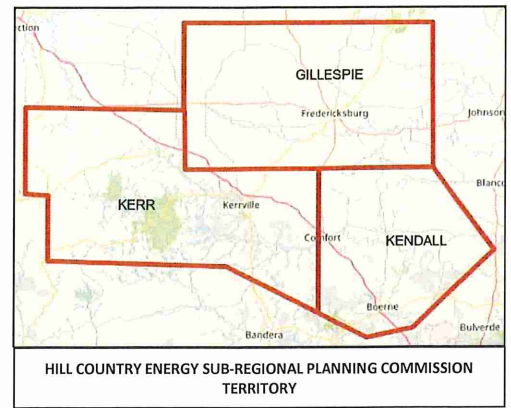


HILL COUNTRY ENERGY SUB-REGIONAL PLANNING COMMISSION

May 18, 2026

Public Utilities Commission of Texas
William B. Travis Building
1701 N. Congress Ave
PO Box 13326
Austin, TX 78711
via email at: public@puc.texas.gov



Request for Hearing on PUCT's TAC § 25.58 Proposed Rules Applicable to Electric Service Providers

Reference: Project Number 59523

The PUCT is proposing rules applicable to Electric Energy Storage Facilities (EESF) under 16 TAC § 25.58, that would establish an avenue for transmission and distribution utilities to contract with power generation companies for EESF capacity.

On behalf of the Hill Country Energy Sub-Regional Planning Commission (HCESRPC) Legislative Subcommittee, we request that a formal public hearing be held on PUCT's proposed rules. We also offer both general comments and attach specific comments embedded within a marked up version of the § 25.58 proposed rules.

The HCESRPC Legislative Sub-Committee consists of the following individuals:

- Rich Paces – Kerr County Commissioner, Precinct 2
- Jennifer McCall – Kendall County Commissioner, Precinct 1
- David Nash – Gillespie County Resident
- Cheryl Grosso – Kendall County Resident

Note that the HCESRPC was formed between Kendall, Kerr and Gillespie Counties in 2025 as a means by which local government would have meaningful coordination with state agencies as provided in Chapter 391.009(c) of the Texas Local Government Code. Additional information about our commission and its activities can be found on our website at www.HCESRPC.com.

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General Comments

The HCESRPC is opposed to EESF for the following reasons:

1. EESF does not generate electricity but rather is a net consumer of electricity and at best a very costly grid stabilizer, which would not be necessary if PUCT had not become overly reliant on unreliable wind and solar energy.
2. EESF has a power discharge cycle limited to only 2-3 hours, rendering it useless in any prolonged power outage.
3. Lithium batteries have a history of instability and overheating, leading to thermal runaway, fires and explosions (e.g. Moss Landing, CA).
4. 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.
 - a. Raises particular concern regarding their installation in the pristine Texas Hill Country that is prone to frequent severe drought and to rapidly spreading wildland fires.
 - b. Rural volunteer firefighters lack sufficient foam and water to extinguish a EESF fire.
5. There is no oversight for the largely unregulated and hazardous facilities.
6. There are inadequate regulations on eventual disposal of EESF lithium batteries.
7. EESF 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.
8. Over 700 attestations from EESF developers are missing. These attestations require the developer to attest to the fact that they have not Purchased Critical Electric Grid Equipment (CEGE) and Critical Electric Grid Services (CEGS) from a Lone Star Infrastructure Protection Act (LSIPA) Designated Company or LSIPA Designated Country and that their equipment will NOT result in access to or control of CEGE by an LSIPA Designated Company or LSIPA Designated Country.
9. EESF dramatically lowers the property value of the adjacent land, just ask Christopher Dyer in Mason County.
10. Lithium battery components are mined and manufactured abroad, primarily benefiting foreign adversaries.
11. Many EESF components, controllers & circuit boards are manufactured in China, creating major cybersecurity and grid vulnerability concerns.
12. Unmanned facilities with no long-term local jobs associated with EESF.
13. Property taxes are the only economic benefit associated with EESF for our local community.

