ADOPTED RULES

Adopted rules include new rules, amendments to existing rules, and repeals of existing rules. A rule adopted by a state agency takes effect 20 days after the date on which it is filed with the Secretary of State unless a later date is required by statute or specified in the rule (Government Code, §2001.036). If a rule is adopted without change to the text of the proposed rule, then the *Texas Register* does not republish the rule text here. If a rule is adopted with change to the text of the proposed rule, then the final rule text is included here. The final rule text will appear in the Texas Administrative Code on the effective date.

TITLE 4. AGRICULTURE

PART 1. TEXAS DEPARTMENT OF AGRICULTURE

CHAPTER 7. PESTICIDES

SUBCHAPTER B. REGISTRATION

4 TAC §7.10

The Texas Department of Agriculture (the Department) adopts amendments to the Texas Administrative Code, Title 4, Part 1, Chapter 7, Subchapter B (Registration), §7.10, relating to Registration of Pesticides. The amendments to §7.10 are adopted without changes to the proposed text as published in the December 12, 2025 issue of the *Texas Register* (50 TexReg 7965) and will not be republished.

The adopted amendments to §7.10 add a new subsection(g) to the rule allowing pesticide registrants to cancel a registration of a pesticide by either discontinuing its registration or initiating a recall to remove it from the channels of trade, as well as make conforming formatting changes to the remainder of the rule. The adopted amendments to §7.10 align this rule with Section 76.041 of the Texas Agriculture Code.

The Department did not receive any public comments concerning the proposed amendments.

The amendments are adopted pursuant to Section 76.004 of the Texas Agriculture Code (Code), which allows the Department to adopt rules for carrying out provisions of Chapter 76 of the Code.

Chapter 76 of the Texas Agriculture Code is affected by the adoption.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on March 16, 2026.

TRD-202601230
Susan Maldonado
General Counsel
Texas Department of Agriculture
Effective date: April 5, 2026
Proposal publication date: December 12, 2025
For further information, please call: (512) 463-6591

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TITLE 16. ECONOMIC REGULATION

PART 2. PUBLIC UTILITY COMMISSION OF TEXAS

CHAPTER 22. PROCEDURAL RULES

The Public Utility Commission of Texas (commission) adopts amendments to 16 procedural rules and repeals one rule in 16 Texas Administrative Code (TAC) Chapter 22. The commission adopts the following rules with changes to the proposed text as published in the October 3, 2025 issue of the *Texas Register* (50 TexReg 6397): §22.201, relating to Place and Nature of Hearings; §22.205, relating to Briefs; §22.207, relating to Referral to State Office of Administrative Hearings; §22.225, relating to Written Testimony and Accompanying Exhibits; §22.241, relating to Investigations; §22.244, relating to Review of Municipal Electric Rate Actions; §22.246, relating to Administrative Penalties; §22.261, relating to Proposals for Decision; §22.262, relating to Commission Action After a Proposal for Decision; §22.264, relating to Rehearing; §22.281, relating to Initiation of Rulemaking; and §22.282, relating to Notice and Public Participation in Rulemaking Procedures. These rules will be republished.

The commission adopts the following rules with no changes to the proposed text as published in the October 3, 2025 issue of the *Texas Register* (50 TexReg 6397): §22.204, relating to Transcript and Record; §22.221, relating to Rules of Evidence in Contested Cases; §22.228, relating to Stipulation of Facts; and §22.263, relating to Final Orders. These rules will not be republished.

The commission adopts one repeal with no changes to the proposed text as published in the October 3, 2025 issue of the *Texas Register* (50 TexReg 6397): §22.248, relating to Retail Public Utilities. This rule will not be republished.

Section 22.246 is a competition rule subject to judicial review as specified in PURA §39.001(e).

The commission received comments on the proposed rule from Entergy Texas Inc. (ETI); the Lower Colorado River Authority and LCRA Transmission Services (collectively, LCRA); the Office of Public Utility Counsel (OPUC); Oncor Electric Delivery Company LLC (Oncor); and The Texas Association of Water Companies, Inc. (TAWC).

General Changes

The adopted rules include various clerical and grammatical changes, as well as changes to outdated rules, statutes, or certain terms. Changes are also made to conform rules, where applicable, to the updated electronic filing requirements specified under §22.71, relating to Commission Filing Requirements and Procedures, and §22.72, relating to Form Standards for Documents Filed with the Commission, of this title.

Place and Nature of Hearings

Adopted §22.201 is revised to authorize virtual hearings if the presiding officer determines that it is in the public interest. Adopted §22.201 also authorizes the presiding officer to hold virtual prehearing conferences and requires in-person or virtual pre-hearing conferences at SOAH to be conducted in accordance with commission rules.

Transcript and Record

Adopted §22.204 is revised to omit reference to the commission setting rates for purchase of official transcript copies from the official reporter. Adopted §22.204 is also revised to establish that, following an objection to a change to the record, any change to the record may only be made as ordered by the presiding officer.

Briefs

Adopted §22.205 is revised to require briefs to conform to the formatting requirements for pleadings under §22.72 of this title. Adopted §22.205 requires briefs that exceed ten pages to include a table of contents with page numbers and authorizes the presiding officer to require parties to address certain issues or address issues in a specific order or format.

Referral to State Office of Administrative Hearings

Adopted §22.207 is revised to clarify that the utility division of SOAH will conduct prehearing conferences as well as hearings related to contested cases before the commission, other than a prehearing conference conducted by a commission administrative law judge (ALJ) or one or more commissioners. Adopted §22.207 is also revised to clarify that, at the time SOAH receives jurisdiction or as soon as is reasonably practicable thereafter, the commission will provide to the SOAH ALJ a list of issues or areas that must be addressed. Adopted §22.207 further clarifies that the commission may identify and provide to the SOAH ALJ additional issues or areas that must be addressed at any time.

Written Testimony and Accompany Exhibits

Adopted §22.225 is revised to establish that, unless otherwise ordered by the presiding officer, a witness offering written prefiled testimony must be sworn and be asked whether the written testimony is a true and accurate representation of what the testimony would be if the testimony were to be given orally at the time the written testimony is offered into evidence.

Investigations

Adopted §22.241 is revised to establish that the commission may at any time institute formal investigations on its own motion, or the motion of commission staff, into any matter within the commission's jurisdiction.

Review of Municipal Electric Rate Actions

Adopted §22.241 is revised to clarify that petitions for review of municipal electric rate actions require the printed or typed name, telephone number, street or rural route address, and if available, the email address and facsimile transmission number of each signatory

Administrative Penalties

Adopted §22.246 is revised to effectuate changes to the distribution of disgorged excess revenues in the electric wholesale market by the independent organization. Specifically, adopted §22.246 is revised omit language allocating load of wholesale electric market participants that are no longer active prior to the calculation of load proportions to still-active market participants.

Adopted §22.246 is also revised to authorize the commission to, upon a determination that other wholesale electric market participants are affected or a different distribution method is appropriate, direct the independent organization to distribute the excess revenue to affected wholesale market participants using a different distribution method in the same or subsequent proceeding.

Final Orders

Adopted §22.263 is revised to establish that parties will be notified of a commission final order as required by APA and §22.74 of this title, relating to Service of Pleadings and Documents, to the extent that provision does not conflict with the APA.

Initiation of Rulemaking

Adopted §22.281 is revised to clarify that rulemaking petitions that do not comply with the section, such a filing will be construed as a policy recommendation and not as a petition for rulemaking under the APA or the commission rule. Adopted §22.281 is also revised to establish that commission staff will open a general project for rulemaking petitions and post the control number on the commission's website, including procedures for administration of such petitions by commission staff and default deadlines for comment. Adopted §22.281 is further revised to authorize commission staff to host workshops or publish questions for comment, or draft rule language without express direction from the commission.

Notice and Public Participation in Rulemaking Procedures

Adopted §22.282 is revised to clarify the process for the solicitation of informal comments on commission rulemakings prior to initiating a formal rulemaking under the APA. Adopted §22.282 is also revised to authorize commission staff to, after a formal rulemaking has been initiated but prior to adoption, extend comment or public hearing request deadlines, request reply comments, or provide additional comment filing instructions in a rulemaking project. Adopted §22.282 is further revised to authorize the commission to consider a staff rulemaking recommendation or take action on a rulemaking even if commission staff does not file its final recommendation at least seven days prior to the open meeting where the rulemaking is scheduled to be considered.

General Comments

Internal cross-references to commission rules

OPUC recommended that internal cross-references to other commission rules refer to the applicable chapter of the Texas Administrative Code, rather than the overall title (i.e., "§ 22.74 of this title" should be revised to "§ 22.74 of this chapter." OPUC stated the applicable title for commission rules would be "Title 16, Economic Regulation" and therefore include rules of at least six different State of Texas agencies. OPUC noted that "of this chapter" is the correct reference in most instances, as that would refer to Chapter 22, under Part 2 of Title 16 which is the appropriate reference.

Commission response

The commission declines to implement the recommended change. Across the Texas Administrative Code there may be several instances of a specific chapter. For instance, "Chapter 22" appears in Title 1, Title 4, Tile 13, Title 16, Title 19, Title 28, and Title 43. The reference to "Title 16" is intended to ensure the Chapter 22 that is applicable to the commission rules. For this reason, the usage of "of this title" is common practice among Texas state agencies (e.g., Title 16, Part 1, Chapter 3 of the Texas Railroad Commission's rules and Title 30, Part 1, Chapter

290 of the Texas Commission on Environmental Quality's rules both use the phrase "of this title" over 200 times and "of this chapter" less than five times).

Usage of the terms "shall" vs. "must"

OPUC recommended that the term "shall" be preserved across the Chapter 22 rules, rather than be replaced with specific instances of "must" or "will," unless otherwise appropriate to do so in accordance with the Texas Code Construction Act. OPUC maintained that the Legislature intentionally used the term "shall" when drafting the statutes that underpin the commission's rules, even as recently as the last legislative session. Accordingly, if the Legislature had meant to use a different term, then it would have done so explicitly. OPUC further contended that the Texas Code Construction Act provides clear, separate definitions of "shall" and "must" and therefore the terms are not interchangeable. OPUC noted that if the Legislature intended the terms to be interchangeable, then it would have clearly stated that in the same manner that "may not" and "shall not" are. OPUC also commented that "shall" is not an antiquated term, given that other current bodies of law--such as the Texas Rules of Civil Procedure, Texas Disciplinary Rules of Professional Conduct, and Texas Code of Judicial Conduct--all use the term "shall."

Commission response

The commission declines to implement the recommended change. The commission acknowledges the general applicability of the TCCA to the commission's rules. See Texas Government Code §311.002(4) (applying the TCCA to "each rule adopted under a code"). However, forgoing use of the term "shall" or replacing the term with "may," "must," or another contextually relevant term is appropriate and not inconsistent with the TCCA. As indicated by OPUC, the TCCA does separately indicate a specific construction for the terms "may," "shall," "must," and "may not" under Texas Government §311.016(1)-(3) and (5). However, the statute also establishes that: "[t]he following constructions apply unless the context in which the word or phrase appears necessarily requires a different construction or unless a different construction is expressly provided by statute." This provision indicates a general level of flexibility in usage and interpretation of various modal verbs. More importantly, the TCCA does not require the usage of "shall" as opposed to "must" or "may" when implementing statutes in agency rules. Therefore, the commission is not prohibited by law from utilizing other modal verbs to replace "shall." Lastly, commenters have not identified instances where the usage of a different modal verb has resulted in ambiguity as to the intended meaning.

Proposed §22.201 - Place and Nature of Hearings

Proposed §22.201 establishes the form and manner for hearings held at the commission and at the State Office of Administrative Hearings (SOAH).

Proposed §22.201(a) and §22.201(b) - Commission-held hearings and Hearings held at SOAH

Proposed §22.201(a) establishes that all commission-held hearings will be held in person and in Austin, unless the commission determines that it is in the public interest to hold a hearing elsewhere or virtually. The provision further authorizes the presiding officer to issue a written order authorizing a prehearing conference to be conducted virtually. Proposed §22.201(b) establishes that a hearing held at SOAH will be conducted in accordance with commission rules.

LCRA recommended that proposed §22.201(a) be revised to add more specific conditions for the authorization of virtual hearings to ensure such hearings are held upon request and in appropriate circumstances. Specifically, LCRA recommended virtual hearings held at the commission be additionally conditioned upon the motion of a party and a subsequent commission determination that good cause exists to hold a virtual hearing. LCRA provided draft language consistent with its recommendation. Similar to its recommendation for proposed §22.201(a), LCRA also recommended that proposed §22.201(b) be revised to add a condition that virtual hearings held at SOAH be based upon a determination by the presiding officer that good cause exists to hold a virtual hearing. LCRA provided draft language consistent with its recommendation.

Commission response

The commission declines to implement LCRA's recommended changes as they are unnecessary. The form and manner of a commission-held hearing should be left to the discretion of the commission and, as applicable, SOAH.

OPUC recommended proposed §22.201(a) be revised to require the agreement of all parties as a prerequisite to holding a virtual hearing or virtual prehearing conference. OPUC further recommended proposed §22.201(a) be revised to authorize virtual hearings only to the extent a virtual hearing does not preclude a party's right to be heard in person under PURA §14.056. OPUC expressed concern that virtual hearings could "preclude in-person hearings over the objection of one or more intervenor rate payers because it is deemed to be in the 'public interest.'" OPUC acknowledged that virtual hearings may save avoidable litigation expenses such as travel costs, including rate case expenses that would otherwise be passed on to ratepayers. Therefore, virtual hearings should be conditioned upon the agreement of all the parties. OPUC provided draft language consistent with its recommendation.

Commission response

The commission declines to implement the recommended change because it is unnecessary. The first sentence in §22.201(a) already authorizes the commission to hold virtual hearings as a general matter. Moreover, PURA §14.056 neither prohibits the commission from holding a virtual hearing nor does it require agreement by all the parties for such prehearing conferences to be held. The statute provides: "[e]ach party to a proceeding before a regulatory authority is entitled to be heard by attorney or in person" and has been in PURA since at least 1995, prior to the innovation of virtual hearings. As such, the provision does not prohibit the holding of hearings virtually; it only provides the right for parties to participate in commission proceedings with or without an attorney. Stated differently, it ensures public participation by allowing pro se individuals to participate in commission proceedings.

OPUC recommended proposed §22.201(b) be revised to authorize virtual prehearing conferences. OPUC stated that currently the majority of prehearing conferences at SOAH are held virtually. OPUC stated that in Project No. 58400, the commission proposed to define the term "hearing" as "[a]ny proceeding at which evidence is taken on the merits of the matters at issue, not including prehearing conferences" and the term "prehearing conference" as "[a]ny conference or meeting of the parties, prior to the hearing on the merits, on the record and presided over by the presiding officer." OPUC explained that if those separate definitions are adopted, then not including prehearing conferences in

proposed §22.201(b) could "inadvertently preclude SOAH from continuing to hold those proceedings virtually." The commission notes that these definitions have since been adopted as proposed in Project No. 58400. OPUC provided draft language consistent with its recommendation.

Commission response

The commission implements OPUC's recommended change for clarity.

New §22.201(c)

OPUC recommended that a new subsection §22.201(c) be added to the rule which would authorize the holding of "paper" hearings only upon the agreement of all parties and "to allow evidence and briefing to develop the record." OPUC stated that proceedings may sometimes be sufficiently litigated through briefings and occur frequently enough such that they should be addressed in commission rules. OPUC stated that articulating this practice in rule language would provide the presiding officer flexibility and a clear authorization to conduct such a hearing if the parties agree on a case-by-case basis that the evidence and circumstances warrant it. OPUC further noted that paper hearings generally save ratepayers money because the appearance of the parties and any witnesses is not required, either in-person or virtually. Paper hearings also reduce the overall time to conduct the case. OPUC provided draft language consistent with its recommendation.

Commission response

The commission declines to implement the recommended change because it is unnecessary and ambiguous. The term "paper hearing" is not a defined term and PURA does not require agreement by all of the parties to forgo a hearing. Moreover, §22.201(a) leaves discretion to the commission as to whether a hearing should be held in-person or virtually.

Proposed §22.204 - Transcript and Record

Proposed §22.204 establishes the procedures for preparing, purchasing, correcting, and filing of stenographic records of commission proceedings. The provision also requires such records to include the items specified by the Texas Administrative Procedure Act (APA).

Proposed §22.204(b) - Purchase of Copies

Proposed §22.204(b) establishes that a party may purchase a copy of the transcript from the official reporter.

OPUC recommended that proposed §22.204(b) be revised to require proceeding transcripts to be provided to commission staff and OPUC free of charge upon request. OPUC stated that this addition would help save taxpayer funds. Specifically, the addition would reduce litigation costs for OPUC when representing residential and small commercial customers before the commission. OPUC noted that it is a taxpayer-funded state agency. OPUC provided draft language consistent with its recommendation.

Commission response

The commission declines to implement the recommended change. It is not apparent that the commission has the legal authority to require proceeding transcripts free of charge from a contracted court reporter.

Proposed §22.205 - Briefs

Proposed §22.205 establishes the form requirements for legal briefs filed with the commission, including attachments, tables of contents, and citations to legal authorities that are not readily accessible.

Proposed §§22.205(a), 22.205(a)(1), 22.205(a)(1)(A), and 22.205(a)(1)(B) - Brief formatting requirements

Proposed §22.205(a) requires briefs to, where practicable, conform with the formatting requirements for pleadings under §22.72, relating to Form Requirements for Documents Filed with the Commission. Proposed §22.205(a)(1) requires briefs to not exceed 35 pages including citations without attachments unless the presiding officer or commission counsel provides otherwise. Proposed §22.205(a)(1)(A) permits briefs to include up to an additional 50 pages of attachments, but may not exceed a total of 75 pages with citations and attachments. Proposed §22.205(a)(1)(B) requires briefs in excess of ten pages to contain a table of contents with page numbers stated.

Oncor, LCRA, ETI, and TAWC opposed establishing maximum page limits for briefs in proposed §§22.205(a)(1), 22.205(a)(1)(A), and 22.205(a)(1)(B). Commenters emphasized that the benefits of page limits would be outweighed by the costs of limiting discussion in commission proceedings with an expansive evidentiary record that are highly contested. Oncor and LCRA recommended that any page limit should be established by the presiding officer or commission counsel on a case-by-case basis. Oncor and LCRA specifically recommended proposed §22.205(a)(1) and §22.205(a)(1)(A) be deleted but did not oppose retaining the table of contents requirement under proposed §22.205(a)(1)(B). Oncor further recommended that if the presiding officer declines to address briefing page limits, then the default should be that there are no page limitations for briefs in that case. Oncor stated that otherwise the rule may result in page limits that are inadequate for some proceedings or may otherwise incentivize unnecessarily longer briefs in other proceedings that do not warrant it. Oncor emphasized that providing a page limit for briefs in commission rules is unnecessary and that any page limit should be based on case-specific criteria that influence the appropriate level of content such as the number of parties, the number of contested issues, and whether those issues are based in law or fact. LCRA emphasized that fixed page limits are arbitrary and impractical in complex, multi-issue proceedings where the applicant bears the burden of proof. LCRA stated that in multi-issue proceedings, initial and reply briefs frequently exceed 100 pages due to the number and complexity of issues, the volume of evidence, and "the [APA] requirement to present a reasoned analysis that supports agency decision-making and withstands judicial review." LCRA noted that the page count for reply briefs is particularly difficult because of the uncertainty inherent to such filings. Specifically, reply briefs are dependent "upon the arguments, authorities, and factual assertions raised by other parties, as well as the number of intervenors and the breadth of issues they inject into the case." LCRA stated that prescribing brief page limitations by rule risks "the clarity and completeness of party submissions" that weakens the development of a "robust and defensible administrative record" and may lead to further unnecessary litigation due to the exclusion or oversimplification of issues. LCRA remarked that current commission rules and the presiding officer's authority to manage proceedings are already sufficient to ensure that briefs are of a sufficient length without risking administrative efficiency. LCRA provided draft language consistent with its recommendation. ETI recommended that if the commission imposes a page limit,

then proposed §22.205(a)(1) should be revised to state that the page limit should be no less than 50 pages. ETI noted that utilities frequently request good cause exceptions to the existing rule provision that limits briefs to 50 pages. TAWC recommended that exceeding the page limit should be allowed for good cause or otherwise the rule should allow briefs to exceed 35 pages if they include attachments and citations. TAWC provided draft language consistent with its recommendation.

Commission response

The commission agrees with commenters and omits the page limits for briefs under §22.205(a)(1) and §22.205(a)(1)(A) and restructures the provision accordingly. The commission has general authority under §22.72(f) to establish different page limits in any proceeding if necessary. Section 22.71(f) also authorizes commission counsel or the presiding officer to establish page limits for filings in a proceeding with an assigned tariff or docket control number.

Oncor recommended that if the page limit requirement is preserved, then proposed §22.205(a)(1)(A) should be revised to increase the maximum page limits authorizing the presiding officer to modify the page limits for attachments. Oncor observed that the proposed page limits are insufficient for many cases, such as rate proceedings, and that the proposed language only contemplates the presiding officer modifying the page limits for briefs, not the attachments. OPUC similarly recommended that the page limits not apply to cover pages, tables of contents, signature pages or certificates of service. OPUC stated the additional language would provide a clear standard as to what is and is not included in the page limits for briefs and promote administrative efficiency as it establishes clear expectations that would assist parties or intervenors that are unfamiliar with commission or SOAH proceedings. OPUC noted that its proposed language is similar to the language utilized by the Texas Rules of Appellate Procedure. OPUC provided draft language consistent with its recommendation.

Commission response

The commission agrees with Oncor and OPUC but declines to implement the recommended changes because they are moot. As stated previously, the commission omits the page limits for briefs under §22.205(a)(1) and §22.205(a)(1)(A).

New §22.205(c)

OPUC recommended that new §22.205(c) be added to the rule that would authorize a party to move to extend the page limit for briefs. The new provision would require the presiding officer to rule on the motion within five days of the filing, otherwise the request would be deemed granted. OPUC stated the five-day deadline for the presiding officer to rule on the motion would provide certainty to parties as to whether their motion has been granted and therefore ensure that their filed briefs comply with the appropriate page limit requirements. OPUC further remarked that its proposed language is similar to the Texas Rules of Appellate Procedure. OPUC provided draft language consistent with its recommendation.

Commission response

The commission declines to add the recommended provision because it is moot. As stated previously, the commission omits the page limits for briefs under §22.205(a)(1) and §22.205(a)(1)(A).

Proposed §22.207 - Referral to State Office of Administrative Hearings

Proposed §22.207 establishes the procedure and requirements associated with the commission's referral of contested case proceedings to the utility division of SOAH.

Proposed §22.207(a) and §22.207(a)(1) - Prehearing conferences and hearings held by SOAH

Proposed §22.207(a) establishes that the utility division of SOAH will conduct prehearing conferences and hearings related to contested cases before the commission, other than a prehearing conference conducted by a commission administrative law judge or a hearing conducted by one or more commissioners. Proposed §22.207(a)(1) establishes that the commission will provide to the SOAH administrative law judge a list of issues or areas that must be addressed.

Oncor and LCRA opposed the deletion of the phrase "at the time SOAH receives jurisdiction of a proceeding" from proposed §22.207(a)(1) and recommended it be retained. Oncor and LCRA explained that the deletion of the phrase would leave the timing for providing the list of issues to SOAH open-ended and therefore delay the issuance of preliminary orders. In turn, this would increase the time between final resolution at SOAH and the commission's final order. Oncor and LCRA emphasized the importance of timely referring and scoping commission proceedings to SOAH to ensure all relevant issues are promptly addressed. LCRA further stressed the importance of proper timing to ensure statutory deadlines are met and material issues are addressed, particularly in complex and multi-party cases where even short delays can have cascading negative effects. LCRA stated that preserving the existing language provides clarity and helps avoid disputes over scoping by ensuring a list of issues is provided to SOAH contemporaneously with referral. LCRA provided draft language consistent with its recommendation.

Commission response

The commission declines to implement the recommended changes. Preliminary orders are not always filed at the time SOAH receives jurisdiction of a commission matter. Moreover, supplemental preliminary orders are often filed long after the case has been referred to SOAH. For clarity, the commission revises §22.207(a)(1) to reflect that the commission will issue a preliminary order at the time of referral or as soon as is reasonably practicable thereafter.

Proposed §22.207(b) - Jurisdictional deadlines

Proposed §22.207(b) authorizes the commission to specify the length of time prior to the expiration of a jurisdictional deadline by which the SOAH administrative law judge will issue a proposal for decision to give the commission sufficient time to consider a proposal for decision.

OPUC recommended proposed §22.207(b) be revised to state that the commission will direct SOAH to issue a proposal for decision (PFD) within 30 days from the close of the evidentiary record in expedited proceedings. OPUC defined expedited proceedings as (1) proceedings with a deadline of 100 days or less from the start of the proceeding or (2) proceedings with a deadline that begins when an application is deemed administratively complete. OPUC commented that currently, SOAH administrative law judges have indicated "that in any contested case, the ALJ needs 60 days from the date the evidentiary record closes to issue a proposal for decision." However, in certain proceedings, the time allotted by statute for those proceedings is "consumed by the days given to SOAH to issue the PFD, eroding the ef-

fectiveness and participatory rights of intervenors and weakening the efficacy of their review of the application." OPUC maintained that, for expedited proceedings, the 60-day timeline imposed by SOAH is "inappropriate and robs parties of the ability to fully litigate their case." OPUC further stated that SOAH's 60-day timeline is not authorized by statute. Therefore, the commission should require SOAH to issue a PFD in expedited proceedings within 30 days. OPUC provided draft language consistent with its recommendation.

Commission response

The commission acknowledges OPUC's concerns but declines to implement the recommended change because it is out of scope.

Proposed §22.221 - Rules of Evidence in Contested Cases

Proposed §22.221 establishes the rules of evidence in contested cases before the commission, including the applicability of the Texas Rules of Evidence, rules of privileges and exemption recognized by Texas law, objections, formal exceptions, and public comment.

New §22.221(f)

OPUC recommended new §22.221(f) be added that would require statements of position filed under §22.124(a)(1) will be included as part of the evidentiary record. OPUC maintained that prefiled direct testimony and statements of position are the two main avenues for pro se residential intervenors to meaningfully participate in commission proceedings. OPUC commented that statements of position should be included in the evidentiary record despite some statements of position having been historically "excluded from the evidentiary record as they are not open to cross-examination." OPUC explained that statements of position are not meant to be testimony open for cross-examination and instead allow individual ratepayers to present their position to the presiding officer and meaningfully participate in commission proceedings. OPUC provided draft language consistent with its recommendation.

Commission response

The commission declines to implement the recommended change. If a party wishes for a statement of position to be part of the evidentiary record, the party may move for its admission, and other parties may object as appropriate. Statements of position should not be provided an elevated status as automatic evidence over other forms of evidence in a proceeding. Additionally, other parties do not have the opportunity to rebut or respond to statements of position given their short filing deadline. The proposed revision would effectively function as a workaround to filing testimony and would allow testimony to avoid rebuttal testimony from being filed against their position.

Proposed §22.225 - Written Testimony and Accompanying Exhibits

Proposed §22.225 establishes the form, procedural, and timing requirements associated with the filing of written testimony and exhibits with the commission, including the prefiling of testimony, exhibits, objections, and rebuttal testimony. The provision also establishes requirements associated with the supplementation, tender and service, and withdrawal of such filings.

Proposed §22.225(a) and §22.225(a)(1) - Prefiling of testimony, exhibits, and objections; Prefiling of witness and deposition testimony and discovery responses

Proposed §22.225(a) establishes the requirements associated with the prefiling of testimony, exhibits, and objections. Proposed §22.225(a)(1) requires that written direct and rebuttal testimony and accompanying exhibits of each witness must be prefiled unless otherwise ordered by the presiding officer upon a showing of good cause. The provision further requires deposition testimony and responses to requests for information by an opposing party that an intervenor or commission staff plans to introduce as part of its direct case must be filed at the time the intervenor or commission staff files its written direct testimony.

