PROJECT NO. 53493

EMERGENCY RESPONSE SERVICE	**§**	**PUBLIC UTILITY COMMISSION**
	§	**OF TEXAS**
	§	

ORDER ADOPTING NEW 16 TAC §25.507 AS APPROVED AT THE AUGUST 4, 2022, OPEN MEETING

The Public Utility Commission of Texas (commission) adopts amendments to 16 Texas Administrative Code (TAC) §25.507, relating to Electric Reliability Council of Texas (ERCOT) Emergency Response Service (ERS). The commission adopts these amendments with changes to the proposed rule as published in the July 1, 2022, issue of the *Texas Register* (47 TexReg 3774). The adopted rule increases the annual budget for ERS to $75 million and allows ERCOT to exceed this amount by up to $25 million for ERS contract term renewals. ERCOT will be permitted to access the additional $25 million for ERS contract term renewals immediately upon the effective date of this rule. The adopted rule also provides ERCOT greater flexibility to procure ERS for longer amounts of time with a contract term from individual ERS resources to better address seasonal needs and makes other administrative changes to the program. The rule will be republished.

The commission finds that an expedited effective date is necessary due to the imminent peril posed by the prospect of system-wide load shed. ERS is a special emergency service that is used by ERCOT to help prevent or reduce system-wide load shed of electric customers. Load shed is a peril to the public health, safety, and welfare because the unavailability of electricity can be life threatening to vulnerable populations and can severely disrupt the economy and other basic everyday activities of Texas citizens.

On July 13, 2022, ERCOT deployed ERS, leaving ERCOT with a limited supply of remaining ERS funds available in the current standard contract term. Given the number of extreme hot days in the near-term forecast, ERCOT needs to be authorized to replenish ERS immediately if necessary to avoid imminent peril to the public health, safety, and welfare. Accordingly, consistent with the requirements of Tex. Gov't Code 2001.036(a)(2) and (b), these rule amendments are effective immediately on filing with the secretary of state.

The commission received comments on the proposed rule from Advanced Energy Management Alliance, (AEMA), Enel North America, Inc., (Enel), ERCOT Steel Mills, (Steel Mills), Google LLC., (Google), Office of Public Utility Counsel, (OPUC), PowerSecure Inc., (PowerSecure), STEERING Committee of Cities served by ONCOR, (Oncor Cities), Texas Advanced Energy Business Alliance, (TAEBA), Texas Competitive Power Advocates, (TCPA), Texas Industrial Energy Consumers, (TIEC), and Texas Public Power Association, (TPPA).

General comments - Evaluation of ERS

Oncor Cities and TPPA argued that more analysis was needed to support the continuation of the ERS program. Oncor Cities noted that since Winter Storm Uri, there have been significant changes in opportunities for load participation, and it is unclear whether ERS will be a cost-effective service and whether it is redundant with other opportunities. Oncor Cities stated that the time is right to fully evaluate the incremental reliability benefit of the ERS program and the appropriate costs for achieving that reliability benefit. Oncor Cities noted that it filed comments in 2007 questioning the need for Emergency Interruptible Load Service (the previous name of ERS) and suggested further analysis before establishing the program. Oncor Cities have similar questions in this rulemaking and suggested that the consultant that the commission has contracted with to assist with implementation of the commission's market redesign blueprint undertake the assessment of ERS.

TPPA expressed concern that the commission has not provided analysis by commission staff, the Independent Market Monitor or the commission's market design consultant on why the level of funding is appropriate. TPPA is unable to support the increased level of funding until more analysis is provided.

Commission Response

The commission declines to modify the proposed rule in response to the above comments. The commission will continue to evaluate the effectiveness and costs associated with this and other reliability programs as a part of its larger market redesign process, as appropriate. However, an immediate increase in the ERS expenditure cap is necessary to ensure that the program has sufficient funds available to continue the program this summer if the currently budgeted amount proves insufficient.