14. Risks far outweigh any benefit associated with EESF power stabilization.
15. The PUCT proposed rules would allow TDUs to recover, *or in reality to pass on to ratepayers*, the “reasonable” costs claimed by a PGC for an EESF including a guaranteed rate of return on investment without a single megawatt of new power being generated.
16. Approving expensive EESF contracts and passing those costs onto ratepayers, with no say from the public, does nothing to fix the actual problem. The public pays more and gets less in return.
17. Proposed rule § 25.58 does not solve the reliability problem, it is like trying to stop an arterial bleed with a Band-Aid. Instead it incentivizes new problems and adds unwarranted risk to Texas citizens’ safety, health and welfare and most certainly raises the cost of electricity for every Texan ratepayer.
18. Winter Storm Uri in 2021 proved that wind, solar and battery energy was not reliable and EESF would not have helped on the transmission side or the distribution side due ice loads on the power lines. Further, the limited discharge cycle time had virtually no positive impact.
19. Texas needs new reliable (natural gas or nuclear powered) dispatchable electricity generation installed in close proximity to the demand (e.g. near data centers, A.I. centers, large high density urban areas, etc.).
20. Instead of spending billions of dollars on EESF, PUCT should encourage building new reliable (natural gas or nuclear) dispatchable power plants thereby strengthening grid resiliency and reducing transmission losses and eliminating the need for excessive expenditure on 764 kV transmission lines.
21. The last thing that PUCT should do is place our citizens at risk from potentially hazardous EESF that will raise the cost of electricity for all Texas ratepayers and that would never have been contemplated without the former administration’s false climate crisis narrative and the federal funding for unreliable wind and solar energy.

Executive Summary

The HCESRPC strongly opposes the PUCT’s proposed rules regarding EESF. We believe that EESFs introduce significant safety, environmental, cybersecurity, economic, and reliability risks while offering minimal benefit to Texas ratepayers or the electric grid. We emphasize that EESFs do not generate electricity, are net consumers of power, and provide only short duration discharge capability—“limited to only 2–3 hours” — making them ineffective during extended outages.

The document further highlights the dangers associated with lithium ion battery technology, citing “thermal runaway, fires and explosions,” and noting that such fires “cannot be controlled nor extinguished” and release “extremely toxic and harmful chemicals” into the environment. HCESRPC has serious concerns about siting these facilities in the Texas Hill Country, an area “prone to frequent severe

drought and to rapidly spreading wildland fires,” where rural volunteer fire departments lack the resources to manage large scale battery fires. The commission also points to the absence of adequate regulatory oversight, insufficient disposal rules, and the lack of required cybersecurity protections—particularly given that many systems use components “made in China” and are remotely operated.

Economically, the HCESRPC argues that EESFs depress nearby property values, create no long term local jobs, and provide only limited tax benefits. Meanwhile, the proposed rules would allow utilities to pass EESF costs—including guaranteed returns—to Texas ratepayers “without a single megawatt of new power being generated.” The document asserts that this approach “does nothing to fix the actual problem” of grid reliability and instead increases electricity costs for Texans.

The HCESRPC concludes that Texas should prioritize new dispatchable natural gas or nuclear generation located near major demand centers, rather than investing billions in EESFs. The commission warns that the proposed rules “add unwarranted risk to Texas citizens’ safety, health and welfare” and stem from policy decisions and market altering federal subsidies driven by “the former administration’s false climate crisis narrative.

“We look forward to the public hearing on PUCT’s proposed rules applicable to EESF under 16 TAC § 25.58 where we would be happy to answer any questions regarding our submission.

