by the Courts. She assumed that there must be an equivalent Texas law applicable to BESS on land which is owned by the owner of the facility, and is looking into that. There may also be some regulations about this at the federal/EPA/TCEQ level. If there isn't, then this is a gap which will need to be filled when bills for the 90th Legislature are addressed.

Ms. Bullard also noted that the Commission might consider getting involved with Rulemaking legislation which is not specifically about BESS, but has a relationship, such as the ones which deal with large loads, SB 6, or Senator Hall's SB 75, on the resilience of the electric grid. There is one law which she would like to follow, and that is one which never mentions the words Battery Energy Storage Systems. It is **SB 231 on temporary emergency electric energy facilities or TEEEF**. These are movable, dispatchable energy resources which have a maximum capacity of 5 MW...and they can be BESS. She felt that BESS which can be moved in on a temporary basis would present similar risks to the Hill Country, including environmental, health, safety, and cybersecurity. There is a Proposal for Adoption about the TEEEF law on PUCT's Rulemaking Calendar scheduled to come out by December 18th, and there should already be a **Proposal for Publication**. **She will follow this and report back.**

She concluded that unless someone wants to work on a particular piece of legislation, PUCT Rulemaking that is only indirectly related to BESS is probably more than we can handle, and we should focus on the BESS fire safety law which is going through the Department of Insurance and on BESS facilities themselves.

Commissioner Paces reported that TCEQ finally responded to the questions which were raised in the April 16th coordination planning meeting with them. He considers that it was of minor use, as in most cases they said that it was not in their jurisdiction. **Ms. Bullard asked that it be posted to the Website**, as, for example, they did list all the BESS projects they had given grants to in the amount of \$8 million. **It will be added**, and Commissioner McCall pointed out that the video of that meeting is posted on the Website, along with many other items of interest, such as Moss Landing, at HCESRPC.com

7. The Role of 391 Commissions in the Texas Cyber Command (SB 150), and Protecting Critical Infrastructure (GA 49)

Ms. Bullard stated that she had drafted a request for information from the Office of the Attorney General regarding the implementation of the Lone Star Infrastructure Protection Act of 2021, which she sent to all members of the Board. The reason for directing these questions to the Attorney General is that the Lone Start Infrastructure Protection Act (LSIPA) part of the Business and Commerce Code, and it is Paxton's office which has the authority and responsibility to enforce that Code. The law was intended to protect critical infrastructure from potential threats by China, Russia, North Korea, and Iran, and since most often, the lithium-ion BESS batteries are from China, she thought we should know how this law is being enforced.

She pointed out that the first question concerned **components** of critical infrastructure, which were not included in the original law, but that omission has been corrected by current legislation, namely SB 2368, so that paragraph needs to be amended. Also, SB 2368 introduces enforcement mechanisms and penalties, so those aspects will need to be adjusted to the new legislation as well.

Commissioner Paces noted that he has seen the Interconnection Agreement for the Harper BESS, and there's nothing in there about cybersecurity or components. Ms. Bullard said that the law about components and enforcement has only just been passed, but the earlier law placed a requirement on ERCOT to obtain LSIPA attestations from applicant companies connected to the named countries. Recently ERCOT acknowledged that it had discovered over 500 violations of that requirement. They set a deadline of this past June 30th for companies which were delinquent in submitting their LSIPA Attestations to get them in. That is also included in the question to the AG's office. She said that this is probably not the place to go through the detailed content of the question to the AG's office, but she did want to know whether there was general agreement that this was a good thing to do.

She pointed out that our 391 Commission does not have standing to submit such a question to the AG, so we would have to get either a District or County Attorney to do it. A discussion ensued with the public concerning who would be the best to put forward such a question. Obviously, if the County Attorney were to submit it, the Commissioners Court would have to authorize her to do it. **Agreement: Ms. Bullard will work to finalize the text with Commissioner Paces.**

8. Discussion and Appropriate Action on Other Administrative Matters

Commissioner Holt pointed out that the annual revenue in Texas for oil and natural gas production is \$27 billion. The annual Texas revenue for electrical energy is \$49 billion. And we are the only ones standing against electrical energy and growth with concerns for safety, fighting a behemoth which is twice the size of the oil and gas industry. The total future growth as published by ERCOT is 178,053 MW of battery energy alone. The average investment for a developer is approximately \$1million/MW. So over the next 5-10 years, the investment will be roughly \$178 billion...and that gets taxed, which is why it's so important for lawmakers.