Oncor requested clarification on the rationale behind replacing the phrase "a party" with the phrase "intervenor or commission staff" and noted that the impact of the proposed change is unclear. Oncor stated that presumably an applicant is still permitted, but nor required to, "attach pertinent discovery responses or deposition testimony to its direct testimony." Oncor requested that if that is not the intention of the proposed language, then the commission provide clarity on the meaning and rationale of the proposed change. Oncor recommended that all parties be permitted to attach deposition testimony and discovery responses to their testimony. Oncor noted that there are some proceedings where the applicant who is a party to the case, but not necessarily an intervenor or commission staff, files its direct testimony with its application at the outset "such that the applicant would not have any discovery responses or deposition testimony from that proceeding to attach to its direct testimony." However, Oncor indicated there are other proceedings where an applicant seeking relief will not file its direct testimony until later in the proceeding where discovery could potentially occur if necessary. Oncor presumed that in such proceedings, an applicant would still be permitted, but not be required, to attach any relevant discovery responses or deposition testimony to its direct testimony despite the proposed rule change.

Commission response

The intention of the change was to reflect the fact that applicants or petitioners must file their direct testimony prior to discovery. However, the commission agrees with Oncor that the proposed language could cause confusion and therefore reverts to the original language. Specifically, both references to "intervenor or commission staff" in §22.225(a)(1) are revised back to "party."

Proposed §22.225(a)(2) - Cross-examination documents

Proposed §22.225(a)(2) establishes that a party is not required to prefile documents intended for use during cross-examination except that the presiding officer may require parties to identify documents that may be used during cross examination if necessary for the orderly conduct of the hearing.

Oncor opposed the deletion of §22.225(a)(2) and recommended the language be preserved "to promote judicial economy." Oncor explained that preserving the language would allow the presiding officer and all other parties to the proceeding to be contemporaneously aware of and able to review all material supporting rebuttal testimony in the same place. Oncor emphasized if the commission maintains the proposed changes to §22.225(a)(1), then there is a need to require parties, or at least intervenors and commission staff, "to file such deposition testimony and RFI responses supporting rebuttal testimony at the same time the rebuttal testimony is filed.

Commission response

The commission agrees with Oncor and preserves existing §22.225(a)(2) in the adopted rule. The commission also renumbers the following paragraphs as appropriate.

Proposed §22.225(a)(5) and §22.225(a)(5)(B) - Prefiled testimony schedule for major rate proceedings

Proposed §22.225(a)(5) establishes the requirements for the prefiled testimony schedule in a major rate proceeding. Proposed §22.225(a)(5)(B) requires other parties in the proceeding to prefile written testimony and exhibits according to the schedule set forth by the presiding officer. The provision also establishes that commission staff representing the public interest may not be required to file earlier than seven days prior to a hearing except for good cause shown or upon agreement of the parties.

LCRA recommended that language in proposed §22.225(a)(5)(B) that authorizes commission staff to file prefiled testimony as late as seven days before a hearing should be deleted. LCRA stated such an authorization does not conform to current standard practice and is disruptive to the "orderly processing of contested cases." LCRA indicated that typically procedural schedules require commission staff to submit testimony after receipt of direct testimony from intervenors but in advance of a hearing. This timeline provides sufficient time for applicants to prepare rebuttal testimony, for parties to file objections to rebuttal testimony, and applicants to file responses to such objections as well as any prehearing submissions. LCRA commented that a presumptive floor that commission staff "cannot be required to file earlier than seven days before hearing compresses or displaces downstream deadlines, risks prejudice to other parties and is inconsistent with schedules needed to develop a fair and complete record." LCRA provided draft language consistent with its recommendation.

Commission response

The commission declines to implement the recommended change. Generally, parties are directed by SOAH to confer and agree on a procedural schedule which includes testimony deadlines which renders LCRA's concerns moot in most instances. In specific cases, such as complaints or proceedings with a high level of pro se intervenors, commission staff may need to submit testimony later in the proceeding as part of its role in representing the public interest. In such instances, the good cause exception to the filing deadline is appropriate to ensure commission staff has flexibility in fulfilling that role.

OPUC recommended proposed §22.225(a)(5)(B) be revised to make explicit that prefiled written testimony and exhibits must be filed in accordance with §22.225. OPUC further recommended that staff's deadline to file prefiled written testimony and exhibits be extended from seven days to 14 days prior to a hearing. OPUC stated the extended time period provides other parties "sufficient time to review the evidence, assess the arguments in the testimony, and prepare for questions for and rebuttal to the testimony." OPUC provided draft language consistent with its recommendation.

Commission response

The commission declines to implement the recommended change. As stated previously, the seven-day deadline is necessary to ensure commission staff has flexibility in fulfilling its role representing the public interest. Moreover, in most case testimony deadlines operate according to a procedural schedule set by the presiding officer, so the default schedule is unlikely to apply except in specific situations.

Proposed §22.225(a)(5)(C) - Scheduling of rebuttal testimony

Proposed §22.225(a)(5)(C) provides that the presiding officer will establish dates for filing of rebuttal testimony.

OPUC recommended proposed §22.225(a)(5)(C) be revised to require the presiding officer to establish dates for intervenor and commission staff to file direct testimony in addition to the parties to file rebuttal testimony. OPUC stated that by providing explicit direction to intervenors and commission staff in the rule, it would provide clarity to the provision and facilitate the timely filing of testimony, particularly when the case involves pro se intervenors. OPUC provided draft language consistent with its recommendation.

Commission response

The commission declines to implement the recommended change because it is unnecessary. Specifically, §22.225(a)(6)(C) establishes that the presiding officer will establish dates for filing rebuttal testimony.

Proposed §22.225(a)(6) - New electric transmission facility certificate of convenience and necessity (CCN) applications

Proposed §22.225(a)(6) requires utilities filing a CCN application or CCN amendment for a new electric transmission facility to file written testimony and exhibits supporting its direct case on the same date that the application is filed with the commission.

TAWC recommended proposed §22.225(a)(6) be revised to explicitly state that the provision only applies to electric CCN cases because prefiled testimony is not required for water or sewer CCN applications. TAWC explained that neither Chapter 13 of the Texas Water Code, commission rules, nor the water or sewer CCN application form require such filings with an application. TAWC commented that this practice should continue and therefore the rule should explicitly exclude water or sewer CCN cases from such a requirement.

Commission response

The commission declines to implement the recommended change because it is unnecessary. Specifically, §22.225(a)(7) already explicitly applies to a new electric transmission facility and is therefore unrelated to CCNs under Chapter 13 of the Texas Water Code.

New §22.225(a)(10) and §22.225(a)(11)

OPUC recommended adding new §22.225(a)(10) which would require Class A, B, and C water and sewer utilities to file written testimony and exhibits supporting their direct cases on the same date a statement of intent to change rates is filed with the commission. The provision would also require the presiding officer to establish a prefiled testimony schedule. OPUC indicated that the revision would address ambiguity in commission rules, help make prefiled testimony more comprehensive and promote efficient commission review of the rate application. OPUC similarly recommended adding new §22.225(a)(11) to "close a potential loophole in the phrasing of TWC § 13.187 resulting from Senate Bill 740" from the 89th Legislative Session. The revision would require an applicant water or sewer utility to file written testimony and exhibits supporting its direct case on the same date it files its system improvement charge (SIC) application with the commission. OPUC stated the addition of its recommended provision would enable SIC applications to be processed on the expedited

timeline as specified by the Legislature. OPUC noted that if its proposed revision concerning "major rate proceeding" is adopted in Project No. 58400 concerning the definition of "major rate proceeding" then this change is unnecessary. OPUC provided draft language consistent with its recommendations.

Commission response

The commission declines to implement the recommended change because it is out of scope. OPUC's proposed language represents a significant and substantive change to current practice in water and sewer rate proceedings that would necessitate further review by the commission and comment by interested stakeholders. Moreover, a SIC is an interim and expedited rate proceeding for which a statement of intent to change rates is not required under existing §24.76, relating to System Improvement Charge. Additionally, revisions to §24.76 to implement Senate Bill 740 are currently being implemented in Project No. 58391. The commission further notes that OPUC's proposed revision for the term "major rate proceeding" under §22.2(25), relating to Definitions, was not implemented in Project No. 58400.

New §22.225(a)(12)

OPUC recommended new §22.225(a)(12) be added, which would require non-ERCOT utilities to file written testimony and exhibits on the same date they file a CCN application to add transmission or generation infrastructure. OPUC stated the revision would mirror the proposed requirement for ERCOT utilities to do the same. OPUC maintained that the new provision would help ensure ratepayers inside and outside of ERCOT have the capability to fully participate in utility proceedings.

Commission response

The commission declines to implement the recommended change because it is out of scope. OPUC's proposed language represents a significant and substantive change to the proposed rule that would necessitate further review by the commission and comment by interested stakeholders, particularly the non-ERCOT utilities.

Proposed §22.225(b) - Admission of prefiled testimony

Proposed §22.225(b) establishes the general requirements applicable to the admission of prefiled testimony with the commission.

TAWC recommended proposed §22.225(b) be revised to authorize SOAH ALJs to admit prefiled testimony without having witnesses appear to swear to their testimony. TAWC stated that in some instances SOAH ALJs have elected to admit all prefiled testimonies and exhibits prior to presentation of a party's case and witnesses for cross-examination in a hearing on the merits. Therefore, the rule should codify this practice for administrative efficiency. TAWC provided draft language consistent with its recommendation.

Commission response

The commission agrees with TAWC and implements the recommended change.

Proposed §22.244 - Review of Municipal Electric Rate Actions

Proposed §22.244 establishes the requirements for petitions for commission review of municipal electric rate actions.

Proposed §22.244(a) and §22.244(a)(2) - Contents of petition and contact information

Proposed §22.244(a) establishes the minimum requirements for petitions for commission review of municipal electric rate actions filed under PURA §33.052 or §§33.101 - 33.104, in addition to any information required by statute. Proposed §22.244(a)(2) provides the list of contact information each signatory to the petition must provide including name, telephone number, address, and facsimile transmission number (i.e., fax number), if available.

OPUC recommended fax numbers be maintained as a method of contact for petitions for review of municipal rate actions under proposed §22.244(a)(2). OPUC also recommended proposed §22.244(a)(2) be revised to add e-mail as a method of communication. OPUC stated that some members of the public may still use fax numbers. Therefore, to maximize public participation, both methods of communication should be reflected in the adopted rule.

Commission response

The commission adopts OPUC's proposed language with slight modifications. Specifically, the commission revises the provision to require "[t]he printed or typed name, telephone number, street or rural route address, and if available, the e-mail address and facsimile transmission number of each signatory…." The revision is to ensure that the inclusion of a signatory's e-mail address or fax number is optional for purposes of the petition if such information is unavailable.

Proposed §22.246 - Administrative Penalties

Proposed §22.246 addresses enforcement actions related to the assessment of administrative penalties by the commission or the disgorgement of excess revenues by order of the commission.

Proposed §22.246(f), §22.246(f)(2), and §22.246(f)(2) - Report of violation or continuing violation

Proposed §22.246(f) authorizes the executive director to issue a report if the executive director determines that a violation or a continuing violation has occurred based on the investigation undertaken in accordance with §22.246(e). Proposed §22.246(f)(2) establishes the requirements for notices of reports issued by the executive director. Proposed §22.246(f)(2)(A) provides that the executive director will give written notice of the report to the person who is alleged to have committed the violation or continuing violation which is the subject of the report within 14 days after the report is issued. The provision also requires the notice to be given by regular, certified mail, or email to the mailing address or email address maintained in the commission's records. The provision alternatively provides that if no such addresses exist, the executive director or executive director's designee will make reasonable efforts to notify the person who is alleged to have committed the violation.

TAWC recommended proposed §22.246(f)(2) be revised to provide clarity on how water and sewer utilities, as well as other "person, can update their contact information to ensure the commission maintains their correct mailing or e-mail address. TAWC stated the proposed revision would help prevent notices of violation or continuing violation to be sent to an incorrect mailing address or e-mail.

Commission response

The commission declines to implement the recommended change because it is out of scope. Addressing how utilities or other regulated entities provide up-to-date contact information to the commission is better suited for the commission's substantive

rules, not procedural rules. The commission's substantive rules contain entity-specific requirements to update registrations, certifications, and other information with the commission.

Proposed §22.246(k) - Distribution of Disgorged Excess Revenues

Proposed §22.246(k) establishes the requirement for the disgorgement and remittance of excess revenues to an independent organization established under PURA §39.151, and the distribution of such excess revenues by the independent organization. Specifically, the provision requires the independent organization to distribute the excess revenue to affected wholesale electric market participants in proportion to their load during the intervals when the violation occurred to be used to reduce costs or fees incurred by retail electric customers. The provision also establishes that the commission may require the independent organization to distribute the excess revenue to affected wholesale market participants using a different distribution method in the same proceeding or may direct commission staff to open a subsequent proceeding to address those issues if the commission determines other wholesale electric market participants are affected or a different distribution method is appropriate.

OPUC recommended that proposed §22.246(k) be revised to extend the penalty to disgorge excess revenues to non-ERCOT utilities. OPUC stated that the proposed language would deprive ratepayers outside of ERCOT access to this remedy since the rule does not explicitly apply it to non-ERCOT utilities.

Commission response

The commission declines to implement the recommended change because it is out of scope. OPUC's proposed language represents a significant and substantive change to current enforcement practice that would necessitate further review by the commission and comment by interested stakeholders, particularly the non-ERCOT utilities. Moreover, it is unclear whether a provision that was originally designed to address the ERCOT wholesale market would be appropriate to apply to vertically integrated utilities without further investigation.

Proposed §22.261 - Proposals for Decision

Proposed §22.261 establishes the form and content requirements for proposals for decision in contested cases.

Proposed §22.261(a) - Requirement and Content of Proposal for Decision

Proposed §22.261(a) requires that a proposal for decision be served on all parties before the issuance of a final order that is adverse to any party other than the commission if a majority of the commissioners have not heard the case or read the record. The provision also establishes that the proposal for decision will be prepared by the presiding officer that conducted the hearing or that has read the record. The provision further requires a proposal for decision to include a proposed final order, a statement of the reasons for the proposed decision, and proposed findings of fact and conclusions of law in support of the proposed final order. The provision also establishes requirements applicable to filing exceptions to the proposal for decision and the supplementation, amendment, or correction of a proposal for decision.

Oncor recommended proposed §22.261(a) or other rule be revised to expressly authorize the commissioners to delegate authority to a subset of commissioners to hold and preside over a hearing. Oncor further recommended that the rule language should require the presiding commissioner to prepare a proposal for decision which must be then served on all parties and considered by all commissioners that were not recused from the case. Oncor commented that the addition would provide clarity on this practice and acknowledge that it is statutorily authorized under PURA §14.053(a). Moreover, Oncor indicated that adding such language would help provide guidance to stakeholders where some--but not all--commissioners may preside over an evidentiary hearing, but all commissioners will ultimately consider the proposal for decision and make a final determination in the case.

Commission response

The commission declines to implement the recommended change because it is out of scope. Oncor's proposed language represents a significant and substantive change to current commission open meeting practice that would necessitate further review by the commission and comment by interested stakeholders.

OPUC recommended proposed §22.261(a) be revised to require proposals for decision for expedited proceedings be issued within 30 days from the close of the record. OPUC defined "expedited proceedings" as commission proceedings where statute or rule requires the issuance of a commission decision either within 100 days from the date of filing or 100 days from the date an application is deemed administratively complete. OPUC stated that SOAH has imposed a 60-day deadline from the close of the evidentiary record to submit a proposal for decision for all commission proceedings. OPUC indicated that this 60-day timeline only provides parties and intervenors 40 days to litigate a case, which is generally inadequate in complex and detailed proceedings such as rate proceedings. OPUC commented that this is 60-day timeline imposed by SOAH is neither supported nor authorized by statute. OPUC cross-referenced its proposed revisions to §22.207 on this same issue and provided draft language consistent with its recommendation. OPUC also recommended the provision specify that "[a]ny party may file exceptions or replies to the proposed decision…" for completeness.

Commission response

The commission declines to implement the recommended change because it is out of scope. Further review is needed to evaluate OPUC's proposal with the requirements of the APA. It is unclear whether and to what extent the commission can require SOAH to meet commission-prescribed deadlines when statutory deadlines are also implicated.

Proposed §22.262 - Commission Action After a Proposal for Decision

Proposed §22.262 establishes the general authority and procedures associated with commission action after a proposal for decision has been issued.

Proposed §22.262(d) and §22.262(d)(3) - Oral Argument Before the Commission

Proposed §22.262(d) prescribes the requirements for oral argument before the commission. Proposed §22.262(d)(3) requires a request for oral argument to be filed as a separate written pleading no later than 5:00 p.m. seven days before the open meeting at which the commission is scheduled to consider the case.

Oncor and ETI opposed revising the filing deadline for oral argument from 3:00 p.m. to 5:00 p.m. seven days prior to the Open Meeting where the case will be considered under proposed §22.262(d)(3). Oncor and ETI expressed concern that

this change conflicts with the current standard filing deadline used by the commission for pleadings and other filings, including the deadline for serving RFIs that are deemed to have been received on the same day. Therefore, the 3:00 p.m. deadline should be retained for consistency. ETI further stated the inconsistency may lead to confusion among pro se litigants.

Commission response

The commission declines to implement the recommended change because it is inconsistent with other revisions, such as those made in §22.71 in Project No. 52059 or §22.144 in Project No. 58401. Those amendments represent a policy choice by the commission to change deadlines for filing and discovery from 3:00 p.m. to 5:00 p.m. across the procedural rules. The commission also revises the provision to refer to "Central Prevailing Time" to be consistent with such other changes.

Proposed §22.264 - Rehearing

Proposed §22.264 establishes the requirements for motions for rehearing, replies to motion for rehearing, and commission action on motions for rehearing.

Proposed §22.264(f) - Procedure for extended commission time to act on a motion for rehearing.

Proposed §22.264(f) establishes that the Office of Policy and Docket Management must send separate ballots to each commissioner to determine whether they will consider the motion for rehearing at a subsequent open meeting if the commission extends time to act on a motion for rehearing. The provision also requires an affirmative vote by one commissioner to place the motion for rehearing on an open meeting agenda.

LCRA recommended proposed §22.264(f) be revised to specify that "the Office of Policy and Docket Management must send separate ballots" to be consistent with §22.264(e).

Commission response

The commission agrees with LCRA and implements the recommended change.

Proposed §22.281 - Initiation of Rulemaking

Proposed §22.281 establishes the requirements associated with the initiation of a rulemaking by the commission, including petitions for rulemaking.

Proposed §22.281(a) and §22.281(a)(1) - Petition for rulemaking and contents of petition for rulemaking.

Proposed §22.281(a) provides that any interested person, as defined by the APA, may petition the commission requesting the adoption of a new rule or the amendment of an existing rule. Proposed §22.281(a)(1) requires a rulemaking petition to be in writing and submitted to a project opened under §22.81(a)(2) for that purpose. The provision also establishes that a petition must include a brief explanation of the rule, each reason the new or amended rule should be adopted, the statutory authority for such a rule or amendment, and complete proposed text for the rule. The provision also established requirements for redline deletions and additions to commission rules included in the petition. The provision further provides that a suggested new rule or rule amendment that does not comply with each of the requirements of §22.281, including any rulemaking suggestion made in a contested case proceeding, will be construed as a policy recommendation and will not be processed as a formal rulemaking petition.

OPUC expressed support to the proposed changes to §22.281 only to the extent that such changes comply with the Texas APA and other statutes referenced by the APA concerning the rulemaking process. TAWC requested clarification on the usage of the term "rulemaking suggestion" under proposed §22.281(a)(1) in the context of a contested case proceeding. Specifically, TAWC inquired as to how that is distinct from a rulemaking petition. TAWC commented that it is unclear as to how a "rulemaking suggestion" may be made within a contested case hearing and also comply with the other specific requirements under §22.281. TAWC noted that conceivably "rulemaking suggestion" could be treated as a policy recommendation regardless of the requirements associated with a rulemaking petition, but if that is the intention then it should be clarified.

Commission response

The commission revises the provision for clarity as recommended by TAWC. Specifically, the commission revises §22.281(a)(1) to add the following sentence: "Any recommendation or request that the commission adopt a new rule or amend or repeal an existing rule that does not comply with the requirements of this section, including any recommendation or request made in a contested case proceeding (e.g., an argument by a party to a contested case that the commission should conduct a rulemaking before addressing a contested issue), will be construed as a policy recommendation and will not be processed as a petition for rulemaking under the APA and this section."

Existing §22.281(a)(2) - Publication of rulemaking petitions with the Texas Register

Existing §22.281(a)(2) concerned the filing of rulemaking notices with the Texas Register and the associated public comment period in response to petitions for rulemaking. Specifically, the provision required the commission to submit a notice for publication in the "In Addition" section of the *Texas Register* upon receipt of a petition for rulemaking. The provision required the notice to include a summary of the petition, the name of the person that submitted the petition, and notification that a copy of the petition will be available for review and copying in the commission's central records. The provision further established that comments on the petition are due 21 days from the date of publication of the notice and that failure to publish a notice of a petition for rulemaking in the *Texas Register* does not invalidate any commission action on the petition for rulemaking.

LCRA opposed the deletion of §22.281(a)(2) and recommended it be preserved to avoid conflict with statute. LCRA stated that the existing provision details the Texas Register notice requirements for rulemakings specified under the APA. Specifically, §2001.023 of the Texas Government Code which requires Texas state agencies to file notice of proposed rules with the Texas Secretary of State so that they may be published in the *Texas Register*. LCRA maintained that the commission must continue to comply with this requirement unless and until the APA is amended to state otherwise. LCRA provided draft language consistent with its recommendation.

Commission response

The commission disagrees with LCRA and declines to implement the recommended change. Section 2001.023 of the APA addresses when an agency must provide notice of a proposed rule, not a rulemaking petition. Section 2001.021 of the APA, which addresses rulemaking petitions, authorizes an interested person to request the adoption of a rule. Under

Section 2001.021, a state agency must establish the form for a petition for rulemaking and the procedure for its submission. The section also establishes a 60 day deadline for the agency to act on the petition. The commission declines to retain Texas Register notice for rulemaking petitions because it is administratively burdensome to align open meeting schedules and *Texas Register* publication within the narrow statutory timeframe that the commission has to decide on rulemaking petitions. Instead, §22.281(a)(1) provides for public filing and comment of rulemaking petitions, which is not required by the APA, and consolidates all rulemaking petitions to a single project, which should facilitate more efficient and convenient review of such petitions.

Proposed §22.282 - Notice and Public Participation in Rulemaking Procedures

Proposed §22.282 establishes the requirements for notice and public participation in commission rulemakings, including initial comments, public hearings, staff recommendations, and final adoption.

Proposed §22.282(a) - Initial Comments

Proposed §22.282(a) governs the procedures for the solicitation of comments by the commission or commission staff prior to the publication of a proposed rule or amendment to an existing rule. The provision also establishes a general 30-day comment deadline unless otherwise stated by commission staff and authorizes the commission or commission staff to hold workshops or public hearings on the rulemaking.

TAWC recommended that the deleted language in proposed §22.282(a) concerning the publication of rulemaking notices in the *Texas Register* should be maintained. OPUC similarly recommended that language be retained with the qualifier "to the extent required by the APA." TAWC stated that the proposed revision requiring comment and feedback requests through the commission's filing system may result in some stakeholders not receiving notice of the request for comments. Therefore, the deleted language should be retained. OPUC emphasized that consumers are generally unaware of the commission's filing system, therefore the requirement to publish notice with the Texas Register should be retained. OPUC further commented that the term "commission filing system" be replaced with the phrase "with the commission's central records and on the commission's Interchange" for clarity. OPUC also recommended the reference to comments be revised to refer to "initial comments."

Commission response

The commission disagrees with OPUC and declines to implement the recommended change. Section §22.282(a) applies to informal comments prior to the issuance of a published rule. As such, there are no APA requirements on how the commission publicizes informal discussion drafts or strawman documents. Moreover, the APA generally authorizes Texas state agencies to use informal conferences and advisory committees under §2001.031 of the APA. The commission declines to limit commission staff's flexibility in designing its public engagement strategies during the informal stages of the rulemaking process. However, the commission revises the header and first sentence in §22.282(a) for clarity: "Informal comments. Prior to the publication of a proposed rule or an amendment to an existing rule in the *Texas Register*, the commission or commission staff may solicit comments on the necessity for, scope, or contents of a contemplated rulemaking project."

Proposed §22.282(e) - Staff Recommendation

Proposed §22.282(e) provides that staff's final recommendation will, if practicable, be filed in the rulemaking proceeding at least seven days prior to the date on which the commission is scheduled to consider the matter, unless another date is specified by the commission. The provision further states that the commission may still consider the recommendation or take action in the rulemaking project, even if commission staff does not file its final recommendation at least seven days prior to the date on which the commission is scheduled to consider the matter.

TAWC and ETI opposed the revision to §22.282(e) which would eliminate the mandatory seven-day deadline for commission staff to file its final rulemaking recommendation prior to an open meeting. TAWC and ETI recommended that proposed §22.282(e) be revised to state that commission staff's rulemaking proposals must be filed at least seven days prior to a commission open meeting. TAWC and ETI stated that filing rulemaking proposals earlier would provide affected persons and stakeholders additional time to comment at the open meeting where the proposal will be considered. TAWC and ETI maintained that less than seven days is insufficient time to review commission staff's recommendations and, if necessary, prepare comments.

Commission response

The commission disagrees with TAWC and ETI and declines to implement the recommended change. The seven-day deadline in the existing rule is not required by the APA and the revised provision provides transparency regarding current commission practice. As a practical matter, rulemaking documents are sometimes required to be presented at a commission open meeting regardless of whether commission staff's final recommendation is filed. Like all items scheduled for a duly posted open meeting, a rulemaking adoption order will be posted in full compliance with the Open Meetings Act, so interested persons will know in advance of when a rulemaking is scheduled to be filed. Commission staff will endeavor to meet the seven-day deadline for preview drafts whenever practicable.

Proposed §22.282(g) - Final adoption

Proposed §22.282(g) establishes that, following consideration of comments, the commission will issue an order adopting, adopting as amended, or withdrawing the rule within six months after the date of publication of the proposed rule or the rule is automatically withdrawn. The provision also authorizes commission staff to withdraw a rule on its own motion if necessary to facilitate the expeditious republication of proposed amendments to that rule.

Oncor opposed the inclusion of language in proposed §22.282(g) that would authorize commission staff to withdraw a rule on its own motion if necessary to facilitate the expeditious republication of proposed amendments to that rule and recommended it be deleted. Oncor maintained that the commission may decide to withdraw a proposed rule and replace it with a different proposal at an open meeting. Therefore, it is unnecessary to authorize commission staff to unilaterally withdraw a proposed rule at any time given the predictable cadence of open meetings. Oncor further remarked that there also may be instances where stakeholders are not in agreement with commission staff's position on whether a proposed rule should be withdrawn or substituted with another proposal.

Commission response

The commission omits the proposed language from §22.282(g) because it is unnecessary.

LCRA recommended that proposed §22.282(g) be revised to replace the term "rule" with the phrase "proposed rule." Oncor made the same recommendation as an alternative if the proposed revision is maintained. LCRA stated this revision is necessary to clarify that commission staff may not withdraw a rule formally adopted by the commission. LCRA commented that the proposed revision aligns with standard rulemaking procedures and helps avoid confusion regarding the status of rules already adopted by the commission. LCRA provided draft language consistent with its recommendation.

Commission response

The commission declines to implement the recommended change because it is moot. Specifically, the sentence concerning withdrawal of a rule from §22.282(g) is omitted from the adopted rule.