Sincerely,



Rich Paces
President, HCESRPC

Attachment - HCESRPC comments in embedded n a marked up version of the § 25.58 proposed rules

TITLE 16. ECONOMIC REGULATION
PART 2. PUBLIC UTILITY
COMMISSION OF TEXAS
CHAPTER 25. SUBSTANTIVE RULES
APPLICABLE TO ELECTRIC SERVICE
PROVIDERS
SUBCHAPTER C. INFRASTRUCTURE AND
RELIABILITY
16 TAC §25.58

The Public Utility Commission of Texas (commission) proposes new 16 Texas Administrative Code (TAC) §25.58, relating to Contracts for Electric Energy Storage, to implement Public Utility Regulatory Act (PURA) §35.153, as enacted by Senate Bill 415 during the 87th Regular Texas Legislative Session. The proposed rule would establish an avenue for transmission and distribution utilities (TDUs) to contract with power generation companies (PGCs) for electric energy storage facility (EESF) capacity to ensure reliable service to distribution customers.

Growth Impact Statement

The agency provides the following governmental growth impact statement for the proposed rule, as required by Texas Government Code §2001.0221. The agency has determined that for each year of the first five years that the proposed rule is in effect, the following statements will apply:

- (1) the proposed rule will not create a government program and will not eliminate a government program;
- (2) implementation of the proposed rule will not require the creation of new employee positions and will not require the elimination of existing employee positions;
- (3) implementation of the proposed rule will not require an increase and will not require a decrease in future legislative appropriations to the agency;
- (4) the proposed rule will not require an increase and will not require a decrease in fees paid to the agency;
- (5) the proposed rule will create a new regulation;
- (6) the proposed rule will not expand, limit, or repeal an existing regulation;
- (7) the proposed rule will not change the number of individuals subject to the rule's applicability; and
- (8) the proposed rule will not affect this state's economy.

Fiscal Impact on Small and Micro-Businesses and Rural Communities

There is no adverse economic effect anticipated for small businesses, micro-businesses, or rural communities as a result of implementing the proposed rule. *Comment: The HCESRPC believes that this is a false statement. Lithium batteries have a history of instability and overheating, leading to thermal runaway, fires and explosions which would be devastating to the pristine Texas Hill Country due to the*

release of toxic and harmful chemicals into the air; eventually contaminating the surrounding soil, surface water and groundwater on which we depend. In the unincorporated areas of small counties, there is minimal oversight for these largely unregulated and hazardous facilities and there are inadequate regulations on eventual disposal of EESF lithium batteries from land owned by the PGC owning an EESF. In addition, EESF dramatically lowers the property value of the adjacent land and will also dramatically increase the cost of electricity for every Texas ratepayer without generating a single megawatt of new power. Accordingly, no economic impact statement or regulatory flexibility analysis is required under Texas Government Code §2006.002(c).

Takings Impact Analysis

The commission has determined that the proposed rule will not be a taking of private property as defined in chapter 2007 of the Texas Government Code.

Fiscal Impact on State and Local Government

Zachary Dollar, Power Markets Analyst, Market Analysis Division, has determined that for the first five-year period the proposed rule is in effect, there will be no fiscal implications for the state or for units of local government under Texas Government Code §2001.024(a)(4) as a result of enforcing or administering the sections.

Public Benefits

Mr. Dollar has determined that for each year of the first five years the proposed section is in effect the public benefit anticipated as a result of enforcing the section will be providing **greater reliability of electric service** to the distribution customers of TDUs operating in the ERCOT region. There will be no probable economic cost to persons required to comply with the rule under Texas Government Code §2001.024(a)(5). *Comment: The reliability of electric service as a result of EESF is marginal at best considering a discharge cycle limited to only 2-3 hours. Proposed rule § 25.58 does not solve the reliability problem, it is like trying to stop an arterial bleed with a Band-Aid. Instead it incentivizes new problems and adds unwarranted risk to Texas citizens' safety, health and welfare and most certainly raises the cost of electricity for every Texan ratepayer. To solve the reliability problem, Texas needs new reliable (natural gas or nuclear powered) dispatchable electricity generation installed in close proximity to the demand (e.g. near data centers, A.I. centers, large high density urban areas, etc.).*