Regardless of changes in political leadership, we're fighting something that eclipses oil and gas. 996 BESS are in the planning for Texas right now, with an increase in the number of stand-alone facilities, averaging 100-122 MW for the larger ones, and costing roughly \$80 to \$120 million per 100 MW facility. The BESS at Harper in Gillespie County, which the company has named Rogers Draw Energy Storage, is a 150 MW one. The BESS at the Comfort Substation is Key Capture Energy Number 26, and they've named it Ringtail Ridge Storage; it's a 100 MW facility on a 138 KV line. The larger one in Comfort is named Rock Creek BESS, by Flat Rock Creek Energy Center, which leads back to a larger company in Houston. It's a 251 MW facility and is also on the 138 KV line. The third site in Comfort has moved off to the inactive status.

Commissioner Paces recalled the report produced by ERCOT about the anticipated growth in wind, solar, and BESS energy, which is linked on our Website. Commissioner Holt added that the stand-alone BESS category is now 73% and is growing at an exponential rate. Commissioner Carpenter asked whether we have a figure for how much federal and State tax rebates are going to these companies, which are from South Korea, Norway and other foreign countries. Commissioner Paces said that up to 70% of their capital costs are subsidized.

There ensued a discussion with the public.

- A member of the public pointed out that because of these subsidies, the capital cost of wind and solar generated electricity has been depressed so much that natural gas and non-subsidized energy sources can't compete. He said that there's going to be a race to get as many green energy projects in the pipeline as possible before the subsidies end in 2026, but that subsidies for BESS have not been withdrawn. However, that shouldn't stop us from trying to get a shift back to nuclear and gas-powered electricity. Commissioner Paces said that he 100% agrees and has included these points in all his correspondence to the President and others, which is on our Website. Texas has become overly reliant on unreliable energy.

- A member of the public pointed out that we need to get a contact at the Presidential cabinet level, noting that our State Representative is really good friends with the Secretary of Agriculture.

- Esther Schneider said that she had had a 4-hour discussion about the cyber threat with Tulsi Gabbard 3 weeks ago and sent her a packet, but she had not heard back from her. Gabbard was not aware of the letter that 26 Senators had sent to Lloyd Austin demanding that Chinese batteries be removed from military bases, which was done.

- A previous speaker brought up that the Hill Country is a priority groundwater management area.

Commissioner Paces once again highly encouraged everyone to write letters to all our representatives, and to Lee Zeldin of the EPA, saying they are welcome to copy any of the talking points from his own letters which are posted on the Website. He concluded that cybersecurity should be our greatest focus right now, because it seems to have their attention.

Ms. Bullard commented that she does not think it is an oversight that BESS has not been included with wind and solar for the removal of subsidies. On the contrary, it is an indication that they are decoupling BESS from wind and solar. It is important to understand this distinction, because 1) it shows what we're up against, and 2) it shows that they are not seeing BESS as an appendage of reliably unreliable solar and wind

installations. Here in Texas there are three times as many stand-alone BESS in the works as BESS co-located with wind and solar. They are de-incentivizing solar and wind, and incentivizing BESS on its own. WHY? Because BESS is essential to the federal government's commitment to the AI race with China, and they're not going to give it up, so we shouldn't be anticipating that help is coming with the removal of the BESS subsidies in the future.

Commissioner Carpenter asked where the new power plant is located that the City of Kerrville is building: It is a gas fired plant situated east of San Antonio, about half way to Houston. He pointed out that even when we try to remedy our energy concerns locally, the power doesn't stay here...it's sent off to West Texas. Commissioner Paces pointed out that our grid is old and inefficient, and that there are power losses over long transmission distances. So ideally the AI data centers and big consumers of power should be located near the generation facilities. Commissioner Carpenter suggested that we might be able to get some information from the Southern States Energy Board. Commissioner Paces said we may end up with one or two of these things, but that's better than 10 or 20. Ms. Bullard noted that there have been some success stories. There are 14 substations in Kerr County, 9 of which are known, each of which could have a BESS, although the few which are in the city limits of Kerrville are less likely to be targeted. There could also be more than one BESS at a substation, such as is the case in Comfort.