SUBCHAPTER K. HEARINGS

16 TAC §§22.201, 22.204, 22.205, 22.207

The amended rules are adopted under the following provisions of PURA and the Texas Water Code: PURA §14.001 and Texas Water Code §13.041(a), which provides 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 PURA that is necessary and convenient to the exercise of that power and jurisdiction; PURA §14.002 and Texas Water Code §13.041(b), which provides the commission with the authority to make adopt and enforce rules reasonably required in the exercise of its powers and jurisdiction; PURA §14.052 and Texas Water Code §13.041(b), which requires the commission to adopt and enforce rules governing practice and procedure before the commission and SOAH. The amended rules are also adopted under the following provisions of PURA: PURA §12.201 which requires the commission to prepare and publicize information of public interest describing the functions of the commission and the commission's procedures by which a complaint is filed with and resolved by the commission and requires the commission to, by rule, establish methods by which consumers and service recipients are notified of the name, mailing address, and telephone number of the commission for the purpose of directing complaints to the commission; PURA §15.023, which provides the commission with the authority to assess and impose an administrative penalty against a regulated person that violates PURA, or a rule or order adopted by the commission in accordance with PURA; PURA §15.051 which authorizes an affected person to complain to the regulatory in writing by a public utility in violation or claimed violation of a law that the regulatory authority has jurisdiction to administer or of an order, ordinance, or rule of the regulatory authority, and requires the commission to, for a reasonable period preserve information about each complaint filed with the commission that the commission has authority to resolve; PURA §17.157 which authorizes the commission to resolve disputes between a retail customer and a billing utility, service provider, telecommunications utility, retail electric provider, or electric utility, including the investigation of alleged violations; PURA Chapter 15, Subchapter B §§15.021-15.033 and Texas Water Code Chapter 13, Subchapter K §§13.411-13.419 which collectively establish the commission' s enforcement authority to enjoin, investigate, or require compliance from a person or entity in violation or alleged violation of statute or commission rules, including the commission's authority to impose and assess administrative penalties; and PURA Chapter 33, Subchapter C §§33.051-33.055 which governs the appeal of municipal ratemaking orders to the commission. The amended rules are also adopted under HB 1600 (83R), SB 567 (83R) and Texas Water Code Chapter 13 which transferred regulatory jurisdiction of the rates, operations, and services of retail public utilities from the Texas Commission on Environmental Quality to the commission and the following provisions of the Texas Government Code: Texas Government Code §§2001.004-007 and Subchapter B §§2001.021-2001.041 which establish general rulemaking requirements and procedures, including notice obligations, for agencies of the State of Texas; Texas Government Code Chapter 2001, Subchapter C §§2001.051-2001.062, which establish minimum standards of uniform practice and procedure for contested cases held at agencies of the State of Texas, including the requirements and procedures for a state agency to examine the record in a contested case and issue proposals for decision; Texas Government Code, Subchapter D § 2001.081-103, which govern the usage of and procedures for evidence, witnesses and discovery for contested cases held at agencies of the State of Texas; Texas Government Code Chapter 2001, Subchapter F §§2001.141-2001.147 which establish the requirements and procedures, including notice obligations, associated with the issuance of final decisions and orders by a state agency in a contested case, including the procedures for prerequisites to appeal and requirements for motions for rehearing.

Cross reference to statutes: Public Utility Regulatory Act §§14.001, 14.002, 14.052, and Texas Water Code §13.041(a) and (b); Public Utility Regulatory Act §§12.201, Chapter 15, Subchapter B 15.021-15.033, 15.051, 17.157; Chapter 33, Subchapter C 33.051-33.055; Texas Water Code Chapter 13, Subchapter K §§13.411-13.419; and HB 1600 (83R), SB 567 (83R) and Texas Water Code Chapter 13; Texas Government Code Chapter 2001, 2001.004-007 and Subchapter B 2001.021-2001.041; Subchapter C 2001.051-2001.062 and Subchapter D 2001.081-103; Subchapter F 2001.141-2001.147.

§22.201. Place and Nature of Hearings.

(a) Commission-held hearings. All commission-held hearings will be held in person and in Austin, Texas unless the commission determines that it is in the public interest to hold a hearing elsewhere or virtually. The presiding officer may, by written order, authorize a pre-hearing conference to be conducted virtually.

(b) Hearings held at SOAH. A pre-hearing conference or hearing held at SOAH, whether in-person or virtual, will be conducted in accordance with commission rules.

§22.205. Briefs.

(a) Briefs must conform, where practicable, to the requirements established for formatting pleadings in this chapter, including requirements for citations in §22.72 (relating to Form Requirements for Documents Filed with the Commission).

(1) Briefs in excess of ten pages must contain a table of contents with page numbers stated.

(2) The presiding officer may require parties to address certain issues or address issues in a specific order or format.

(b) If a legal authority cited in the briefs is not readily accessible, a copy of the legal authority must be provided upon request. Such legal authorities may include slip opinions, unpublished opinions, memorandum opinions, or documents from other jurisdictions that are not readily accessible to the commission.

§22.207. Referral to State Office of Administrative Hearings.

(a) The utility division of SOAH will conduct prehearing conferences and hearings related to contested cases before the commission, other than a prehearing conference conducted by a commission administrative law judge or a hearing conducted by one or more commissioners.

(1) At the time SOAH receives jurisdiction, or as soon as is reasonably practicable thereafter, the commission will provide to the SOAH administrative law judge a list of issues or areas that must be addressed.

(2) At any time, the commission may identify and provide to the SOAH administrative law judge additional issues or areas that must be addressed. The commission will send a request for setting or hearing, or request for assignment of a SOAH administrative law judge to SOAH in sufficient time to allow resolution of the proceeding prior to the expiration of any jurisdictional deadline.

(b) To give the commission sufficient time to consider a proposal for decision, the commission may specify the length of time prior to the expiration of a jurisdictional deadline by which the SOAH administrative law judge will issue a proposal for decision.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on March 13, 2026.

TRD-202601221
Katelyn Lewis
Rules Coordinator
Public Utility Commission of Texas
Effective date: April 2, 2026
Proposal publication date: October 3, 2025
For further information, please call: (512) 936-7044

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SUBCHAPTER L. EVIDENCE AND EXHIBITS IN CONTESTED CASES

16 TAC §§22.221, 22.225, 22.228

The amended rules are adopted under the following provisions of PURA and the Texas Water Code: PURA §14.001 and Texas Water Code §13.041(a), which provides 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 PURA that is necessary and convenient to the exercise of that power and jurisdiction; PURA §14.002 and Texas Water Code §13.041(b), which provides the commission with the authority to make adopt and enforce rules reasonably required in the exercise of its powers and jurisdiction; PURA §14.052 and Texas Water Code §13.041(b), which requires the commission to adopt and enforce rules governing practice and procedure before the commission and SOAH. The amended rules are also adopted under the following provisions of PURA: PURA §12.201 which requires the commission to prepare and publicize information of public interest describing the functions of the commission and the commission's procedures by which a complaint is filed with and resolved by the commission and requires the commission to, by rule, establish methods by which consumers and service recipients are notified of the name, mailing address, and telephone number of the commission for the purpose of directing complaints to the commission; PURA §15.023, which provides the commission with the authority to assess and impose an administrative penalty against a regulated person that violates PURA, or a rule or order adopted by the commission in accordance with PURA; PURA §15.051 which authorizes an affected person to complain to the regulatory in writing by a public utility in violation or claimed violation of a law that the regulatory authority has jurisdiction to administer or of an order, ordinance, or rule of the regulatory authority, and requires the commission to, for a reasonable period preserve information about each complaint filed with the commission that the commission has authority to resolve; PURA §17.157 which authorizes the commission to resolve disputes between a retail customer and a billing utility, service provider, telecommunications utility, retail electric provider, or electric utility, including the investigation of alleged violations; PURA Chapter 15, Subchapter B §§15.021-15.033 and Texas Water Code Chapter 13, Subchapter K §§13.411-13.419 which collectively establish the commission' s enforcement authority to enjoin, investigate, or require compliance from a person or entity in violation or alleged violation of statute or commission rules, including the commission's authority to impose and assess administrative penalties; and PURA Chapter 33, Subchapter C §§33.051-33.055 which governs the appeal of municipal ratemaking orders to the commission. The amended rules are also adopted under HB 1600 (83R), SB 567 (83R) and Texas Water Code Chapter 13 which transferred regulatory jurisdiction of the rates, operations, and services of retail public utilities from the Texas Commission on Environmental Quality to the commission and the following provisions of the Texas Government Code: Texas Government Code §§2001.004-007 and Subchapter B §§2001.021-2001.041 which establish general rulemaking requirements and procedures, including notice obligations, for agencies of the State of Texas; Texas Government Code Chapter 2001, Subchapter C §§2001.051-2001.062, which establish minimum standards of uniform practice and procedure for contested cases held at agencies of the State of Texas, including the requirements and procedures for a state agency to examine the record in a contested case and issue proposals for decision; Texas Government Code, Subchapter D § 2001.081-103, which govern the usage of and procedures for evidence, witnesses and discovery for contested cases held at agencies of the State of Texas; Texas Government Code Chapter 2001, Subchapter F §§2001.141-2001.147 which establish the requirements and procedures, including notice obligations, associated with the issuance of final decisions and orders by a state agency in a contested case, including the procedures for prerequisites to appeal and requirements for motions for rehearing.

Cross reference to statutes: Public Utility Regulatory Act §§14.001, 14.002, 14.052, and Texas Water Code §13.041(a) and (b); Public Utility Regulatory Act §§12.201, Chapter 15, Subchapter B 15.021-15.033, 15.051, 17.157; Chapter 33, Subchapter C 33.051-33.055; Texas Water Code Chapter 13, Subchapter K §§13.411-13.419; and HB 1600 (83R), SB 567 (83R) and Texas Water Code Chapter 13; Texas Government Code Chapter 2001, 2001.004-007 and Subchapter B 2001.021-2001.041; Subchapter C 2001.051-2001.062 and Subchapter D 2001.081-103; Subchapter F 2001.141-2001.147.

§22.225. Written Testimony and Accompanying Exhibits.

(a) Prefiling of testimony, exhibits, and objections.

(1) Unless otherwise ordered by the presiding officer upon a showing of good cause, the written direct and rebuttal testimony and accompanying exhibits of each witness must be prefiled. Deposition testimony and responses to requests for information by an opposing

party that a party plans to introduce as part of its direct case must be filed at the time the party files its written direct testimony.

(2) Deposition testimony and responses to requests for information that a party plans to introduce in support of its rebuttal case shall be filed at the time the party files its written rebuttal testimony.

(3) A party is not required to prefile documents it intends to use during cross-examination except that the presiding officer may require parties to identify documents that may be used during cross examination if it is necessary for the orderly conduct of the hearing.

(4) Objections to prefiled direct or rebuttal testimony and exhibits, including deposition testimony and responses to requests for information, must be filed on dates established by the presiding officer and will be ruled upon before or at the time the prefiled testimony and accompanying exhibits are offered.

(5) Nothing in this section precludes a party from using discovery responses in its direct or rebuttal case even if such responses were not received prior to the applicable deadline for prefiling written testimony and exhibits.

(6) The prefiled testimony schedule in a major rate proceeding must be established as set out in this subsection.

(A) Any utility filing an application to change its rates in a major rate proceeding must file the written testimony and exhibits supporting its direct case on the same date that such statement of intent to change its rates is filed with the commission. As set forth in §22.243(b) of this title (relating to Rate Change Proceedings), the prefiled written testimony and exhibits must be included in the rate filing package filed with the application.

(B) Other parties in the proceeding must prefile written testimony and exhibits according to the schedule set forth by the presiding officer. Except for good cause shown or upon agreement of the parties, commission staff representing the public interest may not be required to file earlier than seven days prior to hearing.

(C) The presiding officer will establish dates for filing of rebuttal testimony.

(7) A utility filing an application for a certificate of convenience and necessity (CCN), or an amendment to a CCN, for a new electric transmission facility must file written testimony and exhibits supporting its direct case on the same date that the application is filed with the commission.

(8) For any contested case that is not a major rate proceeding nor a CCN or CCN amendment proceeding for an electric transmission facility, the applicant is not required to prefile written testimony and exhibits at the time the filing is made unless otherwise required by statute or rule.

(9) The times for prefiling set out in this section may be modified by the presiding officer upon a showing of good cause.

(10) Late-filed testimony may be admitted into evidence if the testimony is necessary for a full disclosure of the facts and admission of the testimony into evidence would not be unduly prejudicial to the legal rights of any party. A party that intends to offer late-filed testimony into evidence must, at the earliest opportunity, inform the presiding officer, who will establish reasonable procedures and deadlines regarding such testimony.

(b) Admission of prefiled testimony. Unless otherwise ordered by the presiding officer, direct and rebuttal testimony must be received in written form. The written testimony of a witness on direct examination or rebuttal, either in narrative or question and answer form, may be received as an exhibit and incorporated into the record without the written testimony being read into the record. Unless otherwise ordered by the presiding officer, a witness who is offering written testimony must be sworn and must be asked whether the written testimony is a true and accurate representation of what the testimony would be if the testimony were to be given orally at the time the written testimony is offered into evidence. The witness must submit to cross-examination, clarifying questions, redirect examination, and recross-examination, unless the right to cross-examine the witness is waived by all parties and accepted by the presiding officer. The presiding officer may allow substitution of a witness or voir dire examination where appropriate. Written testimony is subject to the same evidentiary objections as oral testimony. Timely prefiling of written testimony and exhibits, if required under this section or by order of the presiding officer, is a prerequisite for admission into evidence.

(c) Supplementation of prefiled testimony and exhibits. Oral or written supplementation of prefiled testimony and exhibits may be allowed prior to or during the hearing provided that the witness is available for cross-examination. The presiding officer may exclude such testimony if there is a showing that the supplemental testimony raises new issues or unreasonably deprives opposing parties of the opportunity to respond to the supplemental testimony. The presiding officer may admit the supplemental testimony and grant the parties time to respond.

(d) Tender and service. On or before the date the prefiled written testimony and exhibits are due, parties must file such testimony and exhibits in accordance with the requirements of §22.71 of this title (relating to Commission Filing Requirements and Procedures, or other commission rule or order, of the testimony and exhibits with Central Records and must serve a copy upon each party.

(e) Withdrawal of evidence. Any exhibit offered and admitted in evidence may not be withdrawn except with the agreement of all parties and approval of the presiding officer.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on March 13, 2026.

TRD-202601222
Katelyn Lewis
Rules Coordinator
Public Utility Commission of Texas
Effective date: April 2, 2026
Proposal publication date: October 3, 2025
For further information, please call: (512) 936-7044

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SUBCHAPTER M. PROCEDURES AND FILING REQUIREMENTS IN PARTICULAR COMMISSION PROCEEDINGS

16 TAC §§22.241, 22.244, 22.246

The amended rules are adopted under the following provisions of PURA and the Texas Water Code: PURA §14.001 and Texas Water Code §13.041(a), which provides 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 PURA that is necessary and convenient to the exercise of that power and jurisdiction; PURA §14.002 and Texas Water Code §13.041(b), which provides the commission with the authority to make adopt and enforce rules

reasonably required in the exercise of its powers and jurisdiction; PURA §14.052 and Texas Water Code §13.041(b), which requires the commission to adopt and enforce rules governing practice and procedure before the commission and SOAH. The amended rules are also adopted under the following provisions of PURA: PURA §12.201 which requires the commission to prepare and publicize information of public interest describing the functions of the commission and the commission's procedures by which a complaint is filed with and resolved by the commission and requires the commission to, by rule, establish methods by which consumers and service recipients are notified of the name, mailing address, and telephone number of the commission for the purpose of directing complaints to the commission; PURA §15.023, which provides the commission with the authority to assess and impose an administrative penalty against a regulated person that violates PURA, or a rule or order adopted by the commission in accordance with PURA; PURA §15.051 which authorizes an affected person to complain to the regulatory in writing by a public utility in violation or claimed violation of a law that the regulatory authority has jurisdiction to administer or of an order, ordinance, or rule of the regulatory authority, and requires the commission to, for a reasonable period preserve information about each complaint filed with the commission that the commission has authority to resolve; PURA §17.157 which authorizes the commission to resolve disputes between a retail customer and a billing utility, service provider, telecommunications utility, retail electric provider, or electric utility, including the investigation of alleged violations; PURA Chapter 15, Subchapter B §§15.021-15.033 and Texas Water Code Chapter 13, Subchapter K §§13.411-13.419 which collectively establish the commission' s enforcement authority to enjoin, investigate, or require compliance from a person or entity in violation or alleged violation of statute or commission rules, including the commission's authority to impose and assess administrative penalties; and PURA Chapter 33, Subchapter C §§33.051-33.055 which governs the appeal of municipal ratemaking orders to the commission. The amended rules are also adopted under HB 1600 (83R), SB 567 (83R) and Texas Water Code Chapter 13 which transferred regulatory jurisdiction of the rates, operations, and services of retail public utilities from the Texas Commission on Environmental Quality to the commission and the following provisions of the Texas Government Code: Texas Government Code §§2001.004-007 and Subchapter B §§2001.021-2001.041 which establish general rulemaking requirements and procedures, including notice obligations, for agencies of the State of Texas; Texas Government Code Chapter 2001, Subchapter C §§2001.051-2001.062, which establish minimum standards of uniform practice and procedure for contested cases held at agencies of the State of Texas, including the requirements and procedures for a state agency to examine the record in a contested case and issue proposals for decision; Texas Government Code, Subchapter D § 2001.081-103, which govern the usage of and procedures for evidence, witnesses and discovery for contested cases held at agencies of the State of Texas; Texas Government Code Chapter 2001, Subchapter F §§2001.141-2001.147 which establish the requirements and procedures, including notice obligations, associated with the issuance of final decisions and orders by a state agency in a contested case, including the procedures for prerequisites to appeal and requirements for motions for rehearing.

Cross reference to statutes: Public Utility Regulatory Act §§14.001, 14.002, 14.052, and Texas Water Code §13.041(a) and (b); Public Utility Regulatory Act §§12.201, Chapter 15, Subchapter B 15.021-15.033, 15.051, 17.157; Chapter 33, Subchapter C 33.051-33.055; Texas Water Code Chapter 13, Subchapter K §§13.411-13.419; and HB 1600 (83R), SB 567 (83R) and Texas Water Code Chapter 13; Texas Government Code Chapter 2001, 2001.004-007 and Subchapter B 2001.021-2001.041; Subchapter C 2001.051-2001.062 and Subchapter D 2001.081-103; Subchapter F 2001.141-2001.147.

§22.241. Investigations.

(a) Commission investigations.

(1) The commission may at any time institute formal investigations on its own motion, or the motion of commission staff, into any matter within the commission's jurisdiction. Orders and pleadings initiating investigations will specify the matters to be investigated, and will be served upon the person being investigated.

(2) Notice of commission-instituted investigations of specific persons subject to commission regulation and investigative proceedings affecting such persons as a class will be served upon all affected persons under investigation. The commission will post notice with the Texas Register of prehearing conferences and hearings. The presiding officer may require additional notice.

(b) Show cause orders in complaint proceeding. The presiding officer, either upon his or her own motion or upon receipt of written complaint, may at any time after appropriate notice has been given, summon any person within the commission's jurisdiction to appear in a public hearing and show cause why such person should not be compelled to comply with any applicable statute, rule, regulation, or general order with which the person is allegedly not in compliance. All hearings in such show cause proceedings will be conducted in accordance with the provisions of this chapter.

(c) No limitations. Nothing in this section limits the commission's authority to investigate persons subject to the commission's jurisdiction.

§22.244. Review of Municipal Electric Rate Actions.

(a) Contents of petitions. In addition to any information required by statute, petitions for review of municipal rate actions filed under PURA §33.052 or §§33.101 - 33.104 must contain the original petition for review with the required signatures and following additional information.

(1) Each signature page of a petition must contain in legible form above the signatures the following:

(A) A statement that the petition is an appeal of a specific rate action of the municipality in question;

(B) The date of and a concise description of that rate action;

(C) A statement designating a specific individual, group of individuals, or organization as the signatories' authorized representative; and

(D) A statement that the designated representative is authorized to represent the signatories in all proceedings before the commission and appropriate courts of law and to do all things necessary to represent the signatories in those proceedings.

(2) The printed or typed name, telephone number, street or rural route address, and if available, the email address and facsimile transmission number of each signatory must be provided. Post office box numbers are not sufficient. In appeals relating to PURA §§33.101 - 33.104, the petition must list the address of the location where service is received if the address differs from the residential address of the signatory.

(b) Signatures. A signature must be counted only once, regardless of the number of bills the signatory receives. The signature must be of the person in whose name service is provided or such person's spouse. The signature must be accompanied by a statement indicating whether the signatory is appealing the municipal rate action as a qualified voter of that municipality under PURA §33.052, or as a customer of the municipality served outside the municipal limits under PURA §§33.101 - 33.104.

(c) Validity of petition and correction of deficiencies. The petition must include all of the information required by this section, legibly written, for each signature in order for the signature to be deemed valid. The presiding officer may allow the petitioner a reasonable time of up to 30 days from the date any deficiencies are identified to cure any defects in the petition.

(d) Verification of petition. Unless otherwise provided by order of the presiding officer, the following procedures must be followed to verify petitions appealing municipal rate actions filed under PURA §33.052 and §§33.101 - 33.104.

(1) Within 15 days of the filing of an appeal of a municipal rate action, the Office of Policy and Docket Management must send a copy of the petition to the respondent municipality with a directive that the municipality verify the signatures on the petition.

(2) Within 30 days after receipt of the petition from the Office of Policy and Docket Management, the municipality must file with the commission a statement of review, together with a supporting written affidavit sworn to by a municipal official.

(3) The period for the municipality's review of the signatures on the petition may be extended by the presiding officer for good cause.

(4) Failure of the municipality to timely submit the statement of review must result in all signatures being deemed valid, unless any signature is otherwise shown to be invalid or is invalid on its face.

(5) Objections by the municipality to the authenticity of signatures must be set out in its statement of review and will be resolved by the presiding officer.

(e) Disputes. Any dispute over the sufficiency or legibility of a petition will be resolved by the presiding officer by interim order.

§22.246. Administrative Penalties.

(a) Scope. This section addresses enforcement actions related to administrative penalties or disgorgement of excess revenues only and does not apply to any other enforcement actions that may be undertaken by the commission or commission staff.

(b) Definitions. The following words and terms, when used in this section, have the following meanings unless the context indicates otherwise:

(1) Affected wholesale electric market participant--An entity, including a retail electric provider (REP), municipally owned utility (MOU), or electric cooperative, that sells energy to retail customers and served load during the period of the violation.

(2) Excess revenue--As defined in §25.503 of this title (relating to Oversight of Wholesale Market Participants).

(3) Executive director--The executive director of the commission or the executive director's designee.

(4) Person--Includes a natural person, partnership of two or more persons having a joint or common interest, mutual or cooperative association, and corporation.

(5) Violation--Any activity or conduct prohibited by the Public Utility Regulatory Act (PURA), the Texas Water Code (TWC), commission rule, or commission order.

(6) Continuing violation--Except for a violation of PURA chapter 17, 55, or 64, and commission rules or commission orders adopted or issued under those chapters, any instance in which the person alleged to have committed a violation attests that a violation has been remedied and was accidental or inadvertent and subsequent investigation reveals that the violation has not been remedied or was not accidental or inadvertent.

(c) Amount of administrative penalty for violations of PURA or a rule or order adopted under PURA.

(1) Each day a violation continues or occurs is a separate violation for which an administrative penalty can be levied, regardless of the status of any administrative procedures that are initiated under this subsection.

(2) The administrative penalty for each separate violation of PURA or of a rule or order adopted under PURA may not exceed the limits established by §25.8 of this title (relating to Classification System for Violations of Statutes, Rules, and Orders Applicable to Electric Service Providers).

(3) The amount of the administrative penalty must be based on:

(A) the seriousness of the violation, including the nature, circumstances, extent, and gravity of any prohibited acts, and the hazard or potential hazard created to the health, safety, or economic welfare of the public;

(B) the economic harm to property or the environment caused by the violation;

(C) the history of previous violations;

(D) the amount necessary to deter future violations;

(E) efforts to correct the violation;

(F) adherence to an applicable voluntary mitigation plan approved by the commission under §25.504 of this title (relating to Wholesale Market Power in the Electric Reliability Council of Texas Power Region); and

(G) any other matter that justice may require, including, but not limited to, the respondent's timely compliance with requests for information, completeness of responses, and the manner in which the respondent has cooperated with the commission during the investigation of the alleged violation.

(d) Amount of administrative penalty for violations of the TWC or a rule or order adopted under chapter 13 of the TWC.

(1) Each day a violation continues may be considered a separate violation for which an administrative penalty can be levied, regardless of the status of any administrative procedures that are initiated under this subsection.

(2) The administrative penalty for each separate violation may be in an amount not to exceed $5,000 per day.

(3) The amount of the penalty must be based on:

(A) the nature, circumstances, extent, duration, and gravity of the prohibited acts or omissions;

(B) the degree of culpability, including whether the violation was attributable to mechanical or electrical failures and whether the violation could have been reasonably anticipated and avoided;

(C) the demonstrated good faith, including actions taken by the person, affiliated interest, or entity to correct the cause of the violation;

(D) any economic benefit gained through the violations;

(E) the amount necessary to deter future violations; and

(F) any other matters that justice requires.

(e) Initiation of investigation. Upon receiving an allegation of a violation or of a continuing violation, the executive director will determine whether an investigation should be initiated.

(f) Report of violation or continuing violation. If, based on the investigation undertaken in accordance with subsection (e) of this section, the executive director determines that a violation or a continuing violation has occurred, the executive director may issue a report to the commission.

(1) Contents of the report. The report must state the facts on which the determination is based and a recommendation on the imposition of an administrative penalty, including a recommendation on the amount of the administrative penalty and, if applicable under §25.503 of this title, a recommendation that excess revenue be disgorged.

(2) Notice of report.

(A) Within 14 days after the report is issued, the executive director will give written notice of the report to the person who is alleged to have committed the violation or continuing violation which is the subject of the report. The notice must be given by regular mail, certified mail, or email to the mailing address or email address maintained in the commission's records. If no such addresses exist, the executive director or executive director's designee will make reasonable efforts to notify the person who is alleged to have committed the violation.

(B) For violations of the TWC or a rule or order adopted under chapter 13 of the TWC, within ten days after the report is issued, the executive director will, by certified mail, return receipt requested, give written notice of the report to the person who is alleged to have committed the violation or continuing violation which is the subject of the report.

(C) The notice must include:

(i) a brief summary of the alleged violation or continuing violation;

(ii) a statement of the amount of the recommended administrative penalty;

(iii) a statement recommending disgorgement of excess revenue, if applicable, under §25.503 of this title;

(iv) a statement that the person who is alleged to have committed the violation or continuing violation has a right to a hearing on the occurrence of the violation or continuing violation, the amount of the administrative penalty, or both the occurrence of the violation or continuing violation and the amount of the administrative penalty;

(v) a copy of the report issued to the commission under this subsection; and

(vi) a copy of this section, §22.246 of this title (relating to Administrative Penalties).

(D) If the commission sends written notice to a person by mail addressed to the person's mailing address as maintained in the commission's records, the person is deemed to have received notice:

(i) on the fifth day after the date that the commission sent the written notice, for notice sent by regular mail; or

(ii) on the date the written notice is received or delivery is refused, for notice sent by certified mail.

(g) Options for response to notice of violation or continuing violation.

(1) Opportunity to remedy.

(A) This paragraph does not apply to a violation of PURA chapters 17, 55, or 64; PURA §35.0021 or §38.075; or chapter 13 of the TWC; or of a commission rule or commission order adopted or issued under those chapters or sections.

(B) Within 40 days of the date of receipt of a notice of violation set out in subsection (f)(2) of this section, the person against whom the administrative penalty or disgorgement may be assessed may file with the commission proof that the alleged violation has been remedied and that the alleged violation was accidental or inadvertent. A person who claims to have remedied an alleged violation has the burden of proving to the commission both that an alleged violation was remedied before the 31st day after the date the person received the report of violation and that the alleged violation was accidental or inadvertent. Proof that an alleged violation has been remedied and that the alleged violation was accidental or inadvertent must be evidenced in writing, under oath, and supported by necessary documentation.