Local Employment Impact Statement

For each year of the first five years the proposed section is in effect, there should be **no effect on a local economy**; therefore, no local employment impact statement is required under Texas Government Code §2001.022. *Comment: An impact statement should be prepared assuming that a thermal runaway fire does occur. According to the State Fire Marshal's Office the statistical odds of a thermal runaway fire is approximately 2%. While that might seem low, considering PUCT and ERCOT are planning to install over 1000 EESFs across Texas, it is a matter of time until a catastrophic fire does occur; the impact of which would be devastating to the local economy.*

Costs to Regulated Persons

Texas Government Code §2001.0045(b) does not apply to this rulemaking because the commission is expressly excluded under subsection §2001.0045(c)(7).

Public Hearing

The commission staff will conduct a public hearing on this rule making if requested in accordance with Texas Government Code §2001.029. The request for a public hearing must be received by May 18, 2026. If a request for public hearing is received, commission staff will file in this project a notice of hearing. *Comment: The HCESRPC has requested a public hearing.*

Public Comments

Interested persons may file comments electronically through the interchange on the commission's website. Comments must be filed by May 18, 2026. Comments should be organized in a manner consistent with the organization of the proposed rules. The commission invites specific comments regarding the costs associated with, and benefits that will be gained by, implementation of the proposed rule. The commission will consider the costs and benefits in deciding whether to modify the proposed rules on adoption. All comments should refer to Project Number 59523.

To further assist the commission in implementing PURA §35.153, the commission also requests comments on the following issues:

Should a transmission and distribution utility's recovery of costs under these contracts be limited to comprehensive base-rate cases or also be permitted in interim proceedings? If the latter, which interim proceedings are appropriate for recovery of these costs? *Comment: Limit recovery of costs to comprehensive base-rate cases.*

Should PURA §35.153(i) be read to require all contracts to satisfy relevant accounting standards for a capital lease or finance lease, or should those criteria only be required if a transmission and distribution utility seeks recovery plus a reasonable return on the payments under the contract?

Each set of comments should include a standalone executive summary as the last page of the filing. This executive summary must be clearly labeled with the submitting entity's name and should include a bulleted list covering each substantive recommendation made in the comments. *Comment: See the HCESRPC cover letter to PUCT dated May 18, 2026.*

Statutory Authority

The new rule is proposed under Public Utility Regulatory Act (PURA) §§14.001, which grants the commission the general power to regulate and supervise the business of each public utility within its jurisdiction and to do anything specifically designated or implied by this title that is necessary and convenient to the exercise of that power and jurisdiction; 14.002, which authorizes the commission to adopt and enforce rules reasonably required in the exercise of its powers and jurisdiction; and 35.153, which authorizes a TDU to, with prior commission approval, contract with a PGC to provide electric energy from an electric energy storage facility to ensure reliable service to distribution customers and directs the commission to adopt rules as necessary to implement the section and establish criteria for approving these contracts.

Cross Reference to Statute: Public Utility Regulatory Act §§14.001; 14.002; and 35.153.

§25.58. *Contracts for Electric Energy Storage.*

(a) Applicability. This section applies to:

- (1) a transmission and distribution utility (TDU) that operates facilities in the Electric Reliability Council of Texas (ERCOT) region to serve distribution customers; and
- (2) a power generation company (PGC), as defined under §25.5 of this title (relating to Definitions).

(b) Definition. Electric energy storage facility (EESF)—A piece of equipment or a facility in the ERCOT region that is intended to:

- (1) provide energy or ancillary services at wholesale, including an electric energy storage equipment or facility that is listed on a PGC's registration with the commission or, for an exempt wholesale generator, on the generator's registration with the Federal Energy Regulatory Commission; or
- (2) provide reliable delivery of electric energy to distribution customers.

(c) Allocation of total EESF capacity.

- (1) The total amount of EESF output capacity reserved by contracts under this section may not exceed 100 megawatts (MWs).
- (2) A TDU is allocated a portion of 100 MWs according to its load ratio share on the effective date of this section, as calculated by ERCOT. A TDU may file a petition for the commission to reassess the allocation methodology or update the allocation amount not more than once each year.