Commissioner Carpenter asked if people had seen the power lines which are going from Boerne straight through Comfort to the substation, within 60 to 80 feet of some homes on 1621. He remarked on the enormous size of the holes which are being drilled. A member of the public said that the lines go all the way up to Hayes County and will not be doing anything for us.

Commissioner Carpenter reported that we have not as of yet opened a bank account, but at some point in time, it might be necessary to hire legal counsel to send letters on our behalf that are more forceful and threatening. Commissioner Paces responded that if we want to go that route, then we will need to hire an attorney to file a legal action. It was agreed to wait until Gillespie joins us to have a bigger discussion on this issue. Commissioner Paces has tried to find out from Waller County 391 how much their legal costs were; he hasn't gotten a figure, but he thinks it's a lot more than \$30,000. Ms. Bullard asked what the outcome was in Waller County beyond winning their case that the State agency had to meet with them. Commissioner McCall said that the high speed rail project they were fighting stopped because the government funding dried up, but the case did set a precedent that the 391 Commission is legitimate, which we can use. **Commissioner Paces stated that we will look for a larger room to accommodate Gillespie County's representatives.**

9. Public Comments and Discussion

Susan Bell requested, as a resident of Kerr County, that Commissioner Jones make an address to this 391 Commission rather than to the Commissioners Court about the Upper Turtle Creek BESS, because people come to these meetings who are specifically interested

in BESS. She also questioned how the Commissioner of Insurance was going to know what should be put in place as far as the fire codes, and stressed that we need to be armed with good information so it won't be them leading us, but us leading them. Commissioner Paces responded that the Fire Marshall is under the Department of Insurance, so they would be operating according to NFPA 855 and 1, although the regulations are not nearly as clear as we would like for them to be. A discussion ensued about the amount of water which would be required to be maintained on site, secondary access roads, and other concerns.

A member of the public pointed out that we have a major primary coming up in March 2026, and we should make BESS an issue by calling out the candidates on their opposition to BESS. He also proposed that we do a combined event with all of our counties with the purpose of raising money to fight BESS so that we can hire a lawyer to get some injunctions. Esther Schneider said that they already had a lawyer. **Commissioner Paces said they should talk more about that afterwards**, but that what we need a lawyer for right now is to enforce Chapter 391.

A member of the public said that 38 Flat Rock Creek Road is the property right next to the substation in Comfort, and a month or so ago a company came in and worked for 1-1/2 or 2 weeks doing ground penetrating sonar testing. Then for the last two weeks they had surveyors working all day long surveying that little property. He personally spoke to the people who were doing the sonar testing, and they said they were hired by a big company to do the testing, but they would not reveal who they were. He's afraid that they are not letting the 391 Commission know what they're doing, and they're just going to keep doing it, until one day it's too late to do anything about it. Commissioner McCall thanked the speaker and responded that she had contacted their County Engineer and had them go out to the site, and they gave a different story about how long they'd been there.

Another member of the public reminded everyone to document everything they see when there is activity at BESS sites, the size of the trucks, the names on them, the license plates, etc....do not violate anybody else's property rights, but you can take photographs from a public right of way or property where you have asked for permission. In Van Zandt County the crews came in the middle of the night.

Barbara Ferguson pointed out that Chip Roy held up the Big Beautiful Bill strictly over green energy scams. Candidates are taking stands, and we need to encourage those who are to continue taking those stands.

Ms. Bullard commented that she had not actually laid eyes on any of the BESS sites, and she feels that is an impediment to her efforts on the Commission. She asked if we might consider doing a 391 Commission field day to visit the BESS sites in our jurisdiction. Commissioner Paces thought we should not have a big group doing that.

Commissioner Paces announced that he will be doing a presentation on BESS at the Kerr County Patriots Club meeting on November 17th at the Faith Christian Church on Highway 16, doors open at 5:30, his program starting about 6. He asked people to spread the word.

10. Set Next Meeting date, Location and Agenda

The next meeting was set for November 18th at 4:30* p.m. in the Kerr County Courthouse in Kerrville.

A motion to adjourn was made by Commissioner Carpenter, seconded by Commissioner McCall, and the meeting was adjourned at 3:04 p.m.

*Respectfully submitted,
Linda Bullard, Secretary*

Approved by the HCESRPC Board Nov.18, 2025

* The time was subsequently changed to 4:00 p.m.