(C) If the executive director determines that the alleged violation has been remedied, was remedied within 30 days, and that the alleged violation was accidental or inadvertent, no administrative penalty will be assessed against the person who is alleged to have committed the violation.

(D) If the executive director determines that the alleged violation was not remedied or was not accidental or inadvertent, the executive director will make a determination as to what further proceedings are necessary.

(E) If the executive director determines that the alleged violation is a continuing violation, the executive director will institute further proceedings, including referral of the matter for hearing under subsection (i) of this section.

(2) Payment of administrative penalty, disgorged excess revenue, or both. Within 20 days after the date the person receives the notice set out in subsection (f)(2) of this section, the person may accept the determination and recommended administrative penalty and, if applicable, the recommended excess revenue to be disgorged through a written statement sent to the executive director. If this option is selected, the person must take all corrective action required by the commission. The commission by written order will approve the determination and impose the recommended administrative penalty and, if applicable, recommended disgorged excess revenue or order a hearing on the determination and the recommended penalty.

(3) Request for hearing. Not later than the 20th day after the date the person receives the notice set out in subsection (f)(2) of this section, the person may submit to the executive director a written request for a hearing on any or all of the following:

(A) the occurrence of the violation or continuing violation;

(B) the amount of the administrative penalty; and

(C) the amount of disgorged excess revenue, if applicable.

(4) Failure to respond. If the person fails to timely respond to the notice set out in subsection (f)(2) of this section, the commission by order will approve the determination and impose the recommended penalty or order a hearing on the determination and the recommended penalty.

(5) Opportunity to remedy a weather preparedness violation.

(A) This paragraph applies to a violation of PURA §35.0021, §38.075, or a commission rule or order adopted or issued under those sections.

(B) PURA §15.024(c), as written, does not apply to a violation of PURA §35.0021, §38.075, or a commission rule or order adopted or issued under those sections. This paragraph implements PURA §15.024(c), as modified by PURA §15.023(a), §35.0021(g), and §38.075(d), for violations of PURA §35.0021, §38.075, or a commission rule or order adopted or issued under those sections.

(C) The commission may impose an administrative penalty against an entity regulated under PURA §35.0021 or §38.075 that violates those sections, or a commission rule or order adopted under those sections, except:

(i) the commission will assess a penalty for a violation of PURA §35.0021, §38.075, or a commission rule adopted under those sections if the entity against which the penalty may be assessed does not remedy the violation within a reasonable amount of time; and,

(ii) the commission will not assess a penalty for a violation of PURA §35.0021, §38.075, or a commission rule or order adopted or issued under those sections if the violation was accidental or inadvertent, and the entity against which the penalty may be assessed remedies the violation within a reasonable period of time.

(D) For purposes of this paragraph, the following provisions apply unless a provision conflicts with a commission rule or order adopted under PURA §35.0021 or §38.075, in which case, the commission rule or order applies.

(i) Not all violations to which this paragraph applies can be remedied. Subparagraph (C)(i) and (ii) of this paragraph do not apply to a violation that cannot be remedied.

(ii) For purposes of subparagraph (C)(i) and (ii) of this paragraph, an entity that claims to have remedied an alleged violation and, if applicable, that the alleged violation was accidental or inadvertent has the burden of proving its claim to the commission. Proof that an alleged violation has been remedied and, if applicable, that the alleged violation was accidental or inadvertent must be evidenced in writing, under oath, and supported by necessary documentation.

(iii) An entity that remedies a violation that is discovered during an inspection by the independent organization certified under PURA §39.151 for the ERCOT power region prior to the deadline provided to that entity by the independent organization in accordance with PURA §35.0021 or §38.075 is deemed to have remedied that violation in a reasonable period of time.

(iv) If the independent organization certified under PURA §39.151 has not provided an entity with a deadline, the executive director will determine whether the deadline can be remedied and, if so, the deadline for remedying a violation within a reasonable period of time. The executive director will provide the entity with written notice of the violation and the deadline for remedying the violation within a reasonable period of time. This notice does not constitute notice under subsection (f)(2) of this section unless it fulfills the other requirements of that subsection. However, the provisions of subsection (f)(2)(D) of this section apply to notice under this clause.

(v) The executive director will determine if and when a report should be issued to the commission under subsection (f) of this section and will make a determination as to what further proceedings are necessary.

(vi) If the executive director determines that the alleged violation was not remedied within a reasonable period of time or is a continuing violation, the executive director will issue a report to the commission under subsection (f) of this section and will institute further proceedings, including referral of the matter for hearing under subsection (i) of this section.

(vii) If the commission determines that the deadline for remedying a violation provided by the independent organization certified under PURA §39.151 or determined by the executive director is unreasonable, the commission will determine what the deadline should have been. The commission will use this updated deadline to determine the applicability of subparagraph (C)(i) and (ii) of this paragraph and, if appropriate, as a factor in determining the magnitude of administrative penalty to impose against the entity for the violation.

(h) Settlement conference. A settlement conference may be requested by any party to discuss the occurrence of the violation or continuing violation, the amount of the administrative penalty, disgorged excess revenue if applicable, and the possibility of reaching a settlement prior to hearing. A settlement conference is not subject to the Texas Rules of Evidence or the Texas Rules of Civil Procedure; however, the discussions are subject to Texas Rules of Civil Evidence 408, concerning compromise and offers to compromise.

(1) If a settlement is reached:

(A) the parties must file a report with the executive director setting forth the factual basis for the settlement;

(B) the executive director will issue the report of settlement to the commission; and

(C) the commission by written order will approve the settlement.

(2) If a settlement is reached after the matter has been referred to SOAH, the matter will be returned to the commission. If the settlement is approved, the commission will issue an order memorializing commission approval and setting forth commission orders associated with the settlement agreement.

(i) Hearing. If a person requests a hearing under subsection (g)(3) of this section, or the commission orders a hearing under subsection (g)(4) of this section, the commission will refer the case to SOAH under §22.207 of this title (relating to Referral to State Office of Administrative Hearings) and give notice of the referral to the person. For violations of the TWC or a rule or order adopted under chapter 13 of the TWC, if the person charged with the violation fails to timely respond to the notice, the commission by order will assess the recommended penalty or order a hearing to be held on the findings and recommendations in the report. If the commission orders a hearing, the case will then proceed as set forth in paragraphs (1) - (5) of this subsection.

(1) The commission will provide the SOAH administrative law judge a list of issues or areas that must be addressed.

(2) The hearing must be conducted in accordance with the provisions of this chapter and notice of the hearing must be provided in accordance with the Administrative Procedure Act.

(3) The SOAH administrative law judge will promptly issue to the commission a proposal for decision, including findings of fact and conclusions of law, about:

(A) the occurrence of the alleged violation or continuing violation;

(B) whether the alleged violation was cured and was accidental or inadvertent for a violation of any chapter other than PURA chapters 17, 55, or 64; of a commission rule or commission order adopted or issued under those chapters; or of chapter 13 of the TWC; and

(C) the amount of the proposed administrative penalty and, if applicable, disgorged excess revenue.

(4) Based on the SOAH administrative law judge's proposal for decision, the commission may:

(A) determine that a violation or continuing violation has occurred and impose an administrative penalty and, if applicable, disgorged excess revenue;

(B) if applicable, determine that a violation occurred but that, as permitted by subsection (g)(1) of this section, the person remedied the violation within 30 days and proved that the violation was accidental or inadvertent, and that no administrative penalty will be imposed; or

(C) determine that no violation or continuing violation has occurred.

(5) Notice of the commission's order issued under paragraph (4) of this subsection must be provided under the Government Code, chapter 2001 and §22.263 of this title (relating to Final Orders) and must include a statement that the person has a right to judicial review of the order.

(j) Parties to a proceeding. The parties to a proceeding under chapter 15 of PURA relating to administrative penalties or disgorgement of excess revenue will be limited to the person who is alleged to have committed the violation or continuing violation and the commission, including the independent market monitor. This does not apply to a subsequent proceeding under subsection (k) of this section.

(k) Distribution of Disgorged Excess Revenues. Disgorged excess revenues must be remitted to an independent organization, as defined in PURA §39.151. The independent organization must distribute the excess revenue to affected wholesale electric market participants in proportion to their load during the intervals when the violation occurred to be used to reduce costs or fees incurred by retail electric customers. However, if the commission determines other wholesale electric market participants are affected or a different distribution method is appropriate, the commission may direct the independent organization to distribute the excess revenue to affected wholesale market participants using a different distribution method in the same or a subsequent proceeding.

(1) No later than 90 days after the disgorged excess revenues are remitted to the independent organization, the monies must be distributed to affected wholesale electric market participants active at the time of distribution, or the independent organization must, by that date, notify the commission of the date by which the funds will be distributed. The independent organization must include with the distributed monies a communication that explains the docket number in which the commission ordered the disgorged excess revenues, an instruction that the monies must be used to reduce costs or fees incurred by retail electric customers, and any other information the commission orders.

(2) The commission may require any affected wholesale electric market participants receiving disgorged funds to demonstrate how the funds were used to reduce the costs or fees incurred by retail electric customers.

(3) Any affected wholesale electric market participant receiving disgorged funds that is affiliated with the person from whom the excess revenue is disgorged must distribute all of the disgorged excess revenues directly to its retail customers and must provide certification under oath to the commission.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on March 13, 2026.

TRD-202601223
Katelyn Lewis
Rules Coordinator
Public Utility Commission of Texas
Effective date: April 2, 2026
Proposal publication date: October 3, 2025
For further information, please call: (512) 936-7044

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16 TAC §22.248

The repeal is adopted under the following provisions of PURA and the Texas Water Code: PURA §14.001 and Texas Water Code §13.041(a), which provides 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 PURA that is necessary and convenient to the exercise of that power and jurisdiction; PURA §14.002 and Texas Water Code §13.041(b), which provides the commission with the authority to make adopt and enforce rules reasonably required in the exercise of its powers and jurisdiction; PURA §14.052 and Texas Water Code §13.041(b), which requires the commission to adopt and enforce rules governing practice and procedure before the commission and SOAH. The repeal is also adopted under the following provisions of PURA: PURA §12.201 which requires the commission to prepare and publicize information of public interest describing the functions of the commission and the commission's procedures by which a complaint is filed with and resolved by the commission and requires the commission to, by rule, establish methods by which consumers and service recipients are notified of the name, mailing address, and telephone number of the commission for the purpose of directing complaints to the commission; PURA §15.023, which provides the commission with the authority to assess and impose an administrative penalty against a regulated person that violates PURA, or a rule or order adopted by the commission in accordance with PURA; PURA §15.051 which authorizes an affected person to complain to the regulatory in writing by a public utility in violation or claimed violation of a law that the regulatory authority has jurisdiction to administer or of an order, ordinance, or rule of the regulatory authority, and requires the commission to, for a reasonable period preserve information about each complaint filed with the commission that the commission has authority to resolve; PURA §17.157 which authorizes the commission to resolve disputes between a retail customer and a billing utility, service provider, telecommunications utility, retail electric provider, or electric utility, including the investigation of alleged violations; PURA Chapter 15, Subchapter B §§15.021-15.033 and Texas Water Code Chapter 13, Subchapter K §§13.411-13.419 which collectively establish the commission' s enforcement authority to enjoin, investigate, or require compliance from a person or entity in violation or alleged violation of statute or commission rules, including the commission's authority to impose and as-

sess administrative penalties; and PURA Chapter 33, Subchapter C §§33.051-33.055 which governs the appeal of municipal ratemaking orders to the commission. The amended rules are also adopted under HB 1600 (83R), SB 567 (83R) and Texas Water Code Chapter 13 which transferred regulatory jurisdiction of the rates, operations, and services of retail public utilities from the Texas Commission on Environmental Quality to the commission and the following provisions of the Texas Government Code: Texas Government Code §§2001.004-007 and Subchapter B §§2001.021-2001.041 which establish general rulemaking requirements and procedures, including notice obligations, for agencies of the State of Texas; Texas Government Code Chapter 2001, Subchapter C §§2001.051-2001.062, which establish minimum standards of uniform practice and procedure for contested cases held at agencies of the State of Texas, including the requirements and procedures for a state agency to examine the record in a contested case and issue proposals for decision; Texas Government Code, Subchapter D § 2001.081-103, which govern the usage of and procedures for evidence, witnesses and discovery for contested cases held at agencies of the State of Texas; Texas Government Code Chapter 2001, Subchapter F §§2001.141-2001.147 which establish the requirements and procedures, including notice obligations, associated with the issuance of final decisions and orders by a state agency in a contested case, including the procedures for prerequisites to appeal and requirements for motions for rehearing.

Cross reference to statutes: Public Utility Regulatory Act §§14.001, 14.002, 14.052, and Texas Water Code §13.041(a) and (b); Public Utility Regulatory Act §§12.201, Chapter 15, Subchapter B 15.021-15.033, 15.051, 17.157; Chapter 33, Subchapter C 33.051-33.055; Texas Water Code Chapter 13, Subchapter K §§13.411-13.419; and HB 1600 (83R), SB 567 (83R) and Texas Water Code Chapter 13; Texas Government Code Chapter 2001, 2001.004-007 and Subchapter B 2001.021-2001.041; Subchapter C 2001.051-2001.062 and Subchapter D 2001.081-103; Subchapter F 2001.141-2001.147.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on March 13, 2026.

TRD-202601226
Katelyn Lewis
Rules Coordinator
Public Utility Commission of Texas
Effective date: April 2, 2026
Proposal publication date: October 3, 2025
For further information, please call: (512) 936-7044

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SUBCHAPTER N. DECISION AND ORDERS

16 TAC §§22.261 - 22.264

The amended rules are adopted under the following provisions of PURA and the Texas Water Code: PURA §14.001 and Texas Water Code §13.041(a), which provides 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 PURA that is necessary and convenient to the exercise of that power and jurisdiction; PURA §14.002 and Texas Water Code §13.041(b), which provides the commission with the authority to make adopt and enforce rules reasonably required in the exercise of its powers and jurisdiction; PURA §14.052 and Texas Water Code §13.041(b), which requires the commission to adopt and enforce rules governing practice and procedure before the commission and SOAH. The amended rules are also adopted under the following provisions of PURA: PURA §12.201 which requires the commission to prepare and publicize information of public interest describing the functions of the commission and the commission's procedures by which a complaint is filed with and resolved by the commission and requires the commission to, by rule, establish methods by which consumers and service recipients are notified of the name, mailing address, and telephone number of the commission for the purpose of directing complaints to the commission; PURA §15.023, which provides the commission with the authority to assess and impose an administrative penalty against a regulated person that violates PURA, or a rule or order adopted by the commission in accordance with PURA; PURA §15.051 which authorizes an affected person to complain to the regulatory in writing by a public utility in violation or claimed violation of a law that the regulatory authority has jurisdiction to administer or of an order, ordinance, or rule of the regulatory authority, and requires the commission to, for a reasonable period preserve information about each complaint filed with the commission that the commission has authority to resolve; PURA §17.157 which authorizes the commission to resolve disputes between a retail customer and a billing utility, service provider, telecommunications utility, retail electric provider, or electric utility, including the investigation of alleged violations; PURA Chapter 15, Subchapter B §§15.021-15.033 and Texas Water Code Chapter 13, Subchapter K §§13.411-13.419 which collectively establish the commission' s enforcement authority to enjoin, investigate, or require compliance from a person or entity in violation or alleged violation of statute or commission rules, including the commission's authority to impose and assess administrative penalties; and PURA Chapter 33, Subchapter C §§33.051-33.055 which governs the appeal of municipal ratemaking orders to the commission. The amended rules are also adopted under HB 1600 (83R), SB 567 (83R) and Texas Water Code Chapter 13 which transferred regulatory jurisdiction of the rates, operations, and services of retail public utilities from the Texas Commission on Environmental Quality to the commission and the following provisions of the Texas Government Code: Texas Government Code §§2001.004-007 and Subchapter B §§2001.021-2001.041 which establish general rulemaking requirements and procedures, including notice obligations, for agencies of the State of Texas; Texas Government Code Chapter 2001, Subchapter C §§2001.051-2001.062, which establish minimum standards of uniform practice and procedure for contested cases held at agencies of the State of Texas, including the requirements and procedures for a state agency to examine the record in a contested case and issue proposals for decision; Texas Government Code, Subchapter D § 2001.081-103, which govern the usage of and procedures for evidence, witnesses and discovery for contested cases held at agencies of the State of Texas; Texas Government Code Chapter 2001, Subchapter F §§2001.141-2001.147 which establish the requirements and procedures, including notice obligations, associated with the issuance of final decisions and orders by a state agency in a contested case, including the procedures for prerequisites to appeal and requirements for motions for rehearing.

Cross reference to statutes: Public Utility Regulatory Act §§14.001, 14.002, 14.052, and Texas Water Code §13.041(a) and (b); Public Utility Regulatory Act §§12.201, Chapter 15, Subchapter B 15.021-15.033, 15.051, 17.157; Chapter 33,

Subchapter C 33.051-33.055; Texas Water Code Chapter 13, Subchapter K §§13.411-13.419; and HB 1600 (83R), SB 567 (83R) and Texas Water Code Chapter 13; Texas Government Code Chapter 2001, 2001.004-007 and Subchapter B 2001.021-2001.041; Subchapter C 2001.051-2001.062 and Subchapter D 2001.081-103; Subchapter F 2001.141-2001.147.

§22.261. Proposals for Decision.

(a) Requirement and Contents of Proposal for Decision. In a contested case, if a majority of the commissioners has not heard the case or read the record, the commission may not issue a final order, if adverse to a party other than the Commission, until a proposal for decision is served on all parties. The proposal for decision will be prepared by the presiding officer who conducted the hearing or who have read the record. The proposal for decision will include a proposed final order, a statement of the reasons for the proposed decision, and proposed findings of fact and conclusions of law in support of the proposed final order. Any party may file exceptions to the proposed decision in accordance with subsection (d) of this section. The presiding officer may supplement or amend a proposal for decision in response to the exceptions or replies submitted by the parties or upon the presiding officer's own motion. Making corrections or minor revisions of a proposal for decision is not considered issuance of an amended or supplemental proposal for decision.

(b) Procedures Regarding Proposed Orders. If the presiding officer's recommendation is not adverse to any party, the recommendation may be made through a proposed order containing findings of fact and conclusions of law. The proposed order must be served on all parties, and the commission counsel or presiding officer will establish a deadline for submitting proposed corrections or clarifications.

(c) Findings and Conclusions. The commission counsel or presiding officer may direct or authorize the parties to draft and submit proposed findings of fact and conclusions of law. The commission is not required to rule on findings of fact and conclusions of law that are not required or authorized.

(d) Exceptions and Replies.

(1) Who may file. Any party may file exceptions to the proposal for decision within the time period specified by commission counsel or the presiding officer. If any party files exceptions, the opportunity will be afforded to all parties to respond within a time period set by the commission counsel or presiding officer. Replies may only be filed in response to filed exceptions.

(2) Presentation. The presiding officer or commission counsel may require that issues be addressed in a specified order or according to a specified format. Proposed findings and conclusions may be submitted in conjunction with exceptions and replies. The evidence and law relied upon will be stated with particularity, and any evidence or arguments relied upon will be grouped under the exceptions or replies to which they relate.

(3) Request for Extension. A request for extension of time within which to file exceptions or replies must be filed with Central Records and served on all parties. The presiding officer or commission counsel may allow additional time for good cause shown. If additional time is allowed for exceptions, reasonable additional time will be allowed for replies.

§22.262. Commission Action After a Proposal for Decision.

(a) Commission Action. The commission may change a finding of fact or conclusion of law made by the administrative law judge or vacate or modify an order issued by the administrative law judge only if the commission:

(1) determines that the administrative law judge:

(A) did not properly apply or interpret applicable law, commission rules or policies, or prior administrative decisions; or

(B) issued a finding of fact that is not supported by a preponderance of the evidence; or

(2) determines that a commission policy or a prior administrative decision on which the administrative law judge relied is incorrect or should be changed.

(b) Reasons to Be in Writing. The commission will state in writing the specific reason and legal basis for its determination under subsection (a) of this section.

(c) Remand. The commission may remand the proceeding for further consideration.

(1) The commission may direct that further consideration by an administrative law judge be accomplished with or without reopening the hearing and may limit the issues to be considered.

(2) If additional evidence is admitted on remand that results in a substantial revision of the proposed decision or the underlying facts, an amended or supplemental proposal for decision or proposed order must be filed. If an amended or supplemental proposal for decision is filed, the provisions of §22.261(d) of this title (relating to proposal for decision) apply. Exceptions and replies must be limited to discussions, proposals, and recommendations in the supplemental proposal for decision.

(d) Oral Argument Before the Commission.

(1) Any party may request oral argument before the commission before the final disposition of any proceeding.

(2) Oral argument may be allowed at the commission's discretion. The commission may limit the scope and duration of oral argument. The party bearing the burden of proof has the right to open and close oral argument.

(3) A request for oral argument must be filed as a separate written pleading. The request must be filed no later than 5:00 p.m. Central Prevailing Time seven days before the open meeting at which the commission is scheduled to consider the case.

(4) Upon the filing of a motion for oral argument, the Office of Policy and Docket Management must send a separate ballot to each commissioner to determine whether the commission will hear oral argument at an open meeting. An affirmative vote by one commissioner is required to grant oral argument. Two days before the commission is scheduled to consider the case, the Office of Policy and Docket Management will file a notice to the parties regarding whether a request for oral argument has been granted.

(5) The absence or denial of a request for oral argument does not preclude the commissioners from asking questions of any party present at the open meeting.

(e) Commission Not Limited. This section does not limit the commission in the conduct of its meetings to the specific types of action outlined in this section.

§22.264. Rehearing.

(a) Motions for rehearing, replies thereto, and commission action on motions for rehearing are governed by the APA. Only a party to a proceeding before the commission may file a motion for rehearing.

(b) All motions for rehearing must state the claimed error with specificity. If an ultimate finding of fact stated in statutory language is claimed to be in error, the motion for rehearing must state all underlying or basic findings of fact claimed to be in error and must cite specific evidence which is relied upon as support for the claim of error.

(c) A motion for rehearing or a reply to a motion for rehearing is untimely if it is not filed by the deadlines specified in APA §2001.146 or, if the commission extends the time to file such motion or reply or approves a time agreed to by the parties, the date specified in the order of the commission extending time or approving the time.

(d) A motion by a party to extend time related to a motion for rehearing must be filed no less than ten days before the end of the time period that the party seeks to extend or it is untimely. Such motion must state with specificity the reasons the extension is justified.

(e) Upon the filing of a timely motion for rehearing or a timely motion to extend time, the Office of Policy and Docket Management must send separate ballots to each commissioner to determine whether they will consider the motion at an open meeting. Untimely motions will not be balloted. An affirmative vote by one commissioner is required for consideration of a motion for rehearing or a motion to extend time at an open meeting. If no commissioner votes to add a timely motion to extend time to an open meeting for consideration, the motion is overruled ten days after the motion is filed.

(f) If the commission extends time to act on a motion for rehearing, the Office of Policy and Docket Management must send separate ballots to each commissioner to determine whether they will consider the motion for rehearing at a subsequent open meeting. An affirmative vote by one commissioner is required to place the motion for rehearing on an open meeting agenda.

(g) A party that files a motion for rehearing or a reply to a motion for rehearing must deliver a copy of the motion or reply to every other party in the case.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on March 13, 2026.

TRD-202601224
Katelyn Lewis
Rules Coordinator
Public Utility Commission of Texas
Effective date: April 2, 2026
Proposal publication date: October 3, 2025
For further information, please call: (512) 936-7044

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SUBCHAPTER O. RULEMAKING

16 TAC §22.281, §22.282

The amended rules are adopted under the following provisions of PURA and the Texas Water Code: PURA §14.001 and Texas Water Code §13.041(a), which provides 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 PURA that is necessary and convenient to the exercise of that power and jurisdiction; PURA §14.002 and Texas Water Code §13.041(b), which provides the commission with the authority to make adopt and enforce rules reasonably required in the exercise of its powers and jurisdiction; PURA §14.052 and Texas Water Code §13.041(b), which requires the commission to adopt and enforce rules governing practice and procedure before the commission and SOAH. The amended rules are also adopted under the following provisions of PURA: PURA §12.201 which requires the commission to prepare and publicize information of public interest describing the functions of the commission and the commission's procedures by which a complaint is filed with and resolved by the commission and requires the commission to, by rule, establish methods by which consumers and service recipients are notified of the name, mailing address, and telephone number of the commission for the purpose of directing complaints to the commission; PURA §15.023, which provides the commission with the authority to assess and impose an administrative penalty against a regulated person that violates PURA, or a rule or order adopted by the commission in accordance with PURA; PURA §15.051 which authorizes an affected person to complain to the regulatory in writing by a public utility in violation or claimed violation of a law that the regulatory authority has jurisdiction to administer or of an order, ordinance, or rule of the regulatory authority, and requires the commission to, for a reasonable period preserve information about each complaint filed with the commission that the commission has authority to resolve; PURA §17.157 which authorizes the commission to resolve disputes between a retail customer and a billing utility, service provider, telecommunications utility, retail electric provider, or electric utility, including the investigation of alleged violations; PURA Chapter 15, Subchapter B §§15.021-15.033 and Texas Water Code Chapter 13, Subchapter K §§13.411-13.419 which collectively establish the commission' s enforcement authority to enjoin, investigate, or require compliance from a person or entity in violation or alleged violation of statute or commission rules, including the commission's authority to impose and assess administrative penalties; and PURA Chapter 33, Subchapter C §§33.051-33.055 which governs the appeal of municipal ratemaking orders to the commission. The amended rules are also adopted under HB 1600 (83R), SB 567 (83R) and Texas Water Code Chapter 13 which transferred regulatory jurisdiction of the rates, operations, and services of retail public utilities from the Texas Commission on Environmental Quality to the commission and the following provisions of the Texas Government Code: Texas Government Code §§2001.004-007 and Subchapter B §§2001.021-2001.041 which establish general rulemaking requirements and procedures, including notice obligations, for agencies of the State of Texas; Texas Government Code Chapter 2001, Subchapter C §§2001.051-2001.062, which establish minimum standards of uniform practice and procedure for contested cases held at agencies of the State of Texas, including the requirements and procedures for a state agency to examine the record in a contested case and issue proposals for decision; Texas Government Code, Subchapter D § 2001.081-103, which govern the usage of and procedures for evidence, witnesses and discovery for contested cases held at agencies of the State of Texas; Texas Government Code Chapter 2001, Subchapter F §§2001.141-2001.147 which establish the requirements and procedures, including notice obligations, associated with the issuance of final decisions and orders by a state agency in a contested case, including the procedures for prerequisites to appeal and requirements for motions for rehearing.

Cross reference to statutes: Public Utility Regulatory Act §§14.001, 14.002, 14.052, and Texas Water Code §13.041(a) and (b); Public Utility Regulatory Act §§12.201, Chapter 15, Subchapter B 15.021-15.033, 15.051, 17.157; Chapter 33, Subchapter C 33.051-33.055; Texas Water Code Chapter 13, Subchapter K §§13.411-13.419; and HB 1600 (83R), SB 567 (83R) and Texas Water Code Chapter 13; Texas Government Code Chapter 2001, 2001.004-007 and Subchapter B 2001.021-2001.041; Subchapter C 2001.051-2001.062 and Subchapter D 2001.081-103; Subchapter F 2001.141-2001.147.

§22.281. Initiation of Rulemaking.

(a) Petition for Rulemaking. Any interested person, as defined by the APA, may petition the commission requesting the adoption of a new rule or the amendment of an existing rule.