(d) Authorization to contract for EESF capacity. A TDU must not enter into, renew, or extend a contract with a PGC for energy and output capacity from an EESF until receiving authorization from the commission under this subsection.

(1) Application. A TDU must file an application to obtain commission authorization.

(A) Contents. The application must include:

(i) If applicable, the TDU's history with EESF, including:

(I) Whether the TDU is currently authorized, or has previously been authorized, by the commission to contract for EESF energy and output capacity, including the details of existing and prior authorizations and each docket number in which the existing and prior authorizations were granted; and

(II) A description of all EESF energy and output capacity the TDU has under contract at the time of the application, including the total energy and output capacity the TDU has under contract, the length of the contract(s), and a description of the contract terms for discharging an EESF's energy capacity.

(ii) The total EESF energy and output capacity the TDU is requesting authorization to contract for and the length of time for which the TDU is requesting authorization. In support of its request, the TDU must include, with any necessary supporting documentation:

(I) Whether the amount of requested EESF energy and output capacity and requested authorization length will ensure reliable service to the TDU's distribution customers; *Comment: We look forward to seeing how the TDU demonstrates that the requested authorization length will ensure reliable service.*

(II) The location(s) where a need for EESF energy and output capacity exists; *Comment: PUCT and ERCOT should be actively planning where EESF is needed rather than leaving it to the market where any PGC may choose where to install an EESF even if it is far from the area in need of grid stability potentially adding to the unnecessary need to expand or upgrade the grid with extremely costly transmission lines.*

(III) The number of distribution customers, by customer class, that the TDU expects to benefit from a contract for EESF energy and output capacity;

(IV) The conditions in which the TDU would direct a PGC to discharge contracted EESF energy capacity;

(V) A cost-benefit analysis that demonstrates the expected cost savings associated with entering into a contract for EESF energy and output capacity over constructing or modifying a traditional distribution facility; *Comment: Cost savings alone is totally inadequate to justify entering into a contract for EESF energy. The cost-benefit analysis must include a risk assessment including the probability of a thermal runaway, fire and the toxic and harmful chemicals that would be released into the air, contaminating the surrounding soil, surface water and groundwater. In addition, the analysis should consider the reduction of property value of the adjacent land and the dramatic increase in the cost of electricity for every Texas ratepayer without generating a single megawatt of new power. That must be compared to constructing new reliable (natural gas or nuclear powered) dispatchable electricity generation installed in close proximity to the demand (e.g. near data centers, A.I. centers, large high density urban areas, etc.) thereby strengthening grid resiliency and reducing transmission losses. and*

(VI) A description of any additional measures being implemented, or scheduled for implementation, that may mitigate the TDU's need for EESF energy and output capacity.

(B) The TDU may provide in its application additional information that it believes will be necessary for the commission's consideration of the TDU's request. Any additional information that the TDU provides must be clearly labeled as supplemental and separate from the information that the TDU is required to provide under subparagraph (A) of this paragraph.

(C) The commission may request additional information from the TDU that it believes is necessary to evaluate the TDU's request.

(D) 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 data.

(2) 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 45 days from the date the application is filed with the commission. The notice must be provided using a reasonable method of notice to:

- (A) all municipalities in the TDU's service area that have retained original jurisdiction;
- (B) the County Commissioners' Court in the county in which an EESF is proposed;
- (C) all parties in the TDU's last base-rate proceeding;
- (D) each retail electric provider that provides service in the TDU's service area; and
- (E) the Office of Public Utility Counsel

(3) Commission evaluation and decision.

(A) In reviewing a TDU's application, the commission may consider whether:

- (i) the requested amount of EESF energy and output capacity will ensure reliable service to the TDU's distribution customers;
- (ii) the requested amount of EESF energy and output capacity exceeds, either by itself or together with existing authorized amounts, the amount allocated to the TDU under subsection (c) of this section; and
- (iii) the estimated cost of entering into a contract for the requested amount of EESF energy and output capacity is less than the estimated cost of constructing or modifying a traditional distribution facility.

