REQUEST FOR COMMENTS ON RULEMAKING TO IMPLEMENT FIRMING RELIABILITY REQUIREMENTS FOR ELECTRIC-GENERATING FACILITIES IN THE ERCOT REGION PURSUANT TO PURA § 39.1592.

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LEGISLATIVE BACKGROUND

On Friday, 6 June 2025, the Public Utility Commission of Texas (the PUCT or the Commission) released a memorandum detailing the new requirements set forth under House Bill 1500 (HB 1500) (88 Reg. Session) and seeking public comment before filing the initial draft of its proposed rule.[1] HB 1500 went into effect on 1 September 2023 and significantly amended the Public Utility Regulatory Act (PURA) by adding § 39.1591 and § 39.1592, which created a goal of ensuring electric reliability during high-risk events, such as severe weather or unanticipated peaks in energy demand. In furtherance of this goal, HB 1500 amends PURA to require the Commission to define and enforce firming reliability requirements for electric generating facilities in the Electric Reliability Council of Texas (ERCOT) region. A firming reliability requirement is normally interpreted as a requirement to make intermittent generation, such as wind and solar, less intermittent and more predictable by backing it up with a more predictable resource. These requirements ensure that these sources can generate supply during periods of poor energy generation. The firming requirement is typically designed to redirect investment away from variable generation and toward reliability measures to improve overall system reliability.

Pursuant to PURA § 39.1592(b), "[n]ot later than December 1 of each year, an owner or operator of an electric-generation facility, other than a battery energy storage resource, shall demonstrate to the commission the ability of the owner or operator's portfolio to operate or be available to operate when called on for dispatch at or above the seasonal average generation capability during the times of highest reliability risk..."[2]

These updated firming reliability requirements will apply to electric-generating facilities in ERCOT that (1) sign a standard generation interconnection agreement (SGIA) on or after 1 January 2027, (2) have been in operation for at least one year, and (3) are not a self-generator.[3] Before filing an initial draft of the rule implementing its new directive, the PUCT is seeking responses to questions for public comment by 27 June 2025.

QUESTIONS POSED BY THE PUCT

The PUCT is seeking comment on six questions, many with a number of subparts. Some questions include the following:[4]

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- How is the seasonal average generation capability calculated?
- How is a generator's availability during the hours of highest risk calculated?
- Can the eligibility of capacity from electric generating facilities not implicated by the updated firming reliability requirements be used to satisfy the reliability requirements of other facilities?
- What is the appropriate penalty for facilities that fail to comply with the new performance requirements?
- Should facilities that were not implicated by the new performance requirements but go on to make capacity upgrades that amend their SGIA when enforcing the new performance requirements be included?

The PUCT is also seeking comment on any additional issues related to these new reliability requirements that it should consider.

The PUCT asked for comments to be submitted in Project No. 58198 by 27 June 2025, and the energy regulatory attorneys at our firm are available to answer any questions you may have in considering this new rule and how to participate in the PUCT rulemaking process. The PUCT will evaluate the responses to these questions and likely use the insight gained in drafting a Proposal for Publication, which would include a draft rule adopting HB 1500 (88 Reg. Session).

We acknowledge the contributions to this publication from our summer associate Katie E. Spring.

FOOTNOTES

[1] PUCT Project No. 58198, *Rulemaking to Implement Firming Reliability Requirements for Electric Generating Facilities in the ERCOT Region Under PURA* § 39.152 (June 6, 2025), https://interchange.puc.texas.gov/Documents/58198_2_1505670.PDF.

[2] PURA § 39.1592(b).

[3] *Id*. § 39.1592(a).

[4] This is not an exhaustive list but rather a representative sample of the types of questions the PUCT is seeking public comment on by 27 June 2025.

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