(1) The petition must be in writing and must be submitted to the project opened under paragraph (2) of this subsection. The petition must include a brief explanation of the rule, each reason the new or amended rule should be adopted, the statutory authority for such a rule or amendment, and complete proposed text for the rule. The proposed text for the rule must indicate by striking through the words, if any, to be deleted from the current rule and by underlining the words, if any, to be added to the current rule. Any recommendation or request that the commission adopt a new rule or amend or repeal an existing rule that does not comply with the requirements of this section, including any recommendation or request made in a contested case proceeding (e.g., an argument by a party to a contested case that the commission should conduct a rulemaking related to a contested issue), will be construed as a policy recommendation and will not be processed as a petition for rulemaking under the APA and this section.

(2) Each calendar year, commission staff will open a general project for petitions for rulemaking and post the control number on the commission's website.

(3) Commission staff may file a memo in the general project opened under paragraph (2) of this subsection establishing a deadline for interested persons to file comments in response to the petition for rulemaking or designating a new control number for the submission of comments. Commission staff may relocate any relevant filings from the general control number to the new project. If commission staff does not file a memo under this paragraph, comments on a petition for rulemaking may be filed in the general project and the deadline for submitting comments on the petition is 21 days after the date the petition is filed.

(4) Within 60 days after submission of a petition that fully complies with the requirements of paragraph (1) of this subsection, the commission will either deny the petition in writing, stating its reasons for the denial, or initiate a rulemaking proceeding.

(b) Commission Initiated Rulemaking. The commission may initiate rulemaking proceedings on its own motion. Nothing in this section precludes commission staff from consideration or development of new rules or amendments to existing rules, including hosting workshops or publishing questions or draft rules language for comment, without express direction from the commission.

§22.282. Notice and Public Participation in Rulemaking Procedures.

(a) Informal Comments. Prior to the publication of a proposed rule or an amendment to an existing rule in the *Texas Register*, the commission or commission staff may solicit comments on the necessity for, scope, or contents of a contemplated rulemaking project by filing a request for comments on the Interchange. Unless otherwise prescribed by the commission or commission staff, any comments concerning the rulemaking project must be submitted within 30 days from the date the request for comments is filed. The commission or commission staff may hold workshops or public hearings on the rulemaking project.

(b) Notice. The commission may initiate a rulemaking project by publishing notice of the proposed rule in accordance with Tex. Gov't Code §§ 2001.021 - 2001.037.

(c) Public Comments. Prior to the adoption of any rule, the commission will afford all interested persons a reasonable opportunity to submit data, views, or arguments in writing. Written comments must be filed within 30 days of the date the proposed rule is published in the *Texas Register* unless the commission establishes a different date for submission of comments. The commission may also establish a schedule for reply comments if it determines that additional comments would be appropriate or helpful in reaching a decision on the proposed rule. Commission staff may provide an extension to the comment deadline, request reply comments, or provide additional comment filing instructions in a rulemaking project.

(d) Public Hearing. The commission or commission staff may schedule workshops or public hearings on the proposed rule. Commission staff will hold a public hearing if requested by at least 25 persons, by a governmental subdivision or agency, or by an association having at least 25 members. The request for public hearing must be made no later than 30 days after the date the proposed rule is published in the *Texas Register*, unless the commission establishes a different date for requesting a public hearing. Commission staff may provide an extension to the public hearing request deadline.

(e) Staff Recommendation. Staff's final recommendation will, if practicable, be filed in the rulemaking proceeding at least seven days prior to the date on which the commission is scheduled to consider the matter, unless some other date is specified by the commission. If commission staff does not file its final recommendation at least seven days prior to the date on which the commission is scheduled to consider the matter, the commission may still consider the recommendation or take action in the rulemaking project.

(f) Final Adoption. Following consideration of comments, the commission will issue an order adopting, adopting as amended, or withdrawing the rule within six months after the date of publication of the proposed rule or the rule is automatically withdrawn.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on March 13, 2026.

TRD-202601225
Katelyn Lewis
Rules Coordinator
Public Utility Commission of Texas
Effective date: April 2, 2026
Proposal publication date: October 3, 2025
For further information, please call: (512) 936-7044

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CHAPTER 25. SUBSTANTIVE RULES APPLICABLE TO ELECTRIC SERVICE PROVIDERS

SUBCHAPTER D. RECORDS, REPORTS, AND OTHER REQUIRED INFORMATION

16 TAC §25.88

The Public Utility Commission of Texas (commission) adopts one repeal in the Chapter 25 electric rules. The adopted repeal is in Subchapter D, §25.88, relating to Retail Market Performance Measure Reporting. The commission adopts the repeal without changes to the proposed text as published in the November 21, 2025 issue of the *Texas Register* (50 TexReg 7497). The repeal will not be republished.

The commission received comments about this project from AEP Texas Inc, Oncor Electric Delivery Company LLC, and Texas-New Mexico Power Company (filed jointly as Joint Commenters);

CenterPoint Energy Houston Electric, LLC (CenterPoint); City of Houston (Houston); ERCOT; the Coalition of Competitive Retailers (Coalition); Texas Energy Association for Marketers (TEAM); and Vistra Corporate Service Company LLC (Vistra).

To assist the commission in its continued monitoring of the performance of the retail market, commission staff requested responses to the following two questions:

Question One

1. Are the Retail Market Performance Measures, and their associated schedule parts, provided by the commission in the filing package sufficient to monitor the competitive Texas retail electricity market? If not, what else should the commission consider in its Retail Performance Measures?

Houston commented that the measures proposed were not comprehensive enough to monitor the competitive Texas retail market specifically as it applies to customers within Houston city limits and provided several metrics to include.

Joint Commenters and CenterPoint stated that the proposed measures are sufficient to monitor the competitive Texas retail electricity market.

The Coalition responded by stating that the current Retail Market Performance Measures are more than sufficient to monitor the competitive retail market, and the proposed measures and new §25.88 will not meaningfully assist with market monitoring.

Vistra encouraged the Commission to avoid creating inefficiencies, redundancies, and unnecessary form/information gathering in this rulemaking.

TEAM requested that the reporting measures be taken on an annual basis.

Commission Response

The commission may consider Houston's recommended additions in future rulemakings as these recommendations are outside the scope of the current rulemaking project.

The commission disagrees with the Coalition that the proposed measures and new §25.88 will not meaningfully assist with evaluation of the performance of the retail electric market in Texas. However, in implementing commission priorities such as removing redundancies and improving reporting efficiency for commission staff and reporting entities, several data inputs have been removed from the filing package. Specific modifications to the filing package recommended by the Coalition are addressed in responses below.

The commission agrees with Vistra that regulatory efficiency is an integral part of this rulemaking. As such, the commission modifies the forms to reduce administrative burden by removing overlapping reporting requirements.

The commission disagrees with TEAM that these measures should be received annually. Receiving quarterly data on a yearly cadence has the potential to create inefficiencies for commission staff and impact their ability to review the data in a timely manner. To limit administrative impacts for both commission staff and reporting entities, all reporting entities will continue to submit the requirements on a quarterly cadence.

Question Two

2. What else should the commission consider in its implementation of PURA §39.168 and its amendment to §25.88?

City of Houston recommended the addition of several measures to Schedules A, B, and C.

Also, Houston recommended that a link to individual REP performance metrics under §25.88 be included with each competitive retail electric plan offered through the Power to Choose website.

Joint Commenters requested that the commission provide clarity regarding the requirements of §25.474(p)(3), relating to Selection of Retail Electric Provider, once §25.88 is adopted and on the intended interaction between the reports required under these two rules.

CenterPoint provided a redline of the proposed excel form in Schedule C, Part 1 and Schedule C, Part 2 tabs of the attached Quarterly Retail Performance Measures Form to clarify the transactions that should be included and excluded from the quarterly reports.

CenterPoint also stated that transmission distribution utilities currently provide separate filings for other measures, including Residential Summer Disconnect for Non-Pay, AMS Opt-Out, Deferred Payment Plan Switch Hold Report, and Distributed Generation Reporting. These reporting requirements, while historically valuable, may warrant reconsideration by the commission to ensure they still serve their purpose or if there are other efficiencies that could be achieved to support the ERCOT market.

Joint Commenters requested the rule take effect starting with the second quarterly report due in 2026 to allow sufficient time for personnel training on the new requirements and for updating internal technical processes. CenterPoint requested the rule begin the new Quarterly Retail Performance Measures Form reports starting with the first quarter that commences after the effective date of the new §25.88 rule.

Commission Response

The commission may consider Houston's recommended additions in future rulemakings as these recommendations are outside the scope of the current rulemaking project.

As the requirements of §25.474 are outside the scope of this rulemaking, the commission may consider the Joint Commenters' recommended changes to §25.474 in a future rulemaking.

The commission has reviewed the redlined excel document submitted by CenterPoint and agrees in part. While the commission believes that clarity is important, it declines to add CenterPoint's clarifying edits to Schedule C, Part 1 as they are unnecessary. However, the commission agrees in part with CenterPoint's proposed changes to Schedule C, Part 2, and has modified the schedule and its instructions to reference DUNS numbers.

Additionally, while CenterPoint's other recommendations are out of scope of the current project, the commission may take up these recommendations in future rulemakings.

The commission agrees with Joint Commenters and CenterPoint request to establish an effective date that allows sufficient time for entities to adapt to the adopted rule's requirements and adds language to the rule providing that the new reporting requirements start with the second quarter of 2026.

Proposed §25.88(b)(2) - Filing Deadline

Proposed §25.88(b)(2) requires the report to be filed no later than the 30th day following the end of the preceding quarterly reporting period.

TEAM suggested the rule deadline should remain unchanged, i.e., by no later than the 45th day after the end of quarter.

The Coalition expressed concern regarding the rule's deadline, specifically that thirty days is not sufficient and would only increase the opportunities for inaccurate data submission and will significantly increase costs for REPs.

Vistra recommended maintaining the existing 45-day deadline under existing 16 TAC §25.88(c)(2) and editing (b)(2) in the Proposal for Publication.

Commission Response

The commission agrees with TEAM, the Coalition, and Vistra that a 30-day deadline could create unnecessary regulatory burden. As such, the commission modifies proposed subsection (b)(2) to increase the reporting deadline to 45 days.

Proposed §25.88(b)(3) - Confidential Information

Proposed §25.88(b)(3) allows an entity to designate, as confidential, information within its report that it considers to be confidential.

TEAM recommended revising proposed 25.88(b)(3) to exempt REPs from making a redacted filing such that the public portion of the Report would include the confidential filing memorandum but not a redacted copy of the Report.

Commission Response

The commission declines to add TEAM's recommended changes to paragraph (b)(3) as 16 TAC Chapter 22, relating to Procedural Rules, dictates proper procedure for all filings. As such, the commission removes the paragraph because it is redundant.

Proposed §25.88(e)(3) - Additional Information to ERCOT

Proposed §25.88(e)(3) allows ERCOT to require entities to submit to ERCOT additional information that relates to market performance for specific analytical or diagnostic purposes.

TEAM and Vistra requested that proposed (e)(3) include a reasonableness requirement regarding the deadline by which additional information requested by ERCOT must be provided.

Commission Response

The commission disagrees with TEAM and Vistra and declines to add a reasonableness requirement to subsection (e)(3), as 16 TAC §22.5, relating to Suspension of Rules and Commission-Prescribed Forms, allows a market entity to which this rule applies to seek an exception to a reporting requirement under this rule if the entity can show good cause for the exception.

Repealed §25.88(e)(4) - Waiver

Repealed §25.88(e)(4) removed a provision that allowed the commission to waive reporting requirements if it determines that it is either impractical or unduly burdensome for the reporting entity to furnish the requested information.

The Coalition recommended that the adopted rule retain subsection (e)(4).

Commission Response

The commission disagrees with the Coalition as 16 TAC §22.5, relating to Suspension of Rules and Commission-Prescribed Forms, allows a market entity to which this rule applies to seek an exception to a reporting requirement under this rule if the entity can show good cause for the exception.

Proposed §25.88(f)(1) - Enforcement

Proposed §25.88(f)(1) states that the commission may impose all applicable administrative penalties under §22.246, relating to Administrative Penalties, of this title for failure of a reporting entity to timely file accurate performance measures report.

TEAM recommended amending the rule to require the consideration of factors like the existing rule, including compliance history and severity of the violation to assess a penalty. TEAM recommended substituting the word complete for the word accurate because whether a report is accurate is a more subjective determination.

Commission Response

The commission declines to list the factors the commission may consider in its investigation of an instance of non-compliance as these are provided in other rules, including, §22.246, §25.107, relating to Certification and Obligations of Retail Electric Providers (REPs), and §25.71 relating to General Procedures, Requirement and Penalties. In line with removing redundant references to applicable rules, the commission removes subsection (f)(1) from the adopted rule.

Instructions

The proposed instructions document specified that each entity must file its' report by the 30th day following the end of the preceding quarterly reporting period. The quarterly reporting periods begin on January 1, April 1, July 1, and October 1.

Monthly Data

The Coalition requested clarification on the method the required data is to be presented either for each month or consolidated for a calendar quarter. The Coalition argued that quarterly data would be of equal value and would be considerable cost savings for REPs.

Commission Response

The commission disagrees with the Coalition in part, because the additional granularity provided in the form and described in the form's instructions is necessary to evaluate specific performance measures. These include the measures related to retail sales, disconnection for non-payment, unauthorized change of REP, and field performance. However, the commission agrees it is not necessary to require every performance measure to be reported in monthly totals, and modifies the form and instructions document accordingly.

Proposed Schedule A Part 1 - Reporting Requirements for REPs Retail Sales

Proposed Schedule A Part 1 required each REP to file a facsimile of the information required by EIA Form 861M, for each month during the quarterly reporting period. Specifically, each REP must provide its revenue, megawatt hours sold, and number of customers by the customer types residential, commercial, and industrial, as defined by EIA Form 861M.

TEAM requested that any reporting requirements regarding the format for the submission of EIA data mirror current requirements.

Commission Response

The commission declines to allow a copy of the EIA Form 861M to suffice as proper filing under this rule. Portable Document Format (PDF) files are not a practical format for commission staff to conduct its necessary analyses. The commission requires the

prescribed forms for consistency across reporting entities and to increase the efficiency of commission staff's review.

Proposed Schedule A Part 2 - Reporting Requirements for REPs Retail Sales by Premise Type

Proposed Schedule A, Part 2 required each REP to provide its retail sales for residential, small non-residential, medium non-residential, and large non-residential customers. Specifically, each REP must provide the corresponding customer counts, megawatt-hours sold, and revenues must be provided by premise type and TDU service territory for each month of the quarterly reporting period.

TEAM requested the removal of Schedule A, Part 2 to the Report as it would pose a regulatory burden. However, if the Commission approves Schedule A, Part 2 as proposed, TEAM recommended that this new requirement take effect no earlier than the Report for the first quarter of 2027. In addition TEAM provided that if the Commission adds the new reporting requirements embodied in Schedule A, Part 2, the proposed rule should be amended to require REPs to provide both this information and the EIA data required in Schedule A, Part 1 on an annual basis.

Vistra recommended deleting Schedule A, Part 2 entirely along with any associated reporting requirements outlined in the Commission' s form as duplicative.

Commission Response

The commission agrees with TEAM that providing consumer data under proposed Schedule A, Part 2 may present a regulatory burden for reporting entities. Additionally, the commission agrees with Vistra that proposed Schedule A, Part 2 includes overlapping reporting requirements for applicable entities. Therefore, the commission removes Schedule A, part 2 and amends Schedule B, Part 3 to require retail load information by transmission and distribution service provider.

Proposed Schedule A Part 3 - Reporting Requirements for REPs Retail Electric Provider Affiliations

Proposed Schedule A, Part 3 requires each REP to provide its affiliations by listing its subsidiaries and parent companies up to the ultimate corporate parent, and any sister companies that are registered or certified with the commission. Each company must be identified by name, relationship to the REP, and, if applicable, type of commission certification and corresponding certification number.

TEAM recommended limiting this schedule to a listing of all affiliates of a REP that also holds a REP certificate issued by the commission. TEAM further recommended that Schedule A, Part 3 should include a box a REP can check if the list of affiliates was the same for each month of the reporting period.

Commission Response

The commission disagrees with TEAM and declines to modify the instructions document and form to limit "affiliations" to only include other REPs registered with the commission. REPs provide the information one time under §25.107 for initial certification but do not consistently amend the information to reflect these changes. However, to minimize regulatory burdens, the commission modifies the form to require the reporting of affiliations once at the end of each quarter instead of each month of the quarter. The commission declines to add a check box to indicate that there have been no changes to the listed affiliations since the last required report; entities can simply submit the same list of its affiliates if there are no changes.

Proposed Schedule A Part 4 - Reporting Requirements for REPs Disconnection for Non-pay

Proposed Schedule A, Part 4 requires each REP to report the number of disconnect notices sent, disconnections requested, reconnections requested, and move-outs ordered after a Disconnection for Non-Pay (DNP) for residential customers, for critical care residential customers, chronic condition residential customers, and for prepaid service customers by TDU service territory for each month during the quarterly reporting period.

The Coalition recommended the commission eliminate from Schedule A, Part 4 the requirement to report the number of reconnections of a disconnected prepaid service customer completed within two hours. The Coalition stated that the proposed performance measurement conflicts with 16 TAC §25.498(j)(4), relating to Prepaid Service, because that rule requires a REP to submit a reconnection request no later than one hour after its customer has completed the reconnection requirements. Creating two separate reporting measurements, the Coalition posited, would create a discrepancy between the two rules and may impact the accuracy of what is reported. The Technical Performance Measures Report should not require any different period from that in §25.498(j)(4), relating to Prepaid Service.

The Coalition also recommended that the Commission either exempt customer accounts on prepaid plans from this requirement or develop a more practical reporting standard tailored to the unique nature of prepaid service.

In addition, the Coalition commented that the language in the proposed Instructions for Retail Performance Measures Report, Schedule A, Part 4 should not separate reporting concerning critical care residential customers and chronic condition residential customers.

Commission Response

The commission agrees with the Coalition that the data required under adopted §25.88 should be consistent with the requirements of §25.498 and modifies the form and the instructions document to remain consistent with §25.498(j)(4).

In order to address the unique nature of prepaid plans, the commission has modified proposed Schedule A, Part 4 to create a separate forms for prepaid customers in new Schedule A, Part 3.2, and to create a new form for post-pay customers, new Schedule A, Part 3.1.

Further, the commission agrees with the Coalition and clarifies that reporting under Schedule A, Part 3.1 for critical care residential customers and chronic condition residential customers is not to be reported as separate values. The commission modifies the instructions document to provide additional clarity.

Schedule B - Reporting Requirements for ERCOT

Proposed Schedule B dictates the retail performance measure reporting requirements for ERCOT.

ERCOT recommended updating Schedule B to remove the three references to TX Standard Electronic Transaction Change Control 814_07 as that transaction set was retired during a Texas SET upgrade and is no longer relevant.

Commission Response

The commission agrees with ERCOT and removes any reference to the 814_07 transaction set.

In adopting this section, the commission makes other minor modifications for the purpose of clarifying its intent.

This repeal is adopted 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; §14.003, which provides authority to require reports of a public utility; §15.023, which provides for commission imposition of an administrative penalty against a person regulated under PURA who violates PURA or a rule adopted under PURA; §39.001, which sets forth the legislative policy and purpose of PURA Chapter 39, Restructuring of Electric Utility Industry; §39.101, which sets forth customer safeguards; §39.151, which subjects to commission review procedures established by an independent operator relating to the reliability of the regional electrical network and accounting for the production and delivery of electricity among generators and all other market participants; §39.168, which requires REPs and its affiliates to annually report to the commission certain retail sales metrics; §39.352, which sets forth standards for certification of REPs; §39.356, which provides for suspension, revocation, or amendment of a REP's certificate; and §39.357, which provides for the imposition of administrative penalties on a REP for violations described by §39.356.

Cross Reference to Statute: Public Utility Regulatory Act §14.001, 14.002, 14.003, 15.023, 39.001, 39.101, 39.151, 39.168, 39.352, 39.356, and 39.357.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on March 13, 2026.

TRD-202601227
Katelyn Lewis
Rules Coordinator
Public Utility Commission of Texas
Effective date: April 2, 2026
Proposal publication date: November 21, 2025
For further information, please call: (512) 936-7433

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16 TAC §25.88

The Public Utility Commission of Texas (commission) adopts new 16 TAC §25.88, relating to Retail Market Performance Measure Reporting. The adopted rule will implement Public Utility Regulatory Act (PURA) §39.168 as enacted by HB 1500 §24 during the Texas 88th Regular Legislative Session. Additionally, the adopted rule streamlines the reporting of competitive retail market data to the commission by Retail Electric Providers (REPs), Electric Reliability Council of Texas (ERCOT), and Transmission and Distribution Utilities (TDUs); thereby standardizing reporting practices across reporting entities. Further, the adopted rule reduces redundant data submission requirements for certain entities. The commission adopts this rule with changes to the proposed text as published in the November 21, 2025, issue of the *Texas Register* (50 TexReg 7497). This rule will be republished.

The commission received comments about this project from AEP Texas Inc, Oncor Electric Delivery Company LLC, and Texas-New Mexico Power Company (filed jointly as Joint Commenters); CenterPoint Energy Houston Electric, LLC (CenterPoint); City of Houston (Houston); ERCOT; the Coalition of Competitive Retailers (Coalition); Texas Energy Association for Marketers (TEAM); and Vistra Corporate Service Company LLC (Vistra).

To assist the commission in its continued monitoring of the performance of the retail market, commission staff requested responses to the following two questions:

Question One

1. Are the Retail Market Performance Measures, and their associated schedule parts, provided by the commission in the filing package sufficient to monitor the competitive Texas retail electricity market? If not, what else should the commission consider in its Retail Performance Measures?

Houston commented that the measures proposed were not comprehensive enough to monitor the competitive Texas retail market specifically as it applies to customers within Houston city limits and provided several metrics to include.

Joint Commenters and CenterPoint stated that the proposed measures are sufficient to monitor the competitive Texas retail electricity market.

The Coalition responded by stating that the current Retail Market Performance Measures are more than sufficient to monitor the competitive retail market, and the proposed measures and new §25.88 will not meaningfully assist with market monitoring.

Vistra encouraged the Commission to avoid creating inefficiencies, redundancies, and unnecessary form/information gathering in this rulemaking.

TEAM requested that the reporting measures be taken on an annual basis.

Commission Response

The commission may consider Houston's recommended additions in future rulemakings as these recommendations are outside the scope of the current rulemaking project.

The commission disagrees with the Coalition that the proposed measures and new §25.88 will not meaningfully assist with evaluation of the performance of the retail electric market in Texas. However, in implementing commission priorities such as removing redundancies and improving reporting efficiency for commission staff and reporting entities, several data inputs have been removed from the filing package. Specific modifications to the filing package recommended by the Coalition are addressed in responses below.

The commission agrees with Vistra that regulatory efficiency is an integral part of this rulemaking. As such, the commission modifies the forms to reduce administrative burden by removing overlapping reporting requirements.

The commission disagrees with TEAM that these measures should be received annually. Receiving quarterly data on a yearly cadence has the potential to create inefficiencies for commission staff and impact their ability to review the data in a timely manner. To limit administrative impacts for both commission staff and reporting entities, all reporting entities will continue to submit the requirements on a quarterly cadence.

Question Two

2. What else should the commission consider in its implementation of PURA §39.168 and its amendment to §25.88?

City of Houston recommended the addition of several measures to Schedules A, B, and C.

Also, Houston recommended that a link to individual REP performance metrics under §25.88 be included with each competitive retail electric plan offered through the Power to Choose website.

Joint Commenters requested that the commission provide clarity regarding the requirements of §25.474(p)(3), relating to Selection of Retail Electric Provider, once §25.88 is adopted and on the intended interaction between the reports required under these two rules.

CenterPoint provided a redline of the proposed excel form in Schedule C, Part 1 and Schedule C, Part 2 tabs of the attached Quarterly Retail Performance Measures Form to clarify the transactions that should be included and excluded from the quarterly reports.

CenterPoint also stated that transmission distribution utilities currently provide separate filings for other measures, including Residential Summer Disconnect for Non-Pay, AMS Opt-Out, Deferred Payment Plan Switch Hold Report, and Distributed Generation Reporting. These reporting requirements, while historically valuable, may warrant reconsideration by the commission to ensure they still serve their purpose or if there are other efficiencies that could be achieved to support the ERCOT market.

Joint Commenters requested the rule take effect starting with the second quarterly report due in 2026 to allow sufficient time for personnel training on the new requirements and for updating internal technical processes. CenterPoint requested the rule begin the new Quarterly Retail Performance Measures Form reports starting with the first quarter that commences after the effective date of the new §25.88 rule.

Commission Response

The commission may consider Houston's recommended additions in future rulemakings as these recommendations are outside the scope of the current rulemaking project.

As the requirements of §25.474 are outside the scope of this rulemaking, the commission may consider the Joint Commenters' recommended changes to §25.474 in a future rulemaking.

The commission has reviewed the redlined excel document submitted by CenterPoint and agrees in part. While the commission believes that clarity is important, it declines to add CenterPoint's clarifying edits to Schedule C, Part 1 as they are unnecessary. However, the commission agrees in part with CenterPoint's proposed changes to Schedule C, Part 2, and has modified the schedule and its instructions to reference DUNS numbers.

Additionally, while CenterPoint's other recommendations are out of scope of the current project, the commission may take up these recommendations in future rulemakings.

The commission agrees with Joint Commenters and CenterPoint request to establish an effective date that allows sufficient time for entities to adapt to the adopted rule's requirements and adds language to the rule providing that the new reporting requirements start with the second quarter of 2026.

Proposed §25.88(b)(2) - Filing Deadline

Proposed §25.88(b)(2) requires the report to be filed no later than the 30th day following the end of the preceding quarterly reporting period.

TEAM suggested the rule deadline should remain unchanged, i.e., by no later than the 45th day after the end of quarter.

The Coalition expressed concern regarding the rule's deadline, specifically that thirty days is not sufficient and would only increase the opportunities for inaccurate data submission and will significantly increase costs for REPs.

Vistra recommended maintaining the existing 45-day deadline under existing 16 TAC §25.88(c)(2) and editing (b)(2) in the Proposal for Publication.

Commission Response

The commission agrees with TEAM, the Coalition, and Vistra that a 30-day deadline could create unnecessary regulatory burden. As such, the commission modifies proposed subsection (b)(2) to increase the reporting deadline to 45 days.

Proposed §25.88(b)(3) - Confidential Information

Proposed §25.88(b)(3) allows an entity to designate, as confidential, information within its report that it considers to be confidential.

TEAM recommended revising proposed §25.88(b)(3) to exempt REPs from making a redacted filing such that the public portion of the Report would include the confidential filing memorandum but not a redacted copy of the Report.

Commission Response

The commission declines to add TEAM's recommended changes to subsection (b)(3) as 16 TAC Chapter 22, relating to Procedural Rules, dictates proper procedure for all filings. As such, the commission removes the paragraph because it is redundant.

Proposed §25.88(e)(3) - Additional Information to ERCOT

Proposed §25.88(e)(3) allows ERCOT to require entities to submit to ERCOT additional information that relates to market performance for specific analytical or diagnostic purposes.

TEAM and Vistra requested that proposed (e)(3) include a reasonableness requirement regarding the deadline by which additional information requested by ERCOT must be provided.

Commission Response

The commission disagrees with TEAM and Vistra and declines to add a reasonableness requirement to subsection (e)(3), as 16 TAC §22.5, relating to Suspension of Rules and Commission-Prescribed Forms, allows a market entity to which this rule applies to seek an exception to a reporting requirement under this rule if the entity can show good cause for the exception.

Repealed §25.88(e)(4) - Waiver

Repealed §25.88(e)(4) removed a provision that allowed the commission to waive reporting requirements if it determines that it is either impractical or unduly burdensome for the reporting entity to furnish the requested information.

The Coalition recommended that the adopted rule retain subsection (e)(4).

Commission Response

The commission disagrees with the Coalition as 16 TAC §22.5, relating to Suspension of Rules and Commission-Prescribed Forms, allows a market entity to which this rule applies to seek an exception to a reporting requirement under this rule if the entity can show good cause for the exception.