(B) The commission's final order may:

- (i) include the total amount of EESF energy and output capacity the TDU is authorized to contract for;

(ii) include the date the authorization expires; and

(iii) require a contract under this section to comply with Public Utility Regulatory Act (PURA) §35.153.

(C) The commission's final order may include additional requirements related to an EESF's characteristics.

(e) Contract for EESF capacity. A TDU that has obtained authorization under subsection (d) of this section may enter into one or more contracts with a PGC for EESF energy and output capacity, provided that all contracts comply with the commission's authorization under subsection (d) of this section.

(1) Competitive bidding process.

(A) Prior to entering into a contract under this section, the TDU must conduct a competitive bidding process. *Comment: We are pleased to see this requirement as we are unaware of any TDU ever having conducted a competitive bidding process for an EESF in a specific location.*

(B) In any proceeding in which the commission is reviewing the reasonableness, necessity, or prudence of the costs associated with a contract, the commission may also consider whether the contract the TDU entered into was reasonable relative to other bids that were available to the TDU, if any.

(2) If requested by a commissioner or commission staff, the TDU must allow for the inspection of any contract entered into under this section. If a commissioner or commission staff retains a copy of the contract, the contract will be treated as a confidential document if so requested by the TDU.

(f) PGC responsibilities. A PGC that owns or operates an EESF subject to a contract under this section:

(1) may offer electric energy or ancillary services from an EESF into the ERCOT wholesale markets, only to the extent that the PGC reserves capacity as required by the contract;

(2) may not discharge energy from an EESF to satisfy the contract's requirements unless directed by the TDU; and

(3) must reimburse the TDU for the cost of an administrative penalty assessed against the TDU for a violation caused by the EESF's failure to meet the contract requirements.

(g) Eligible costs and deferred recovery.

(1) Eligible costs.

(A) Contract costs. Reasonable and necessary costs associated with a contract for EESF capacity, including the present value of future payments required under the contract, are eligible for recovery under this section. A contract for EESF

capacity 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.

(B) Return. Reasonable and necessary costs under this section include a return on investment, including the present value of future payments required under the contract, using the rate of return on investment established in the commission's final order in a TDU's most recent comprehensive base-rate proceeding.

Comment: We fail to see why a guaranteed rate of return should be allowed on a facility that does not generate a single megawatt of new electric power and instead is a net consumer of electricity.

(2) Deferred recovery. A TDU may create a regulatory asset to defer for recovery in a future ratemaking proceeding the return, not otherwise included in any of the TDU's rates.

(h) 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, in 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.

(A) A TDU must provide notice to REPs (*REP needs to be defined*) of the approved rates not later than the 45th day prior to the effective date of the approved rates.

(B) Eligible 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 eligible 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) EESF 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 contract under this section that would reduce the rate of necessary cost recovery, a TDU must submit an application to reflect the reduced rate of necessary cost recovery, by the earlier of three months from the contract amendment or the TDU's next DCRF proceeding.

(F) Eligible 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.

(G) In any proceeding in which eligible costs are reviewed for reasonableness, necessity, or prudence, the TDU's application must also include the contracts associated with the eligible costs being reviewed. The commission will review the contracts to ensure compliance with the final order under subsection (d) of this section, the requirements under subsection (e) of this section, and PURA §35.153.

(2) Notice. The notice for any ratemaking proceeding in which eligible 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 EESF 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 eligible costs, all revenues received associated with EESF programs, including actual rate revenues, must be applied to offset reasonable, necessary, and prudent EESF 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.

(C) As part of the reconciliation of EESF costs, the commission may consider whether the contracted EESF complied with the characteristics required under subsection (d) of this section. The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on April 2, 2026.

TRD-202601459

Katelyn Lewis

Projects Coordinator

Public Utility Commission of Texas

Earliest possible date of adoption: May 17, 2026

For further information, please call: (512) 936-7044