The commission agrees that ratepayers should not be exposed to undue costs but has determined that this increase in the program expenditure cap is appropriate at this time. Furthermore, as noted by Enel in its comments on proposed §25.507(b)(2) below, an increase to a $75 million expenditure cap is only slightly higher than the expenditure cap when the program was created, if inflation is taken into account. Any additional increases beyond this

$75 million cap will only be permitted if approved by the commission or if the initial $75 million is exhausted and ERCOT needs additional funds to extend ERS contracts. This ensures that additional funds will only be used if they are necessary for ensuring reliability.

General comments - Wholesale energy price formation

TCPA recommended the commission direct ERCOT to implement Nodal Protocol Revision Request (NPRR) 1006 passed by the ERCOT board of directors in June 2020 which partially addresses the use of ERS and load management programs in energy price formation.

Commission Response

The commission declines to direct ERCOT to implement NPRR 1006 as recommended by TCPA as a part of this rulemaking project, because providing such direction is not a rulemaking action.

General comments - New ERS products

Currently ERS has two ERS products with different dispatch times: a 10-minute product requiring a dispatch within 10-minutes, and a 30-minute product requiring a dispatch within 30 minutes. AEMA and TAEBA proposed the rule be modified to accommodate additional products with different lead times, including one- and two-hour products. These commenters argued that this would increase the pool of loads that could participate in ERS.

Commission Response

The commission declines to direct ERCOT to develop specific products at this time. The commission has given ERCOT the authority to determine the ERS products it requires to keep the system reliable. Currently, ERCOT has a 10-minute and a 30-minute product, but ERCOT is free to expand products or create new ones as needed.

§25.507(b) – ERS procurement

Proposed §25.507(b) requires ERCOT to procure ERS to help prevent or alleviate an actual or anticipated Energy Emergency Alert (EEA).

PowerSecure supported the commission removing what PowerSecure considered generic references to emergency conditions and relying on an Energy Emergency Alert (EEA) event or an anticipation of an EEA event to trigger the deployment of ERS.

Enel argued that the commission should require a minimum procurement of ERS. Enel recommended that the ERS level be set to the equivalent of five percent of peak demand and believed the target could be adopted in conjunction with an increased budget for ERS.

Commission Response

The commission disagrees with Enel that a minimum amount of capacity to be procured should be designated at this time. The commission is still in the process of evaluating market design solutions for the wholesale market and may consider this recommendation in a future project.

TIEC argued that the language in the proposed rule stating that ERCOT can deploy ERS "to help prevent or alleviate" a potential emergency event is vague and will make it more difficult for a potential ERS participant to evaluate how much ERS it should offer and at what cost. TIEC explained that the ambiguity creates regulatory uncertainty about how the program will be used and could deter ERS participation and potentially increase ERS bids, which would result in increased costs to customers. Alternatively, TIEC proposed adding language to the rule stating that the ERS contract terms will not change during the standard contract term.

Commission Response

The commission declines to modify the rule as recommended by TIEC, because the commission disagrees that the proposed rule does not provide sufficient clarity for prospective ERS participants. ERCOT will rely upon commission rules, its protocols, and other relevant documents for issuing deployment instructions. Further, the commission has historically delayed changes in how ERS is deployed to future contract terms.

§25.507(b)(2) – ERS Budget and Procurement Goal

Proposed §25.507(b)(2) increases the ERS expenditure cap from $50 million to $75 million. Further, the proposed subsection provides an additional $25 million for ERS contract term renewal in the event ERS funds are exhausted during a contract term. The proposal did not specify a target number of MW to be procured for ERS.