Proposed §25.88(f)(1) - Enforcement

Proposed §25.88(f)(1) states that the commission may impose all applicable administrative penalties under §22.246, relating to Administrative Penalties, of this title for failure of a reporting entity to timely file accurate performance measures report.

TEAM recommended amending the rule to require the consideration of factors like the existing rule, including compliance history and severity of the violation to assess a penalty. TEAM recommended substituting the word complete for the word accurate because whether a report is accurate is a more subjective determination.

Commission Response

The commission declines to list the factors the commission may consider in its investigation of an instance of non-compliance as these are provided in other rules, including, §22.246, §25.107, relating to Certification and Obligations of Retail Electric Providers (REPs), and §25.71 relating to General Procedures, Requirement and Penalties. In line with removing redundant references to applicable rules, the commission removes subsection (f)(1) from the adopted rule.

Instructions

The proposed instructions document specified that each entity must file its' report by the 30th day following the end of the preceding quarterly reporting period. The quarterly reporting periods begin on January 1, April 1, July 1, and October 1.

Monthly Data

The Coalition requested clarification on the method the required data is to be presented either for each month or consolidated for a calendar quarter. The Coalition argued that quarterly data would be of equal value and would be considerable cost savings for REPs.

Commission Response

The commission disagrees with the Coalition in part, because the additional granularity provided in the form and described in the form's instructions is necessary to evaluate specific performance measures. These include the measures related to retail sales, disconnection for non-payment, unauthorized change of REP, and field performance. However, the commission agrees it is not necessary to require every performance measure to be reported in monthly totals, and modifies the form and instructions document accordingly.

Proposed Schedule A Part 1 - Reporting Requirements for REPs Retail Sales

Proposed Schedule A Part 1 required each REP to file a facsimile of the information required by EIA Form 861M, for each month during the quarterly reporting period. Specifically, each REP must provide its revenue, megawatt hours sold, and number of customers by the customer types residential, commercial, and industrial, as defined by EIA Form 861M.

TEAM requested that any reporting requirements regarding the format for the submission of EIA data mirror current requirements.

Commission Response

The commission declines to allow a copy of the EIA Form 861M to suffice as proper filing under this rule. Portable Document Format (PDF) files are not a practical format for commission staff to conduct its necessary analyses. The commission requires the prescribed forms for consistency across reporting entities and to increase the efficiency of commission staff's review.

Proposed Schedule A Part 2 - Reporting Requirements for REPs Retail Sales by Premise Type

Proposed Schedule A, Part 2 required each REP to provide its retail sales for residential, small non-residential, medium non-residential, and large non-residential customers. Specifically, each REP must provide the corresponding customer counts, megawatt-hours sold, and revenues must be provided by premise type and TDU service territory for each month of the quarterly reporting period.

TEAM requested the removal of Schedule A, Part 2 to the Report as it would pose a regulatory burden. However, if the Commission approves Schedule A, Part 2 as proposed, TEAM recommended that this new requirement take effect no earlier than the Report for the first quarter of 2027. In addition TEAM provided that if the Commission adds the new reporting requirements embodied in Schedule A, Part 2, the proposed rule should be amended to require REPs to provide both this information and the EIA data required in Schedule A, Part 1 on an annual basis.

Vistra recommended deleting Schedule A, Part 2 entirely along with any associated reporting requirements outlined in the Commission' s form as duplicative.

Commission Response

The commission agrees with TEAM that providing consumer data under proposed Schedule A, Part 2 may present a regulatory burden for reporting entities. Additionally, the commission agrees with Vistra that proposed Schedule A, Part 2 includes overlapping reporting requirements for applicable entities. Therefore, the commission removes Schedule A, part 2 and amends Schedule B, Part 3 to require retail load information by transmission and distribution service provider.

Proposed Schedule A Part 3 - Reporting Requirements for REPs Retail Electric Provider Affiliations

Proposed Schedule A, Part 3 requires each REP to provide its affiliations by listing its subsidiaries and parent companies up to the ultimate corporate parent, and any sister companies that are registered or certified with the commission. Each company must be identified by name, relationship to the REP, and, if applicable, type of commission certification and corresponding certification number.

TEAM recommended limiting this schedule to a listing of all affiliates of a REP that also holds a REP certificate issued by the commission. TEAM further recommended that Schedule A, Part 3 should include a box a REP can check if the list of affiliates was the same for each month of the reporting period.

Commission Response

The commission disagrees with TEAM and declines to modify the instructions document and form to limit "affiliations" to only include other REPs registered with the commission. REPs provide the information one time under §25.107 for initial certification but do not consistently amend the information to reflect these changes. However, to minimize regulatory burdens, the commis-

sion modifies the form to require the reporting of affiliations once at the end of each quarter instead of each month of the quarter. The commission declines to add a check box to indicate that there have been no changes to the listed affiliations since the last required report; entities can simply submit the same list of its affiliates if there are no changes.

Proposed Schedule A Part 4 - Reporting Requirements for REPs Disconnection for Non-pay

Proposed Schedule A, Part 4 requires each REP to report the number of disconnect notices sent, disconnections requested, reconnections requested, and move-outs ordered after a Disconnection for Non-Pay (DNP) for residential customers, for critical care residential customers, chronic condition residential customers, and for prepaid service customers by TDU service territory for each month during the quarterly reporting period.

The Coalition recommended the commission eliminate from Schedule A, Part 4 the requirement to report the number of reconnections of a disconnected prepaid service customer completed within two hours. The Coalition stated that the proposed performance measurement conflicts with 16 TAC §25.498(j)(4), relating to Prepaid Service, because that rule requires a REP to submit a reconnection request no later than one hour after its customer has completed the reconnection requirements. Creating two separate reporting measurements, the Coalition posited, would create a discrepancy between the two rules and may impact the accuracy of what is reported. The Technical Performance Measures Report should not require any different period from that in §25.498(j)(4), relating to Prepaid Service.

The Coalition also recommended that the Commission either exempt customer accounts on prepaid plans from this requirement or develop a more practical reporting standard tailored to the unique nature of prepaid service.

In addition, the Coalition commented that the language in the proposed Instructions for Retail Performance Measures Report, Schedule A, Part 4 should not separate reporting concerning critical care residential customers and chronic condition residential customers.

Commission Response

The commission agrees with the Coalition that the data required under adopted §25.88 should be consistent with the requirements of §25.498 and modifies the form and the instructions document to remain consistent with §25.498(j)(4).

In order to address the unique nature of prepaid plans, the commission has modified proposed Schedule A, Part 4 to create a separate forms for prepaid customers in new Schedule A, Part 3.2, and to create a new form for post-pay customers, new Schedule A, Part 3.1.

Further, the commission agrees with the Coalition and clarifies that reporting under Schedule A, Part 3.1 for critical care residential customers and chronic condition residential customers is not to be reported as separate values. The commission modifies the instructions document to provide additional clarity.

Schedule B - Reporting Requirements for ERCOT

Proposed Schedule B dictates the retail performance measure reporting requirements for ERCOT.

ERCOT recommended updating Schedule B to remove the three references to TX Standard Electronic Transaction Change Control 814_07 as that transaction set was retired during a Texas SET upgrade and is no longer relevant.

Commission Response

The commission agrees with ERCOT and removes any reference to the 814_07 transaction set.

In adopting this section, the commission makes other minor modifications for the purpose of clarifying its intent.

This section is adopted 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; §14.003, which provides authority to require reports of a public utility; §15.023, which provides for commission imposition of an administrative penalty against a person regulated under PURA who violates PURA or a rule adopted under PURA; §39.001, which sets forth the legislative policy and purpose of PURA Chapter 39, Restructuring of Electric Utility Industry; §39.101, which sets forth customer safeguards; §39.151, which subjects to commission review procedures established by an independent operator relating to the reliability of the regional electrical network and accounting for the production and delivery of electricity among generators and all other market participants; §39.168, which requires REPs and its affiliates to annually report to the commission certain retail sales metrics; §39.352, which sets forth standards for certification of REPs; §39.356, which provides for suspension, revocation, or amendment of a REP's certificate; and §39.357, which provides for the imposition of administrative penalties on a REP for violations described by §39.356.

Cross Reference to Statute: Public Utility Regulatory Act §14.001, 14.002, 14.003, 15.023, 39.001, 39.101, 39.151, 39.168, 39.352, 39.356, and 39.357.

§25.88. Retail Market Performance Measure Reporting.

(a) Applicability. This section applies to the Electric Reliability Council of Texas (ERCOT), retail electric providers (REPs), and transmission and distribution utilities (TDUs) except TDUs that provide only wholesale transmission service.

(b) Filing requirements. Using forms prescribed by the commission, a reporting entity must report activities as required by this section.

(1) Each entity must provide an electronic version of its retail market performance measures report (report) in a manner prescribed by the commission and follow any reporting instructions provided by the commission. The report and any accompanying documentation must be filed in the native format of the file.

(2) Beginning with the second quarter of 2026. The report must be filed no later than the 45th day following the end of the preceding quarterly reporting period. Quarterly periods begin on January 1, April 1, July 1, and October 1.

(c) Retail Market Performance Measures. The report requires reporting entities to provide data and documentation regarding the following performance measures:

(1) Competitive market indicators;

(2) Technical market mechanics; and

(3) Field performance statistics.

(d) Supporting documentation. Each Report must include:

(1) Analysis. Each report must include an analysis or explanation of the reporting entity's data and performance for the quarterly reporting period for any retail market performance measure that does not meet the expected performance level. The explanation or analysis must include the change in performance over the past quarterly reporting period and an explanation of circumstances that may have affected the reporting entity's performance.

(2) Report attestation. Each report submitted to the commission must be accompanied by a signed, notarized affidavit by an executive officer as defined in §25.107. The affidavit must attest that all material provided in the report is true, correct, and complete.

(3) Supporting documents available for inspection. Each supporting document, including records, books, and memoranda must be made available for inspection by the commission or commission staff upon request. Supporting documents must be maintained for a period of 24 months after the report date.

(e) Other reports.

(1) Additional reports requested by staff. The commission or commission staff may require a reporting entity to submit additional reports to allow the commission to analyze the changing dynamics of the retail electric market or to obtain information on specific issues that may require additional diagnostic review.

(2) Supplemental information. Upon request by the commission or commission staff, a reporting entity must provide any additional information that relates to its report. Such requests will provide a reasonable deadline that takes into account the information requested.

(3) Additional reports requested by ERCOT. ERCOT may require reporting entities to provide to ERCOT additional information that relates to market performance for specific analytical or diagnostic purposes.

(f) Enforcement by the commission.

(1) Failure to timely file an accurate report. The commission may impose all applicable administrative penalties under §22.246 of this title for failure of a reporting entity to timely file an accurate performance measures report.

(2) Prohibited conduct. Each entity must complete within the parameters set forth in the ERCOT Protocols and/or the Standard Tariff for Retail Delivery Service under §25.214 of this title (relating to Terms and Conditions of Retail Delivery Service Provided by Investor Owned Transmission and Distribution Utilities), at least 98% of all its technical market transactions in each transaction category identified in the filing package.

(g) Public information. The commission may produce a summary report on the retail market performance measures using the information collected as a result of these reporting requirements. Any such report will only contain public information. The commission may post the report on the commissions website or provide the report to any interested entity.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on March 13, 2026.

TRD-202601228

Katelyn Lewis
Rules Coordinator
Public Utility Commission of Texas
Effective date: April 2, 2026
Proposal publication date: November 21, 2025
For further information, please call: (512) 936-7433

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TITLE 19. EDUCATION

PART 2. TEXAS EDUCATION AGENCY

CHAPTER 89. ADAPTATIONS FOR SPECIAL POPULATIONS

SUBCHAPTER AA. COMMISSIONER'S RULES CONCERNING SPECIAL EDUCATION SERVICES

The Texas Education Agency (TEA) adopts amendments to §§89.1035, 89.1070, and 89.1080 and new §89.1127, concerning adaptations for special populations. The amendments to §§89.1035, 89.1070, and 89.1080 are adopted without changes to the proposed text as published in the November 7, 2025 issue of the *Texas Register* (50 TexReg 7215) and will not be republished. New §89.1127 is adopted with changes to the proposed text as published in the November 7, 2025 issue of the *Texas Register* (50 TexReg 7215) and will be republished. The adopted revisions implement House Bill (HB) 2 and Senate Bill (SB) 568, 89th Texas Legislature, Regular Session, 2025, by updating statutory cross references, aligning provisions related to graduation requirements for students receiving special education services and regional day school programs for the deaf, and adding a new section on the noneducational community-based support services grant program.

REASONED JUSTIFICATION: Section 89.1035 addresses age ranges for student eligibility for special education and related services. The adopted amendment updates statutory cross references to align with HB 2 and SB 568.

Section 89.1070 addresses graduation requirements for students receiving special education and related services. The adopted amendment adds new subsection (d) to align with HB 2 and SB 568 by clarifying the qualifications a student receiving special education and related services must meet to receive the distinguished level of achievement with modified curriculum.

Section 89.1070 is also modified to update cross references to the state standards in the Texas Administrative Code.

Section 89.1080 references regional day school programs for the deaf. The adopted amendment updates statutory cross references and adds reference to the state plan to align with HB 2 and SB 568. Additionally, to align with HB 2 and SB 568, the adopted amendment requires funds received by fiscal agents or program administrators under Texas Education Code, §48.315, to be spent on program related expenses, and adopted new subsection (c) addresses what must be included in a cooperative agreement between a member district and its fiscal agent.

Adopted new §89.1127 establishes procedures and criteria for the allocation of noneducational community-based support services grants to align with HB 2 and SB 568. The process to access noneducational community-based support services

will be a grant system provided to parents of eligible students. Adopted new subsection (a) establishes definitions. Based on public comment, subsection (a)(1) has been updated at adoption to provide additional clarity in the definition for "at risk of being placed in a residential program." Adopted new subsection (b) requires TEA to designate a regional education service center (ESC) to administer grants under this program. Adopted new subsection (c) establishes requirements for school districts. Adopted new subsection (d) outlines the operational responsibilities of the designated ESC. Adopted new subsection (e) establishes a requirement for a parent of an eligible student to complete the application process and procedures developed by the ESC to access the grants under this section. Adopted new subsection (f) establishes initial grant amounts under this program.

SUMMARY OF COMMENTS AND AGENCY RESPONSES: The public comment period on the proposal began December 5, 2025, and ended January 5, 2026. Following is a summary of public comments received and agency responses.

Comment: A school counselor expressed concern that children of district employees including counselors, nurses, secretaries, librarians, and administrators who are not educators are not eligible for free prekindergarten in the district even though children of classroom teachers are now eligible.

Response: The agency offers the following clarification. The specification that only children of classroom teachers are eligible for free public prekindergarten is a requirement in state law, and the rule simply implements the statutory change. Further expansion of the eligibility criteria would need to be made by the legislature.

Comment: An educator expressed dissatisfaction with the removal of references to cultural diversity.

Response: The agency disagrees that the amendments to the language are not appropriate. References to cultural diversity were not removed from the rule. A reference to family engagement being culturally responsive was broadened to ensure that engagement is responsive to a variety of backgrounds. A second reference was adjusted to clarify that a district family engagement plan should identify partners to provide parents with all relevant resources reflective of the home language and not just culturally relevant resources.

DIVISION 2. CLARIFICATION OF PROVISIONS IN FEDERAL REGULATIONS

19 TAC §§89.1035, 89.1070, 89.1080

STATUTORY AUTHORITY. The amendments are adopted under Texas Education Code (TEC), §28.025, which establishes requirements related to high school graduation and academic achievement records; TEC, §29.001, as amended by House Bill (HB) 2 and Senate Bill (SB) 568, 89th Texas Legislature, Regular Session, 2025, which establishes criteria for the implementation of special education law, including rulemaking as part of the comprehensive system focused on maximizing student outcomes; TEC, §29.003, as amended by HB 2 and SB 568, 89th Texas Legislature, Regular Session, 2025, which requires the Texas Education Agency (TEA) to develop eligibility criteria for students receiving special education services; TEC, §29.013, as amended by HB 2 and SB 568, 89th Texas Legislature, Regular Session, 2025, which establishes noneducational community-based support services grants for certain students with disabilities and requires the commissioner to adopt rules regarding the grants awarded under this section; TEC, §29.026, as added by HB 2 and SB 568, 89th Texas Legislature, Regular Session, 2025, which grants the commissioner rulemaking authority to implement TEC, Chapter 29, Educational Programs, Subchapter A, Special Education Program; TEC, §30.002, as amended by HB 2 and SB 568, 89th Texas Legislature, Regular Session, 2025, which requires TEA to develop and administer a statewide plan for the education of children with visual impairments, children who are deaf or hard of hearing, and children who are deaf-blind; TEC, §30.0021, as added by HB 2 and SB 568, 89th Texas Legislature, Regular Session, 2025, which establishes requirements for students with visual impairments; TEC, §30.081, as amended by HB 2 and SB 568, 89th Texas Legislature, Regular Session, 2025, which establishes the legislative intent concerning regional day schools for the deaf; TEC, §30.085, which establishes the use of local resources in the establishment and operation of the regional day school programs for the deaf; TEC, §30.086, which establishes powers and duties of TEA regarding regional day schools for the deaf; TEC, §48.1021, as added by HB 2 and SB 568, 89th Texas Legislature, Regular Session, 2025, which establishes special education service group funding; TEC, §48.315, as added by HB 2 and SB 568, 89th Texas Legislature, Regular Session, 2025, which establishes funding for regional day school programs for the deaf; Texas Government Code, §392.002, which establishes the use of person first respectful language required by the legislature and the Texas Legislative Council; 34 CFR, §300.8, which defines terms regarding a child with a disability; 34 CFR, §300.100, which establishes eligibility criteria for a state to receive assistance; 34 CFR, §300.101, which defines the requirement for all children residing in the state between the ages of 3-21 to have free appropriate public education available; 34 CFR, §300.102, which establishes criteria for limitation-exception to free appropriate public education for certain ages; 34 CFR, §300.111, which defines the requirement of the state to have policies and procedures in place regarding child find; 34 CFR, §300.149, which establishes the state education agency's responsibility for general supervision; and 34 CFR, §300.600, which establishes requirements for state monitoring and enforcement.

CROSS REFERENCE TO STATUTE. The amendments implement Texas Education Code (TEC), §28.025; §§29.001, 29.003, and 29.013, as amended by House Bill (HB) 2 and Senate Bill (SB) 568, 89th Texas Legislature, Regular Session, 2025; §29.026, as added by HB 2 and SB 568, 89th Texas Legislature, Regular Session, 2025; §30.002, as amended by HB 2 and SB 568, 89th Texas Legislature, Regular Session, 2025; §30.0021, as added by HB 2 and SB 568, 89th Texas Legislature, Regular Session, 2025; §30.081, as amended by HB 2 and SB 568, 89th Texas Legislature, Regular Session, 2025; §30.085; §30.086; and §48.1021 and §48.315, as added by HB 2 and SB 568, 89th Texas Legislature, Regular Session, 2025; Texas Government Code, §392.002; and 34 Code of Federal Regulations (CFR), §§300.8, 300.100, 300.101, 300.102, 300.111, 300.149, and 300.600.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on March 16, 2026.

TRD-202601251

Cristina De La Fuente-Valadez
Director, Rulemaking
Texas Education Agency
Effective date: April 5, 2026
Proposal publication date: November 7, 2025
For further information, please call: (512) 475-1497

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DIVISION 4. SPECIAL EDUCATION FUNDING

19 TAC §89.1127

STATUTORY AUTHORITY. The new rule is adopted under Texas Education Code (TEC), §28.025, which establishes requirements related to high school graduation and academic achievement records; TEC, §29.001, as amended by House Bill (HB) 2 and Senate Bill (SB) 568, 89th Texas Legislature, Regular Session, 2025, which establishes criteria for the implementation of special education law, including rulemaking as part of the comprehensive system focused on maximizing student outcomes; TEC, §29.003, as amended by HB 2 and SB 568, 89th Texas Legislature, Regular Session, 2025, which requires the Texas Education Agency (TEA) to develop eligibility criteria for students receiving special education services; TEC, §29.013, as amended by HB 2 and SB 568, 89th Texas Legislature, Regular Session, 2025, which establishes noneducational community-based support services grants for certain students with disabilities and requires the commissioner to adopt rules regarding the grants awarded under this section; TEC, §29.026, as added by HB 2 and SB 568, 89th Texas Legislature, Regular Session, 2025, which grants the commissioner rulemaking authority to implement TEC, Chapter 29, Educational Programs, Subchapter A, Special Education Program; TEC, §30.002, as amended by HB 2 and SB 568, 89th Texas Legislature, Regular Session, 2025, which requires TEA to develop and administer a statewide plan for the education of children with visual impairments, children who are deaf or hard of hearing, and children who are deafblind; TEC, §30.0021, as added by HB 2 and SB 568, 89th Texas Legislature, Regular Session, 2025, which establishes requirements for students with visual impairments; TEC, §30.081, as amended by HB 2 and SB 568, 89th Texas Legislature, Regular Session, 2025, which establishes the legislative intent concerning regional day schools for the deaf; TEC, §30.085, which establishes the use of local resources in the establishment and operation of the regional day school programs for the deaf; TEC, §30.086, which establishes powers and duties of TEA regarding regional day schools for the deaf; TEC, §48.1021, as added by HB 2 and SB 568, 89th Texas Legislature, Regular Session, 2025, which establishes special education service group funding; TEC, §48.315, as added by HB 2 and SB 568, 89th Texas Legislature, Regular Session, 2025, which establishes funding for regional day school programs for the deaf; Texas Government Code, §392.002, which establishes the use of person first respectful language required by the legislature and the Texas Legislative Council; 34 CFR, §300.8, which defines terms regarding a child with a disability; 34 CFR, §300.100, which establishes eligibility criteria for a state to receive assistance; 34 CFR, §300.101, which defines the requirement for all children residing in the state between the ages of 3-21 to have free appropriate public education available; 34 CFR, §300.102, which establishes criteria for limitation-exception to free appropriate public education for certain ages; 34 CFR, §300.111, which defines the requirement of the state to have policies and procedures in place regarding child find; 34 CFR, §300.149, which establishes the state education agency's responsibility for general supervision; and 34 CFR, §300.600, which establishes requirements for state monitoring and enforcement.

CROSS REFERENCE TO STATUTE. The new rule implements Texas Education Code (TEC), §28.025; §§29.001, 29.003, and 29.013, as amended by House Bill (HB) 2 and Senate Bill (SB) 568, 89th Texas Legislature, Regular Session, 2025; §29.026, as added by HB 2 and SB 568, 89th Texas Legislature, Regular Session, 2025; §30.002, as amended by HB 2 and SB 568, 89th Texas Legislature, Regular Session, 2025; §30.0021, as added by HB 2 and SB 568, 89th Texas Legislature, Regular Session, 2025; §30.081, as amended by HB 2 and SB 568, 89th Texas Legislature, Regular Session, 2025; §30.085; §30.086; and §48.1021 and §48.315, as added by HB 2 and SB 568, 89th Texas Legislature, Regular Session, 2025; Texas Government Code, §392.002; and 34 Code of Federal Regulations (CFR), §§300.8, 300.100, 300.101, 300.102, 300.111, 300.149, and 300.600.

§89.1127. Noneducational Community-Based Support Services Grant Program.

(a) Definitions. The following definitions shall apply.

(1) "At risk of being placed in a residential program" means either the student's school district has given the student's parent a prior notice in writing proposing to initiate or change the placement of the student from a day placement program to a residential program or the student's admission, review, and dismissal committee has discussed this more restrictive placement as a possibility if the student's current placement in a day placement program is determined to not provide the student a free appropriate public education. This would be confirmed with the school system prior to approving a grant for this reason. If the school district does not provide confirmation, the grant administrator must notify the parent and offer the parent an opportunity to provide information that serves as confirmation.

(2) "Day placement program" means a day placement program approved under Texas Education Code, §29.008, which could include a student who is receiving special education and related services in or on a nonpublic facility or on a district campus or facility in a special education setting more than 50% of the instructional day.

(3) "Parent" means a person who meets the definition of parent in 34 Code of Federal Regulations, §300.30.

(4) "School district" includes open-enrollment charter schools.

(b) The Texas Education Agency shall designate a regional education service center (ESC) to administer grants under this program.

(c) Each school district must:

(1) inform the parent of an eligible student of the availability of grants under this program; and

(2) designate a staff member to assist families in accessing grants under this program.

(d) The designated ESC shall develop or establish the following:

(1) an accessible application for a parent to apply for a grant;

(2) procedures to verify with the agency and the school district, when necessary, the student's eligibility for a grant;

(3) procedures related to establishing an account for a parent to access the grant funds once a student is determined eligible;

(4) a list of approved services and service providers;

(5) procedures for a parent or service provider to request placement on the list of approved services and service providers;

(6) procedures to pay service providers for approved services; and

(7) procedures for a parent to request an increase in their grant amount.

(e) A parent of an eligible student must complete the application process and the procedures developed by the designated ESC to access the grants under this program.

(f) Initial grant amounts under this program shall be $5,000, subject to available funding.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on March 16, 2026.

TRD-202601252
Cristina De La Fuente-Valadez
Director, Rulemaking
Texas Education Agency
Effective date: April 5, 2026
Proposal publication date: November 7, 2025
For further information, please call: (512) 475-1497

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CHAPTER 129. STUDENT ATTENDANCE
SUBCHAPTER AA. COMMISSIONER'S RULES

19 TAC §129.1031

The Texas Education Agency (TEA) adopts an amendment to §129.1031, concerning student attendance. The amendment is adopted without changes to the proposed text as published in the November 14, 2025 issue of the *Texas Register* (50 TexReg 7401) and will not be republished. The adopted amendment clarifies student eligibility and attendance reporting for off-campus programs and expands the list of entities that may provide those programs.

REASONED JUSTIFICATION: Section 129.1031 explains student and funding eligibility for off-campus programs.

The amendment to §129.1031(a) updates the statutory authority from Texas Education Code (TEC), §42.0052 to §48.005(g-1) and §48.007.

New subsection (b) expands the types of entities that can provide off-campus instructional programs eligible for course credit. In addition to existing provisions, it includes career and technical education providers, student internships, project-based research opportunities, work-based learning opportunities, private schools accredited by recognized accrediting entities, community-based child-care providers meeting criteria under TEC, §29.153, and other off-campus instructional entities approved by the school district.

New subsection (c) adds eligibility criteria required for a student to participate in an off-campus program.

New subsection (c)(1) adds eligibility criteria needed for students participating in an off-campus programs provided by institutions of higher education.

New subsection (c)(1)(A) states that eligible students must have parental approval for the specific program unless they are 18 or older.

New subsection (c)(2) adds criteria that students participating in an off-campus program not provided by an institution of higher education must meet.

New subsection (c)(2)(A) adds that students need to have parental approval for the specific program unless they are 18 or older.

New subsection (c)(2)(B) adds that students must meet the eligibility requirements adopted by a school district or an open-enrollment charter school for participation in off-campus programs.

The amendment to subsection (d)(1) clarifies language to include students participating part time in an off-campus program.

New subsection (d)(2) was added to explain that, for students enrolled full time in an off-campus program, the school district or charter school will set a specific time to take attendance in coordination with the program. The district or charter will also have the flexibility to choose a different attendance time for certain student groups separate from the district's usual schedule.

The amendment to subsection (d)(3) specifies that alternate attendance-taking times may not be changed once they are selected unless permitted by TEA.

The amendment to subsection (e) removes the term "college" and replaces it with broader language concerning any entity providing an off-campus program.

New subsection (e)(1) was added to state that the school district or charter school is responsible for ensuring that any approved off-campus program complies with all applicable requirements set by the TEC or other relevant authorities.

New subsection (e)(1)(A) was added to include student enrollment requirements.

New subsection (e)(1)(B) was added to include assessments required by provisions of TEC, Chapter 39.

New subsection (e)(2) was added to specify requirements for attendance and assessment and accountability purposes.

New subsection (e)(2)(A) was added to require a student participating part time in an off-campus program to remain enrolled in their district or charter school campus.

New subsection (e)(2)(B) was added to require a student participating full time in an off-campus program to be enrolled in a campus with a county district campus number (CDCN) establish by the school district or charter school to fulfill serving full-time students under this section. A CDCN may be granted for one or more off-campus providers. An application for a new CDCN for a full-time off-campus program must meet all requirements for new CDCNs.

New subsection (e)(2)(B)(i) was added to indicate that, if performance of the full-time program results in the revocation of the CDCN for discretionary or mandatory reasons under TEC, Chapter 39A, and other statutes, a school district or charter school

is not eligible for funding under this section under the revoked CDCN until TEA reauthorizes the school district or charter school to receive a CDCN for that off-campus provider to serve full-time students.

New subsection (e)(2)(B)(ii) was added to indicate that charter schools must also meet expansion criteria and receive approval for an additional campus prior to requesting a new CDCN for a full-time off-campus program.

New subsection (e)(2)(C) was added to authorize a full-time off-campus program to operate without a separate CDCN if the number of students enrolled in a full-time off-campus program will not meet the threshold to generate an accountability rating for the campus. A district or charter school operating a full-time off-campus program must enroll these students in an existing campus.

New subsection (e)(3) was added to address revocation of eligibility of district or charter school to receive funding if the commissioner determines the performance or health and safety of students participating in the program is no longer satisfactory.

SUMMARY OF COMMENTS AND AGENCY RESPONSES: The public comment period on the proposal began November 14, 2025, and ended December 15, 2025. Following is a summary of public comments received and agency responses.

Comment: An individual stated a student present at an approved off-campus program should be counted present and not have any attendance penalties.

Response: The agency agrees. The rule states that a student present at an approved off-campus program is to be counted present as prescribed by the rule and the Student Attendance Accounting Handbook (SAAH) adopted by reference under 19 TAC §129.1025.

Comment: Graduation Alliance proposed language to recognize the Optional Flexible School Day Program (OFSDP) within §129.1031(b)(8).

Response: The agency disagrees as OFSDP is a separate program.

Comment: Graduation Alliance suggested language to align with definitions and procedures currently outlined in the SAAH in §3.6.2.2 and §11.10.2.

Response: The agency disagrees with making the suggested change. The SAAH will be revised for the 2026-2027 school year to align with this rule.

Comment: The Graduation Alliance suggested clarification in subsection (e)(2) for enrollment and accountability structures for OFSDP Online Dropout Recovery Programs.

Response: The agency disagrees as OFSDP is a separate program and not an off-campus program.

STATUTORY AUTHORITY. The amendment is adopted under Texas Education Code (TEC), §48.005(g-1), which requires the commissioner to adopt rules to calculate average daily attendance for students in a blended learning programs where instruction is supplemented with learning opportunities, including internships, externships, and apprenticeships; and TEC, §48.007, which requires the commissioner to adopt verification and reporting procedures concerning time spent by students participating in instructional programs provided off campus by an entity other than a school district or an open-enrollment charter school.

CROSS REFERENCE TO STATUTE. The amendment implements Texas Education Code, §48.005(g-1) and §48.007.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on March 16, 2026.

TRD-202601254
Cristina De La Fuente-Valadez
Director, Rulemaking
Texas Education Agency
Effective date: April 5, 2026
Proposal publication date: November 14, 2025
For further information, please call: (512) 475-1497

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TITLE 22. EXAMINING BOARDS

PART 1. TEXAS BOARD OF ARCHITECTURAL EXAMINERS

CHAPTER 1. ARCHITECTS

The Texas Board of Architectural Examiners (Board) adopts amendments to 22 Texas Administrative Code (TAC), Chapter 1 relating to Architects, §1.27, relating to Provisional Licensure, and §1.149, relating to Criminal Convictions. The amendments are adopted without changes to the proposed text published in the January 16, 2026, issue of the *Texas Register* (51 TexReg 269). The rules will not be republished.

Reasoned Justification. The adopted rules implement Senate Bill 1080 (89th Regular Session, 2025), which amends provisions in Chapter 53, Texas Occupations Code, relating to licensing and Consequences of Criminal Conviction. To implement SB 1080, the Board adopted amendments to 22 TAC §1.27 and §1.149.

Through Senate Bill 1080, the legislature provides licensing authorities discretion to revoke a license following imprisonment for a felony conviction, unless the felony offense is directly related to the duties and responsibilities of the licensed occupation, the felony offense is a sexually violent offense under Article 62.001, Code of Criminal Procedure, or the felony offense is an offense listed in Article 42A.054, Code of Criminal Procedure, pursuant to §53.021, Texas Occupations Code. These statutory amendments are adopted in 22 TAC §1.149(a) - (b).

Additionally, SB 1080 added §53.0211(b-1), Texas Occupations Code, which allows licensing authorities discretion to consider the issuance of a provisional license to an applicant who has committed an offense and is an imprisoned inmate of the Texas Department of Criminal Justice (TDCJ) or is an applicant on parole or mandatory supervision who is residing at a halfway house or community residential facility. The applicant must be a student or graduate of the Windham School District or an institution of higher education. A provisional license issued under §53.0211(b-1), Texas Occupations Code is valid for twelve (12) months, and the term begins on the date an applicant who is an inmate is released, pursuant to amendments to §53.0211(b)(2) and §53.0211(c), Texas Occupations Code. These statutory amendments are adopted in 22 TAC §1.27(b), (d).

Summary of Comments. The Board did not receive any comments on the proposed rule.

SUBCHAPTER B. ELIGIBILITY FOR REGISTRATION

22 TAC §1.27

Statutory Authority. The amendments to §1.27 are adopted under §1051.202, Texas Occupations Code, which authorizes the Board to adopt reasonable rules as necessary to regulate the practice of architecture; §1051.207, Texas Occupations Code, which authorizes the Board to adopt rules as necessary to comply with Chapter 53, Texas Occupations Code; and Chapter 53, Texas Occupations Code, which provides licensing authorities authority grant licenses and provisional licenses to certain applicants with prior criminal convictions.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on March 9, 2026.

TRD-202601137
Pim Mayo
General Counsel
Texas Board of Architectural Examiners
Effective date: March 29, 2026
Proposal publication date: January 16, 2026
For further information, please call: (512) 305-9040

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SUBCHAPTER H. PROFESSIONAL CONDUCT

22 TAC §1.149

Statutory Authority. The amendments to §1.149 are adopted under §1051.202, Texas Occupations Code, which authorizes the Board to adopt reasonable rules as necessary to regulate the practice of architecture; §1051.207, Texas Occupations Code, which authorizes the Board to adopt rules as necessary to comply with Chapter 53, Texas Occupations Code; and Chapter 53, Texas Occupations Code, which provides licensing authorities authority grant licenses and provisional licenses to certain applicants with prior criminal convictions.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on March 9, 2026.

TRD-202601138
Pim Mayo
General Counsel
Texas Board of Architectural Examiners
Effective date: March 29, 2026
Proposal publication date: January 16, 2026
For further information, please call: (512) 305-9040

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SUBCHAPTER B. ELIGIBILITY FOR REGISTRATION

22 TAC §1.29

The Texas Board of Architectural Examiners (Board) adopts amendments to 22 Texas Administrative Code (TAC) §1.29. The amendments are adopted with changes to the proposed text published in the January 16, 2026, issue of the *Texas Register* (51 TexReg 272) and will be republished.

Reasoned Justification. The adopted rules implement Senate Bill 1818 and House Bill 5629 (89th Regular Session, 2025), which amend provisions in Chapter 55, Texas Occupations Code, relating to Licensing of Military Service Members, Military Veterans, and Military Spouses. To implement Senate Bill 1818 and House Bill 5629, the Board adopted amendments to 22 TAC §1.29. The adopted amendments also include non-substantive grammatical changes and paragraph renumbering.

SB 1818 mandates the prompt issuance of a provisional registration to an applicant under §55.004 or §55.0041, Texas Occupations Code if the agency is unable to promptly issue a license or recognition of an out-of-state license, respectively. A provisional license expires the earlier of the date the license is issued or recognition is granted, or the 180th day after the date the provisional registration is issued. These requirements are adopted in 22 TAC §1.29(b).

Under HB 5629, amendments to §55.004, Texas Occupations Code, mandate licensing agencies issue a license to a military service member, military veteran, or military spouse who holds a license in good standing in another state with a similar scope of practice to Texas. Amendments to §55.0041, Texas Occupations Code, allow a military service member, military veteran, or military spouse to practice in Texas under an out-of-state license without having to become registered in Texas, and provides procedures for recognizing the out-of-state license. These requirements are adopted in 22 TAC §1.29(c).

Additionally, HB 5629 adds §55.0042, Texas Occupations Code, which specifies how "good standing" is determined, which is adopted in 22 TAC §1.29(a)(3), and the bill also added §55.0043, Texas Occupations Code, which requires that agencies track and publish complaints made against a military service member, military veteran, or military spouse. The law also modifies §55.005(a), Texas Occupations Code, which requires agencies to process applications and issue registrations for qualified applicants within 10 business days instead of 30, which is adopted in 22 TAC §1.29(b)(3) and §1.29(c)(4). Finally, HB 5629 modifies §55.009, Texas Occupations Code to waive application fees for any individual who is a military service member, military veteran, or military spouse which is adopted in 22 TAC §1.29(f).

Summary of Comments. The Board did not receive any comments on the proposed rule.

Statutory Authority. The amendment of §1.29 is adopted under §1051.202, Texas Occupations Code, which authorizes the Board to adopt reasonable rules as necessary to regulate the practice of architecture; §1051.704, Texas Occupations Code, which requires the Board to examine each applicant for registration on any architectural subject or procedure the Board requires and to issue a certificate of registration to each applicant who passes the examination; and §§55.004, 55.0041, 55.0042, 55.0043, 55.005, and 55.009, Texas Occupations Code, which relate to the Licensing of Military Service Members, Military Veterans, and Military Spouses.

§1.29. Registration of a Military Service Member, Military Veteran, or Military Spouse.

(a) For the purposes of this section, terms shall have the following definitions:

(1) "Active duty" means current full-time military service in the armed forces of the United States or active duty military service as a member of the Texas military forces, as defined by Section 437.001, Government Code, or similar military service of another state.

(2) "Armed forces of the United States" means the army, navy, air force, coast guard, or marine corps of the United States or a reserve unit of one of those branches of the armed forces.

(3) "Good Standing" means an Applicant:

(A) holds a license that is current, has not been suspended or revoked, and has not been voluntarily surrendered during an investigation for unprofessional conduct;

(B) has not been disciplined by the licensing authority with respect to the license or person's practice of architecture; and

(C) is not currently under investigation by the licensing authority for unprofessional conduct related to the person's license or profession.

(4) "License" means a license or registration to practice architecture.

(5) "Military service member" means a person who is on active duty.

(6) "Military spouse" means a person who is married to a military service member.

(7) "Military veteran" means a person who has served on active duty and who was discharged or released from active duty.

(b) Expedited Licensure Procedure for a Military Service Member, Military Veteran, or Military Spouse.

(1) A military service member, military veteran, or military spouse may apply for a registration in accordance with:

(A) §1.21 of this chapter (relating to Registration by Examination);

(B) §1.22 of this chapter (relating to Registration by Reciprocal Transfer); or

(C) §55.004, Texas Occupations Code.

(2) A military service member, military veteran, or military spouse is eligible for registration under §55.004, Texas Occupations Code if:

(A) the Applicant holds a current license issued by another state that is similar in scope of practice to a Texas architectural registration and is in Good Standing with that state's licensing authority; or

(B) the Applicant held a Texas architectural registration within the five years preceding the application date under this subsection.

(3) Not later than the 10th business day after the date a military service member, military veteran, or military spouse files an application for registration under §1.21 or §1.22 of this chapter, the Board shall process the application and issue a registration to a qualifying Applicant.

(4) On receipt of an application for registration in accordance with §55.004, Texas Occupations Code, the Board shall promptly issue a provisional registration to the Applicant while the Board processes the application or issue the registration. A provisional registration issued under this subsection expires on the earlier of:

(A) the date the Board approves or denies the application for registration; or

(B) the 180th day after the date the provisional registration is issued.

(c) Recognition of Out-of-State License of Military Service Members and Military Spouses.

(1) As applicable, a military service member or military spouse who holds a current license issued by another state that is similar in scope of practice to a Texas architectural registration and who is in Good Standing with that state's licensing authority may submit an application to the Board to request recognition of the out-of-state license in accordance with the provisions of §55.0041, Texas Occupations Code, if:

(A) the military service member has been ordered to relocate to Texas, or

(B) the military spouse is married to a military service member who has been ordered to relocate to Texas.

(2) An Applicant whose out-of-state license is recognized under this subsection may engage in the Practice of Architecture in this state without obtaining a registration.

(3) Prior to engaging in the Practice of Architecture under this subsection, the Applicant must submit the following information to the Board to demonstrate eligibility for recognition of an out-of-state license:

(A) a copy of the member's military orders showing relocation to this state;

(B) if the Applicant is a military spouse, a copy of the military spouse's marriage license; and

(C) a notarized affidavit affirming under penalty of perjury that:

(i) the Applicant is the person described and identified in the application;

(ii) all statements in the application are true, correct, and complete;

(iii) the Applicant understands the scope of practice for an architect in this state and will not perform outside of that scope of practice; and

(iv) the Applicant is in Good Standing in each state in which the Applicant holds or has held a license.

(4) Not later than 10 business days after a military service member or military spouse files an application for registration under this subsection, the Board shall:

(A) Notify the Applicant of the Board's determination that:

(i) the Board recognizes the Applicant's out-of-state license;

(ii) the application is incomplete; or

(iii) the Board is unable to recognize the Applicant's out-of-state license because the Board does not issue a registration similar in scope of practice to the Applicant's license; or

(B) Issue a provisional registration to the Applicant pending the issuance of a determination under subparagraph (4)(A) of this paragraph.

(5) A provisional registration issued under this subsection expires on the earlier of:

(A) the date the Board issues a determination under paragraph (4)(A) of this subsection; or

(B) the 180th day after the date the provisional registration is issued.

(6) An Applicant under this subsection shall comply with all other laws and regulations applicable to the Practice of Architecture in this state.

(7) A military service member or military spouse may engage in the Practice of Architecture under the authority of this subsection only for the period during which the military service member or, with respect to a military spouse, the military service member to whom the spouse is married is stationed at a military installation in this state.

(8) In the event of a divorce or similar event that affects a person's status as a military spouse, the former spouse may continue to engage in the Practice of Architecture under the authority of this subsection until the third anniversary of the date the spouse submitted the application required under paragraph (3) of this subsection.

(d) The Board will review and evaluate the following criteria when determining whether another state's scope of practice of a licensed architect is similar to the scope of practice of an Architect in Texas:

(1) Whether the statutory definition of the practice of architecture includes the core functions recognized in Texas;

(2) Whether architects are responsible for public health, safety, and welfare in a manner comparable to Texas;

(3) Whether the other state restricts architectural services to licensed architects in a manner consistent with Texas practice;

(4) The similarity of exemptions from licensure, including building-type or size exemptions, and whether such exemptions materially alter the scope of services architects perform;

(5) Whether architects in the other state are authorized or required to perform construction observation services similar to those required in Texas;

(6) The similarity of requirements for responsible charge or responsible control, including duties related to supervision, document preparation, and sealing construction documents for regulatory approval, permitting, or construction;

(7) Whether architects have comparable responsibilities for building code compliance, accessibility, life-safety considerations, and related regulatory obligations;

(8) The extent to which the division of responsibilities between architects and other licensed professions, such as engineers, aligns with Texas practice;

(9) Whether requirements for architectural involvement in public-sector projects align with Texas standards;

(10) Whether rules, interpretations, or guidance issued by the other state's architectural licensing board result in a functional scope of practice comparable to Texas; and

(11) The similarity of enforcement mechanisms, disciplinary authority, and standards of professional responsibility that define and limit the scope of practice.

(e) Verified military service, training, or education will be credited toward the registration requirements, other than an examination requirement, of an Applicant who is a military service member or a military veteran.

(f) The Board shall not charge an application or examination fee paid to the Board for any Applicant who is a military service member, military veteran, or military spouse.

(g) A military service member is exempt from any increased fee or other penalty for failing to renew a registration in a timely manner if the individual establishes to the satisfaction of the Board that the failure was due to the individual serving as a military service member.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on March 9, 2026.

TRD-202601134
Pim Mayo
General Counsel
Texas Board of Architectural Examiners
Effective date: March 29, 2026
Proposal publication date: January 16, 2026
For further information, please call: (512) 305-9040

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CHAPTER 3. LANDSCAPE ARCHITECTS

The Texas Board of Architectural Examiners (Board) adopts amendments to 22 Texas Administrative Code (TAC), Chapter 3 relating to Landscape Architects, §3.27, relating to Provisional Licensure, and §3.149, relating to Criminal Convictions. The amendments are adopted without changes to the proposed text published in the January 16, 2026, issue of the *Texas Register* (51 TexReg 276) and will not be republished.

Reasoned Justification. The adopted rules implement Senate Bill 1080 (89th Regular Session, 2025), which amends provisions in Chapter 53, Texas Occupations Code, relating to licensing and Consequences of Criminal Conviction. To implement SB 1080, the Board adopted amendments to 22 TAC §3.27 and §3.149.

Through Senate Bill 1080, the legislature provides licensing authorities discretion to revoke a license following imprisonment for a felony conviction, unless the felony offense is directly related to the duties and responsibilities of the licensed occupation, the felony offense is a sexually violent offense under Article 62.001, Code of Criminal Procedure, or the felony offense is an offense listed in Article 42A.054, Code of Criminal Procedure, pursuant to §53.021, Texas Occupations Code. These statutory amendments are adopted in 22 TAC §3.149(a)-(b).

Additionally, SB 1080 added §53.0211(b-1), Texas Occupations Code, which allows licensing authorities discretion to consider the issuance of a provisional license to an applicant who has committed an offense and is an imprisoned inmate of the Texas Department of Criminal Justice (TDCJ) or is an applicant on parole or mandatory supervision who is residing at a halfway house or community residential facility. The applicant must be a student or graduate of the Windham School District or an institution of higher education. A provisional license issued under §53.0211(b-1), Texas Occupations Code is valid for twelve (12) months, and the term begins on the date an applicant who is an inmate is released, pursuant to amendments to §53.0211(b)(2)

and §53.0211(c), Texas Occupations Code. These statutory amendments are adopted in 22 TAC §3.27(b), (d).

Summary of Comments. The Board did not receive any comments on the proposed rule.

SUBCHAPTER B. ELIGIBILITY FOR REGISTRATION

22 TAC §3.27

Statutory Authority. The amendments to §3.27 are adopted under §1051.202, Texas Occupations Code, which authorizes the Board to adopt reasonable rules as necessary to regulate the practice of landscape architecture; §1051.207, Texas Occupations Code, which authorizes the Board to adopt rules as necessary to comply with Chapter 53, Texas Occupations Code; and Chapter 53, Texas Occupations Code, which provides licensing authorities authority grant licenses and provisional licenses to certain applicants with prior criminal convictions.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on March 9, 2026.

TRD-202601139
Pim Mayo
General Counsel
Texas Board of Architectural Examiners
Effective date: March 29, 2026
Proposal publication date: January 16, 2026
For further information, please call: (512) 305-9040

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SUBCHAPTER H. PROFESSIONAL CONDUCT

22 TAC §3.149

Statutory Authority. The amendments to §3.149 are adopted under §1051.202, Texas Occupations Code, which authorizes the Board to adopt reasonable rules as necessary to regulate the practice of landscape architecture; §1051.207, Texas Occupations Code, which authorizes the Board to adopt rules as necessary to comply with Chapter 53, Texas Occupations Code; and Chapter 53, Texas Occupations Code, which provides licensing authorities authority grant licenses and provisional licenses to certain applicants with prior criminal convictions.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on March 9, 2026.

TRD-202601140
Pim Mayo
General Counsel
Texas Board of Architectural Examiners
Effective date: March 29, 2026
Proposal publication date: January 16, 2026
For further information, please call: (512) 305-9040

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SUBCHAPTER B. ELIGIBILITY FOR REGISTRATION

22 TAC §3.29

The Texas Board of Architectural Examiners (Board) adopts amendments to 22 Texas Administrative Code (TAC) §3.29. The amendments are adopted without changes to the proposed text published in the January 16, 2026, issue of the *Texas Register* (51 TexReg 279) and will not be republished.

Reasoned Justification. The adopted rules implement Senate Bill 1818 and House Bill 5629 (89th Regular Session, 2025), which amend provisions in Chapter 55, Texas Occupations Code, relating to Licensing of Military Service Members, Military Veterans, and Military Spouses. To implement Senate Bill 1818 and House Bill 5629, the Board adopted amendments to 22 TAC §3.29.

SB 1818 mandates the prompt issuance of a provisional registration to an applicant under §55.004 or §55.0041, Texas Occupations Code if the agency is unable to promptly issue a license or recognition of an out-of-state license, respectively. A provisional license expires the earlier of the date the license is issued or recognition is granted, or the 180th day after the date the provisional registration is issued. These requirements are adopted in 22 TAC §3.29(b).

Under HB 5629, amendments to §55.004, Texas Occupations Code, mandate licensing agencies issue a license to a military service member, military veteran, or military spouse who holds a license in good standing in another state with a similar scope of practice to Texas. Amendments to §55.0041, Texas Occupations Code, allow a military service member, military veteran, or military spouse to practice in Texas under an out-of-state license without having to become registered in Texas, and provides procedures for recognizing the out-of-state license. These requirements are adopted in 22 TAC §3.29(c).

Additionally, HB 5629 adds §55.0042, Texas Occupations Code, which specifies how "good standing" is determined, which is adopted in 22 TAC §3.29(a)(3), and the bill also added §55.0043, Texas Occupations Code, which requires that agencies track and publish complaints made against a military service member, military veteran, or military spouse. The law also modifies §55.005(a), Texas Occupations Code, which requires agencies to process applications and issue registrations for qualified applicants within 10 business days instead of 30, which is adopted in 22 TAC §3.29(b)(3) and §3.29(c)(4). Finally, HB 5629 modifies §55.009, Texas Occupations Code to waive application fees for any individual who is a military service member, military veteran, or military spouse which is adopted in 22 TAC §3.29(f).

Summary of Comments. The Board did not receive any comments on the proposed rule.

Statutory Authority. The amendment of §3.29 is adopted under §1051.202, Texas Occupations Code, which authorizes the Board to adopt reasonable rules as necessary to regulate the practice of landscape architecture; and §§55.004, 55.0041, 55.0042, 55.0043, 55.005, and 55.009, Texas Occupations Code, which relate to the Licensing of Military Service Members, Military Veterans, and Military Spouses.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on March 9, 2026.

TRD-202601135
Pim Mayo
General Counsel
Texas Board of Architectural Examiners
Effective date: March 29, 2026
Proposal publication date: January 16, 2026
For further information, please call: (512) 305-9040

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CHAPTER 5. REGISTERED INTERIOR DESIGNERS

The Texas Board of Architectural Examiners (Board) adopts amendments to 22 Texas Administrative Code (TAC), Chapter 5 relating to Registered Interior Designers, §5.37, relating to Provisional Licensure, and §5.158, relating to Criminal Convictions. The amendments are adopted without changes to the proposed text published in the January 16, 2026, issue of the *Texas Register* (51 TexReg 282) and will not be republished.

Reasoned Justification. The adopted rules implement Senate Bill 1080 (89th Regular Session, 2025), which amends provisions in Chapter 53, Texas Occupations Code, relating to licensing and Consequences of Criminal Conviction. To implement SB 1080, the Board adopted amendments to 22 TAC §5.37 and §5.158.

Through Senate Bill 1080, the legislature provides licensing authorities discretion to revoke a license following imprisonment for a felony conviction, unless the felony offense is directly related to the duties and responsibilities of the licensed occupation, the felony offense is a sexually violent offense under Article 62.001, Code of Criminal Procedure, or the felony offense is an offense listed in Article 42A.054, Code of Criminal Procedure, pursuant to §53.021, Texas Occupations Code. These statutory amendments are adopted in 22 TAC §5.158(a)-(b).

Additionally, SB 1080 added §53.0211(b-1), Texas Occupations Code, which allows licensing authorities discretion to consider the issuance of a provisional license to an applicant who has committed an offense and is an imprisoned inmate of the Texas Department of Criminal Justice (TDCJ) or is an applicant on parole or mandatory supervision who is residing at a halfway house or community residential facility. The applicant must be a student or graduate of the Windham School District or an institution of higher education. A provisional license issued under §53.0211(b-1), Texas Occupations Code is valid for twelve (12) months, and the term begins on the date an applicant who is an inmate is released, pursuant to amendments to §53.0211(b)(2) and §53.0211(c), Texas Occupations Code. These statutory amendments are adopted in 22 TAC §5.37(b), (d).

Summary of Comments. The Board did not receive any comments on the proposed rule.

SUBCHAPTER B. ELIGIBILITY FOR REGISTRATION

22 TAC §5.37

Statutory Authority. The amendments to §5.37 and §5.158 are adopted under §1051.202, Texas Occupations Code, which authorizes the Board to adopt reasonable rules as necessary to regulate the practice of registered interior design; §1051.207, Texas Occupations Code, which authorizes the Board to adopt rules as necessary to comply with Chapter 53, Texas Occupations Code; and Chapter 53, Texas Occupations Code, which provides licensing authorities authority grant licenses and provisional licenses to certain applicants with prior criminal convictions.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on March 9, 2026.

TRD-202601141
Pim Mayo
General Counsel
Texas Board of Architectural Examiners
Effective date: March 29, 2026
Proposal publication date: January 16, 2026
For further information, please call: (512) 305-9040

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SUBCHAPTER H. PROFESSIONAL CONDUCT

22 TAC §5.158

Statutory Authority. The amendments to §5.37 and §5.158 are adopted under §1051.202, Texas Occupations Code, which authorizes the Board to adopt reasonable rules as necessary to regulate the practice of registered interior design; §1051.207, Texas Occupations Code, which authorizes the Board to adopt rules as necessary to comply with Chapter 53, Texas Occupations Code; and Chapter 53, Texas Occupations Code, which provides licensing authorities authority grant licenses and provisional licenses to certain applicants with prior criminal convictions.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on March 9, 2026.

TRD-202601142
Pim Mayo
General Counsel
Texas Board of Architectural Examiners
Effective date: March 29, 2026
Proposal publication date: January 16, 2026
For further information, please call: (512) 305-9040

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SUBCHAPTER B. ELIGIBILITY FOR REGISTRATION

22 TAC §5.39

The Texas Board of Architectural Examiners (Board) adopts amendments to 22 Texas Administrative Code (TAC) §5.39. The amendments are adopted without changes to the proposed text published in the January 16, 2026, issue of the *Texas Register* (51 TexReg 285) and will not be republished.

Reasoned Justification. The adopted rules implement Senate Bill 1818 and House Bill 5629 (89th Regular Session, 2025), which amend provisions in Chapter 55, Texas Occupations Code, relating to Licensing of Military Service Members, Military

Veterans, and Military Spouses. To implement Senate Bill 1818 and House Bill 5629, the Board adopted amendments to 22 TAC §5.39.

SB 1818 mandates the prompt issuance of a provisional registration to an applicant under §55.004 or §55.0041, Texas Occupations Code if the agency is unable to promptly issue a license or recognition of an out-of-state license, respectively. A provisional license expires the earlier of the date the license is issued or recognition is granted, or the 180th day after the date the provisional registration is issued. These requirements are adopted in 22 TAC §5.39(b).

Under HB 5629, amendments to §55.004, Texas Occupations Code, mandate licensing agencies issue a license to a military service member, military veteran, or military spouse who holds a license in good standing in another state with a similar scope of practice to Texas. Amendments to §55.0041, Texas Occupations Code, allow a military service member, military veteran, or military spouse to practice in Texas under an out-of-state license without having to become registered in Texas, and provides procedures for recognizing the out-of-state license. These requirements are adopted in 22 TAC §5.39(c).

Additionally, HB 5629 adds §55.0042, Texas Occupations Code, which specifies how "good standing" is determined, which is adopted in 22 TAC §5.39(a)(3), and the bill also added §55.0043, Texas Occupations Code, which requires that agencies track and publish complaints made against a military service member, military veteran, or military spouse. The law also modifies §55.005(a), Texas Occupations Code, which requires agencies to process applications and issue registrations for qualified applicants within 10 business days instead of 30, which is adopted in 22 TAC §5.39(b)(3) and §5.39(c)(4). Finally, HB 5629 modifies §55.009, Texas Occupations Code to waive application fees for any individual who is a military service member, military veteran, or military spouse which is adopted in 22 TAC §5.39(f).

Summary of Comments. The Board did not receive any comments on the proposed rule.

Statutory Authority. The amendment of §5.39 is adopted under §1051.202, Texas Occupations Code, which authorizes the Board to adopt reasonable rules as necessary to regulate the practice of registered interior design; and §§55.004, 55.0041, 55.0042, 55.0043, 55.005, and 55.009, Texas Occupations Code, which relate to the Licensing of Military Service Members, Military Veterans, and Military Spouses.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on March 9, 2026.

TRD-202601136
Pim Mayo
General Counsel
Texas Board of Architectural Examiners
Effective date: March 29, 2026
Proposal publication date: January 16, 2026
For further information, please call: (512) 305-9040

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PART 22. TEXAS STATE BOARD OF PUBLIC ACCOUNTANCY

CHAPTER 501. RULES OF PROFESSIONAL CONDUCT

SUBCHAPTER A. GENERAL PROVISIONS

22 TAC §501.51

The Texas State Board of Public Accountancy adopts an amendment to §501.51 concerning Preamble and General Principle, without changes to the proposed text as published in the February 6, 2026 issue of the *Texas Register* (51 TexReg 682) and will not be republished.

The AICPA establishes best practices standards for attest services. The proposed rule revision makes it clear that a licensee is required to follow the AICPA's published standards.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Public Accountancy Act (Act), Texas Occupations Code, §901.151 and §901.655 which provides the agency with the authority to amend, adopt and repeal rules deemed necessary or advisable to effectuate the Act.

No other article, statute or code is affected by the adoption.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on March 12, 2026.

TRD-202601175
J. Randel (Jerry) Hill
General Counsel
Texas State Board of Public Accountancy
Effective date: April 1, 2026
Proposal publication date: February 6, 2026
For further information, please call: (512) 305-7842

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SUBCHAPTER C. RESPONSIBILITIES TO CLIENTS

22 TAC §501.75

The Texas State Board of Public Accountancy adopts an amendment to §501.75 concerning Confidential Client Communications, without changes to the proposed text as published in February 6, 2026 issue of the *Texas Register* (51 TexReg 683) and will not be republished.

The Public Accountancy Act requires licensees to maintain the confidentiality of client information without the client's permission. For clarity the Board is requiring the licensee to only share confidential information with a third party with the client's written permission and the proposed revision identifies examples of who the licensee's authorized representative may be.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Public Accountancy Act (Act), Texas Occupations Code, §901.151 and §901.655 which provides the agency with the authority to amend, adopt and repeal rules deemed necessary or advisable to effectuate the Act.

No other article, statute or code is affected by the adoption.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on March 12, 2026.

TRD-202601176
J. Randel (Jerry) Hill
General Counsel
Texas State Board of Public Accountancy
Effective date: April 1, 2026
Proposal publication date: February 6, 2026
For further information, please call: (512) 305-7842

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CHAPTER 505. THE BOARD

22 TAC §505.10

The Texas State Board of Public Accountancy adopts an amendment to §505.10 concerning Board Committees, without changes to the proposed text as published in February 6, 2026 issue of the *Texas Register* (51 TexReg 685) and will not be republished.

The Public Accountancy Act requires licensees to maintain the confidentiality of client information without the client's permission. For clarity the Board is requiring the licensee to only share confidential information with a third party with the client's written permission and the proposed revision identifies examples of who the licensee's authorized representative may be.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Public Accountancy Act (Act), Texas Occupations Code, §901.151 and §901.655 which provides the agency with the authority to amend, adopt and repeal rules deemed necessary or advisable to effectuate the Act.

No other article, statute or code is affected by the adoption.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on March 12, 2026.

TRD-202601177
J. Randel (Jerry) Hill
General Counsel
Texas State Board of Public Accountancy
Effective date: April 1, 2026
Proposal publication date: February 6, 2026
For further information, please call: (512) 305-7842

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CHAPTER 518. UNAUTHORIZED PRACTICE OF PUBLIC ACCOUNTANCY

22 TAC §518.2

The Texas State Board of Public Accountancy adopts an amendment to §518.2 concerning Agreed Consent Orders, without changes to the proposed text as published in February 6, 2026 issue of the *Texas Register* (51 TexReg 688) and will not be republished.

No person shall offer accounting services in Texas or hold themselves out to be a CPA or an accountant or to suggest they have an expertise in accounting unless they are licensed by the Board as a CPA. To prevent the unlicensed practice of public accountancy the Board no longer issues Cease and Desist Orders. Instead, the board will take a non-licensee ignoring the Board's efforts to obtain compliance with state law to state district court to seek an injunction. This is an expedited method to achieve compliance with state law and eliminates the unnecessary step of the Cease and Desist Order.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Public Accountancy Act (Act), Texas Occupations Code, §901.151 and §901.655 which provides the agency with the authority to amend, adopt and repeal rules deemed necessary or advisable to effectuate the Act.

No other article, statute or code is affected by the adoption.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on March 12, 2026.

TRD-202601178
J. Randel (Jerry) Hill
General Counsel
Texas State Board of Public Accountancy
Effective date: April 1, 2026
Proposal publication date: February 6, 2026
For further information, please call: (512) 305-7842

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22 TAC §518.3

The Texas State Board of Public Accountancy adopts an amendment to §518.3 concerning Agreed Consent Order Violations, without changes to the proposed text as published in February 6, 2026 issue of the *Texas Register* (51 TexReg 689) and will not be republished.

No person shall offer accounting services in Texas or hold themselves out to be a CPA or an accountant or to suggest they have an expertise in accounting unless they are licensed by the Board as a CPA. To prevent the unlicensed practice of public accountancy the Board no longer issues Cease and Desist Orders. Instead, the board will take a non-licensee ignoring the Board's efforts to obtain compliance with state law to state district court to seek an injunction. This is an expedited method to achieve compliance with state law and eliminates the unnecessary step of the Cease and Desist Order.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Public Accountancy Act (Act), Texas Occupations Code, §901.151 and §901.655 which provides the agency with the authority to amend, adopt and repeal rules deemed necessary or advisable to effectuate the Act.

No other article, statute or code is affected by the adoption.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on March 12, 2026.

TRD-202601179
J. Randel (Jerry) Hill
General Counsel
Texas State Board of Public Accountancy
Effective date: April 1, 2026
Proposal publication date: February 6, 2026
For further information, please call: (512) 305-7842

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22 TAC §518.4

The Texas State Board of Public Accountancy adopts an amendment to §518.4 concerning Injunctive Relief and Penalties, without changes to the proposed text as published in February 6, 2026 issue of the *Texas Register* (51 TexReg 690) and will not be republished.

No person shall offer accounting services in Texas or hold themselves out to be a CPA or an accountant or to suggest they have an expertise in accounting unless they are licensed by the Board as a CPA. To prevent the unlicensed practice of public accountancy the Board no longer issues Cease and Desist Orders. Instead, the board will take a non-licensee ignoring the Board's efforts to obtain compliance with state law to state district court to seek an injunction. This is an expedited method to achieve compliance with state law and eliminates the unnecessary step of the Cease and Desist Order.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Public Accountancy Act (Act), Texas Occupations Code, §901.151 and §901.655 which provides the agency with the authority to amend, adopt and repeal rules deemed necessary or advisable to effectuate the Act.

No other article, statute or code is affected by the adoption.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on March 12, 2026.

TRD-202601180
J. Randel (Jerry) Hill
General Counsel
Texas State Board of Public Accountancy
Effective date: April 1, 2026
Proposal publication date: February 6, 2026
For further information, please call: (512) 305-7842

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22 TAC §518.5

The Texas State Board of Public Accountancy adopts an amendment to §518.5 concerning Unlicensed Entities, without changes to the proposed text as published in February 6, 2026 issue of the *Texas Register* (51 TexReg 691) and will not be republished.

The unlicensed practice of public accountancy includes the use of restricted terms such as accountant or accountancy and is not permitted.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Public Accountancy Act (Act), Texas Occupations Code, §901.151 and §901.655 which provides the agency with the authority to amend, adopt and repeal rules deemed necessary or advisable to effectuate the Act.

No other article, statute or code is affected by the adoption.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on March 12, 2026.

TRD-202601181
J. Randel (Jerry) Hill
General Counsel
Texas State Board of Public Accountancy
Effective date: April 1, 2026
Proposal publication date: February 6, 2026
For further information, please call: (512) 305-7842

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22 TAC §518.6

The Texas State Board of Public Accountancy adopts an amendment to §518.6 concerning Administrative Penalty Guidelines for the Unauthorized Practice of Public Accountancy, without changes to the proposed text as published in February 6, 2026 issue of the *Texas Register* (51 TexReg 692) and will not be republished.

No person shall offer accounting services in Texas or hold themselves out to be a CPA or an accountant or to suggest they have an expertise in accounting unless they are licensed by the Board as a CPA. To prevent the unlicensed practice of public accountancy the Board no longer issues Cease and Desist Orders. Instead, the board will take a non-licensee ignoring the Board's efforts to obtain compliance with state law to state district court to seek an injunction. This is an expedited method to achieve compliance with state law and eliminates the unnecessary step of the Cease and Desist Order.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Public Accountancy Act (Act), Texas Occupations Code, §901.151 and §901.655 which provides the agency with the authority to amend, adopt and repeal rules deemed necessary or advisable to effectuate the Act.

No other article, statute or code is affected by the adoption.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on March 12, 2026.

TRD-202601182
J. Randel (Jerry) Hill
General Counsel
Texas State Board of Public Accountancy
Effective date: April 1, 2026
Proposal publication date: February 6, 2026
For further information, please call: (512) 305-7842

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CHAPTER 520. PROVISIONS FOR THE ACCOUNTING STUDENTS SCHOLARSHIP PROGRAM

22 TAC §520.2

The Texas State Board of Public Accountancy adopts an amendment to §520.2 concerning Definitions, without changes to the proposed text as published in February 6, 2026 issue of the *Texas Register* (51 TexReg 693) and will not be republished.

Student Aid Index is a Department of Education term used in student aid for funding education and is more comprehensive in determining the amount of financial aid a student may be eligible for than simply family's contribution to a student.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Public Accountancy Act (Act), Texas Occupations Code, §901.151 and §901.655 which provides the agency with the authority to amend, adopt and repeal rules deemed necessary or advisable to effectuate the Act.

No other article, statute or code is affected by the adoption.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on March 12, 2026.

TRD-202601183
J. Randel (Jerry) Hill
General Counsel
Texas State Board of Public Accountancy
Effective date: April 1, 2026
Proposal publication date: February 6, 2026
For further information, please call: (512) 305-7842

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22 TAC §520.3

The Texas State Board of Public Accountancy adopts an amendment to §520.3 concerning Institutions for the Accounting Students Scholarship Program, without changes to the proposed text as published in February 6, 2026 issue of the *Texas Register* (51 TexReg 695) and will not be republished.

Student Aid Index is a Department of Education term used in student aid for funding education and is more comprehensive in determining the amount of financial aid a student may be eligible for than simply family's contribution to a student.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Public Accountancy Act (Act), Texas Occupations Code, §901.151 and §901.655 which provides the agency with the authority to amend, adopt and repeal rules deemed necessary or advisable to effectuate the Act.

No other article, statute or code is affected by the adoption.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on March 12, 2026.

TRD-202601184
J. Randel (Jerry) Hill
General Counsel
Texas State Board of Public Accountancy
Effective date: April 1, 2026
Proposal publication date: February 6, 2026
For further information, please call: (512) 305-7842

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22 TAC §520.4

The Texas State Board of Public Accountancy adopts an amendment to §520.4 concerning Eligible Students for the Accounting Students Scholarship Program, without changes to the proposed text as published in February 6, 2026 issue of the *Texas Register* (51 TexReg 696) and will not be republished.

Replaces family contribution with the student aid index which is a conventional student aid term and clarifies that the cumulative grade point average is tied to student aid.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Public Accountancy Act (Act), Texas Occupations Code, §901.151 and §901.655 which provides the agency with the authority to amend, adopt and repeal rules deemed necessary or advisable to effectuate the Act.

No other article, statute or code is affected by the adoption.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on March 12, 2026.

TRD-202601185
J. Randel (Jerry) Hill
General Counsel
Texas State Board of Public Accountancy
Effective date: April 1, 2026
Proposal publication date: February 6, 2026
For further information, please call: (512) 305-7842

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PART 39. TEXAS BOARD OF PROFESSIONAL GEOSCIENTISTS

CHAPTER 851. TEXAS BOARD OF PROFESSIONAL GEOSCIENTISTS LICENSING AND ENFORCEMENT RULES

SUBCHAPTER A. DEFINITIONS

22 TAC §851.10

Texas Board of Professional Geoscientists (TBPG), Adoption of amendment, TAC §851.10, concerning Definitions for Texas Professional Geoscientists, without changes to the proposed text as published in the January 23, 2026 issue of the *Texas Register* (51 TexReg 401). This rule will not be republished.

This section establishes definitions for Emeritus and Distinguished status. The adopted amendment will allow TBPG

to recognize licensees with established periods of exemplary public geoscience work.

No comments were received regarding adoption of the amendment.

This section is adopted under the Texas Geoscience Practice Act, Occupations Code §1002.151. which authorizes the Board to adopt and enforce all rules consistent with the Act as necessary for the performance of its duties; §1002.255. which authorizes the Board to establish license eligibility requirements, and §1002.259. which authorizes the Board to waive any requirement for licensure except for the payment of required fees.

This section affects the Texas Geoscience Practice Act, Occupations Code §§1002.151. and 1002.259.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on March 12, 2026.

TRD-202601171
Katie Colby
Licensing Specialist
Texas Board of Professional Geoscientists
Effective date: April 1, 2026
Proposal publication date: January 23, 2026
For further information, please call: (512) 936-4428

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SUBCHAPTER B. P.G. LICENSING, FIRM REGISTRATION, AND GIT CERTIFICATION

22 TAC §851.24

Texas Board of Professional Geoscientists (TBPG), Adoption of New Rule, TAC §851.24, concerning Emeritus and Distinguished recognition program for Texas Professional Geoscientists, without changes to the proposed text as published in the January 23, 2026 issue of the *Texas Register* (51 TexReg 404). This rule will not be republished.

This section establishes requirements and qualifications for Emeritus and Distinguished status. The adopted rule will allow TBPG to recognize licensees with established periods of exemplary public geoscience work.

No comments were received regarding adoption of the new rule.

This section is adopted under the Texas Geoscience Practice Act, Occupations Code §1002.151, which authorizes the Board to adopt and enforce all rules consistent with the Act as necessary for the performance of its duties; §1002.255, which authorizes the Board to establish license eligibility requirements, and §1002.259, which authorizes the Board to waive any requirement for licensure except for the payment of required fees.

This section affects the Texas Geoscience Practice Act, Occupations Code §§1002.151 and 1002.259.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on March 12, 2026.

TRD-202601172
Katie Colby
Licensing Specialist
Texas Board of Professional Geoscientists
Effective date: April 1, 2026
Proposal publication date: January 23, 2026
For further information, please call: (512) 936-4428

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TITLE 34. PUBLIC FINANCE

PART 4. EMPLOYEES RETIREMENT SYSTEM OF TEXAS

CHAPTER 75. HAZARDOUS PROFESSION DEATH BENEFITS

34 TAC §§75.1 - 75.3

The Employees Retirement System of Texas (ERS) adopts amendments to 34 Texas Administrative Code Chapter 75, concerning Hazardous Profession Death Benefits, by amending §75.1 (Filing of Claims), §75.2 (Additional Benefit Claims), and §75.3 (Adjustments to Payments) with changes to the proposed text as published in the January 30, 2026 issue of the *Texas Register* (51 TexReg 536). The amendments were approved by the ERS Board of Trustees at its March 4, 2026 meeting. These sections will be republished.

Sections 75.1, 75.2, and 75.3, concerning Hazardous Profession Death Benefits, are amended in order to simplify and clarify the process for submitting an application for benefits.

No comments were received regarding the proposed amendments.

The amendments are adopted under Tex. Gov't Code §615.002, which provides authorization for the ERS Board of Trustees to adopt rules necessary for the administration of Tex. Gov't Code Ch. 615.

§75.1. Filing of Claims.

(a) An adult survivor or a person with authority to act on behalf of a survivor may initiate an application for benefits under Tex. Gov't Code Chapter 615, except that for benefits payable to survivors of members of Texas military forces under Tex. Gov't Code § 615.024, the system will make a determination regarding the payment of benefits based on information provided by the Texas Military Department, and the documentation requirements generally applicable to applications for benefits, as described in this chapter, will not apply to members of Texas military forces.

(b) The executive director or the executive director's designee, in his or her sole discretion, may waive any of the documentation requirements set forth in this chapter and may require any additional information, including sworn affidavits, necessary to establish the validity of a claim. The system may accept a certified copy by email, fax, or other electronic submission.

(c) The following documents must accompany an application for benefits:

(1) a sworn statement, on a form prescribed by the system, that provides information related to eligibility for benefits and is executed by each survivor who is applying to receive a lump sum or the survivor's legal representative;

(2) a certified copy of the death certificate;

(3) a certified copy of the autopsy report, if an autopsy has been performed;

(4) for a surviving spouse:

(A) a copy of a marriage license or an equivalent government record showing a formal marriage between the survivor and the decedent;

(B) a declaration of informal marriage, if one was filed; or

(C) for an informal marriage without a declaration, documentation that proves the survivor and the decedent:

(i) intended to have a present, immediate, and permanent marital relationship and did in fact agree to be married;

(ii) at the time of the decedent's death, had been living together in Texas as spouses; and

(iii) consistently represented to others that they were married (with occasional introductions as spouses being insufficient).

(5) a certified copy of the birth certificate for each surviving child;

(6) copies of official reports regarding the death;

(7) a sworn statement from the employer or the employer's authorized representative that includes the decedent's official job description as an attachment and describes:

(A) the circumstances surrounding the fatality, including the type of work being performed at the time of death, if the decedent was on duty at the time of death, and other duty-related information that is relevant to the claim;

(B) the specific position held by the decedent at the time of death;

(C) the dates of the decedent's employment;

(D) contact information for the decedent's next of kin and other emergency contact information in the employer's possession; and

(E) a description of the sources of information used to prepare the sworn statement.

(8) for a surviving parent who applies for benefits, a certified copy of the decedent's birth certificate;

(9) documentation from the appropriate authority which demonstrates:

(A) if the decedent was a law enforcement officer as described in Tex. Gov't Code §615.003(1), that the decedent was a commissioned peace officer certified by the Texas Commission on Law Enforcement;

(B) if the decedent was a fire protection professional as described in Tex. Gov't Code §615.003(10) or §615.003(11), that the decedent was certified by the Texas Commission on Fire Protection;

(C) if the decedent was a member of an organized volunteer fire department as described in Tex. Gov't Code §615.003(12), that the decedent was a member of an organized volunteer fire department that conducted a minimum of two drills each month, with each drill being at least two hours long, and the decedent rendered fire-fighting services without remuneration;

(D) if the decedent was a probation officer as described in Tex. Gov't Code §615.003(2), that the decedent had the qualifications and duties described in Tex. Gov't Code § 76.002 and § 76.005;

(E) if the decedent was a parole officer as described in Tex. Gov't Code §615.003(3), that the decedent was a parole officer with the qualifications and duties described in Tex. Gov't Code § 508.001 and § 508.113;

(F) if the decedent was a jailer or guard as described in Tex. Gov't Code §615.003(7), that the decedent was appointed by the sheriff and performed a security, custodial, or supervisory function over the admittance, confinement, or discharge of prisoners and that the decedent was certified by the Texas Commission on Law Enforcement;

(G) if the decedent was an individual who performed emergency medical services or operated an ambulance as described in Tex. Gov't Code §615.003(13), that the decedent was certified as at least an "emergency care attendant"; or

(H) if the decedent was a chaplain as described in Tex. Gov't Code §615.003(14), that the decedent was employed or formally designated as a chaplain by a specified fire department or law enforcement agency or by the Texas Department of Criminal Justice.

(10) for the decedent's non-biological children, a copy of a transcript of the federal income tax return for the decedent for the year preceding the year of the decedent's death; and

(11) copies of documents submitted in connection with a claim for workers' compensation benefits and decisions related to the claim, if requested by the system.

(d) For a survivor who is a minor child:

(1) monthly payments will be paid to the duly qualified or appointed guardian of the child or if no guardian exists, another legal representative of the child; and

(2) lump-sum payments will be paid to a duly appointed guardian of the child's estate or a management trust created under Estates Code Chapter 1301.

(e) Proof of the appointment of a guardian of a child's estate or the creation of a management trust will not be required before the system provides notice of the approval of an application for a lump-sum payment to a minor child, but payment may not be remitted until all steps necessary for the appointment of the guardian or the creation of the management trust are completed. Guardianship and trust documents must reflect that the court was aware of the approximate amount of the lump-sum benefit when making the decision to appoint a guardian or create a management trust.

§75.2. Additional Benefit Claims.

(a) In addition to the documents required under §75.1 of this chapter, the following documents must accompany a surviving spouse's application for benefits under Tex. Gov't Code Chapter 615, Subchapter F:

(1) a sworn statement from the surviving spouse, on a form prescribed by the system, that attests to the surviving spouse's eligibility for spousal benefits; and

(2) an itemized statement of funeral expenses incurred, if the application includes a claim for payment of funeral expenses.

(b) If the decedent died before September 1, 2022, then except as provided by subsection (e) of this section, an annuity payable to a surviving spouse who is eligible for benefits under Tex. Gov't Code Chapter 615, Subchapter F, shall be computed as provided by Tex. Gov't Code §814.105 as if the decedent, on the date of death:

(1) was employed by the Texas Department of Public Safety at the lowest salary provided by the General Appropriations Act for a peace officer position, if the decedent held a peace officer

position on the date of death, or by the Texas Department of Criminal Justice at the lowest salary provided by the General Appropriations Act for a custodial personnel position, if the decedent held a custodial personnel position on the date of death;

(2) had accrued 10 years of service credit in the applicable position; and

(3) was eligible to retire without regard to any age requirement.

(c) If the decedent died on or after September 1, 2022, then except as provided by subsection (e) of this section, a surviving spouse who is eligible for benefits under Tex. Gov't Code Chapter 615, Subchapter F, is entitled to receive the greater of an annuity computed as provided by subsection (b) of this section or an annuity computed as provided by Tex. Gov't Code §820.053 as if the decedent, on the date of death:

(1) was employed by the Texas Department of Public Safety at the lowest salary provided by the General Appropriations Act for a peace officer position, if the decedent held a peace officer position on the date of death, or by the Texas Department of Criminal Justice at the lowest salary provided by the General Appropriations Act for a custodial personnel position, if the decedent held a custodial personnel position on the date of death;

(2) had accrued 10 years of service credit in the applicable position;

(3) was eligible to retire without regard to any age requirement; and

(4) was not eligible for the additional benefit provided by Tex. Gov't Code §820.053(a)(2)(B).

(d) For purposes of subsection (c) of this section, the system shall:

(1) include gain sharing interest in the computation of an annuity under Tex. Gov't Code §820.053;

(2) determine which annuity computation would result in the greater annuity at the time the annuity is first paid; and

(3) allow the surviving spouse to reject the system's determination and elect to receive the lesser annuity by providing written notice of the election, which shall be irrevocable, to the system before any payment is made.

(e) In lieu of an amount computed under subsection (b) or (c) of this section, an annuity shall be paid in the amount the decedent would have been eligible to receive under the decedent's employee retirement plan if the decedent had been eligible to retire at the age and with the service attained on the last day of the month of the decedent's death if:

(1) the surviving spouse requests payment of the amount computed under this subsection before any payment computed under subsection (b) or (c) of this section is made;

(2) an authorized representative of the employee retirement plan in which the decedent was a participant certifies the amount computed under this subsection; and

(3) the amount computed under this subsection is greater than the amounts computed under subsections (b) and (c) of this section.

(f) The reduction factors applied to a death benefit plan administered by the system shall be applied in the same manner to an annuity computed under subsection (b) or (c) of this section.

(g) As a condition of receipt of an annuity under Tex. Gov't Code Chapter 615, Subchapter F, an eligible surviving spouse shall agree to annually certify the spouse's eligibility under subsection (a)(1) of this section and to notify the system of any change in circumstances affecting the spouse's continued eligibility. Failure to comply with this requirement or to provide the agreed certification is a basis for suspension of annuity payments until compliance occurs.

(h) The amount reimbursed for funeral expenses under Tex. Gov't Code Chapter 615, Subchapter F, may not exceed the lesser of $6,000 or the amount of funeral expenses actually incurred.

§75.3. Adjustments to Payments.

Beginning on September 1, 2020, and on each September 1 thereafter, any lump sum payment payable to eligible survivors under Tex. Gov't Code § 615.022(d) shall be adjusted annually by an amount equal to the percentage change in the Consumer Price Index for All Urban Consumers for the previous calendar year. The annual adjustment will be an amount as reported by the system's consulting actuary and approved by the executive director.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on March 16, 2026.

TRD-202601258
Cynthia Canfield Hamilton
General Counsel and Chief Compliance Officer
Employees Retirement System of Texas
Effective date: April 5, 2026
Proposal publication date: January 30, 2026
For further information, please call: (877) 275-4377

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TITLE 40. SOCIAL SERVICES AND ASSISTANCE

PART 19. DEPARTMENT OF FAMILY AND PROTECTIVE SERVICES

CHAPTER 702. GENERAL ADMINISTRATION SUBCHAPTER F. ADVISORY COMMITTEES

40 TAC §702.506

The Department and Family Protective Services (DFPS) adopts new §702.506 in Title 40, Texas Administrative Code (TAC), Part 19, Chapter 702, Subchapter F, ADVISORY COMMITTEES, related to the newly established Child Protective Investigations (CPI) Advisory Committee. The proposal was published in the February 13, 2026, issue of the *Texas Register* (51 TexReg 870). The new rule is adopted without changes to the proposed text and will not be republished.

BACKGROUND AND JUSTIFICATION

House Bill (H.B.) 140, 89th Texas Legislature (Regular Session, 2025), abolished the Texas Family and Protective Services Council effective September 1, 2026, and established the Child Protective Investigations Advisory Committee (CPI Advisory Committee). As a state advisory committee, DFPS is required to adopt rules in accordance with Texas Government Code Chapter 2110, including rules that define the committee's purpose and tasks, describe how the committee will report to the

agency, and specify the committee's duration (unless a specific duration is prescribed by statute).

COMMENTS

The 30-day comment period ended March 15, 2026. During this period, DFPS did not receive any comments regarding the new rule.

STATUTORY AUTHORITY

The new rule is adopted under Texas Human Resources Code §40.031, as enacted by H.B. 140, 89th Legislature (Regular Session, 2025) which requires DFPS to establish the Child Protective Investigations Advisory Committee. Government Code Chapter 2110 requires rules for state agency advisory committees. The rule is also adopted under Texas Human Resources Code §40.021 which provides that the Department of Family and Protective Services Commissioner shall oversee the development of rules relating to matters within the department's jurisdiction and notwithstanding any other law, shall adopt rules for the operation and provision of services by the department.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on March 16, 2026.

TRD-202601257
Sanjuanita Maltos
Rules Coordinator
Department of Family and Protective Services
Effective date: April 5, 2026
Proposal publication date: February 13, 2026
For further information, please call: (512) 945-5978