Oncor Cities, TPPA, OPUC, and TCPA opposed increasing the ERS expenditure cap from $50 million to $75 million. Oncor Cities stated that the new cap appears arbitrary and not based on an actual assessment of the value that ERS has provided. TPPA expressed concern about the lack of analysis done to support the new expenditure cap. OPUC stated that increasing the cap disproportionately impacts consumers by increasing costs in relation to their electric usage and does not guarantee the necessary power to consumers. TCPA argued that the value of ERS is limited and does not provide price signals integral to investment in the ERCOT market and therefore the $50 million cap should be maintained rather than increased.

TIEC, PowerSecure, and Steel Mills supported the increased ERS budget of $75 million. TIEC stated that the renewal expenditure cap will help ensure that ERCOT has appropriate reliability tools at all times, without imposing unnecessary costs on consumers.

TAEBA, Enel, AEMA and Google all advocated for increasing the ERS budget to $200 million. TAEBA opined that the proposed budget falls substantially short. TAEBA stated that provisions in the proposed rule would extend the cumulative hours of service from eight to 24 and those additional costs must be considered in determining the budget. To account for both inflation and for procurement costs associated with changing the nature of the product, TAEBA argued that the budget should be increased to at least $200 million with an annual escalation factor to cover the cost of inflation going forward. Enel pointed out that the current $50 million expenditure cap was established in 2007, and by simply taking inflation into account, the budget should be $71.24 million to have the same purchasing power today. Enel argued that the budget should be increased to $200 million with additional funds available (such as an additional $50 million) to cover potential contract term renewals in the event supplies are exhausted. AEMA stated that the $25 million increase in the base budget for ERS is less than the additional cost of other measures that the commission and ERCOT have taken to increase the reliability of the system. AEMA asserted that the Independent Market Monitor has determined that in the first five months of 2022, changes adopted to enhance reliability have resulted in additional costs of $210 to $385 million. AEMA recommended that the expenditure cap for ERS be increased to at least $200 million with an annual escalation factor to cover the cost of inflation. Google stated that the greatest impediment to the growth of residential demand response is that both the current transmission and distribution utility (TDU) program economics and the ERCOT ERS economics do not provide sufficient compensation for the load that is being delivered. Google thought the increased budget would enable greater customer participation.

TCPA, Google and TAEBA supported a target quantity (in MW) to be procured for ERS within an expenditure cap but for different reasons. TCPA stated that the value of ERS is limited but having a specified MW procurement will help ensure the forces of competition reduce the costs. TCPA noted that the current practice of spending the maximum annual ERS budget without a corresponding procurement target only ensures that $50 million is spent on ERS regardless of the value provided to the program or the value provided by the program. Google and TAEBA supported developing demand response programs that total at least ten percent of peak load. Google stated that, if this goal was adopted, ERCOT would be seeking over 7,000 MW to be brought online, and a $200 million budget cap for ERS would move Texas much closer to that goal.

Commission Response

The proposed rule strikes an appropriate balance between the reliability benefits of an increase in the ERS expenditure cap and the costs to consumers. The commission is mindful of the costs to consumers when considering changes to the wholesale and retail markets. As noted by Enel, an increase to a $75 million expenditure cap is only slightly higher than the expenditure cap when the program was created, if inflation is taken into account. At this time the commission declines to increase the expenditure cap further or include a target procurement quantity, as requested by some commenters, but will continue to consider proposals to increase reliability as part of its ongoing market design project.

Steel Mills, TIEC, PowerSecure and AMEA generally supported making an additional $25 million available to renew contracts if ERS is exhausted. Steel Mills thought that this proposal was well justified. TIEC commented that this proposal strikes a reasonable balance between the reliability benefits of restoring ERS capability and costs to consumers. AEMA believed that the circumstances of Winter Storm Uri show the need for this authority.

OPUC and TPPA expressed concern with the proposal to allocate an additional $25 million for contract term renewal in the event that ERS has been depleted. OPUC stated that ERCOT has operated for nearly two decades without an ERS budget of $100 million. OPUC recommended that any language relating to the additional $25 million should be stricken from the rule. OPUC argued that if ERCOT has a need to renew an ERS contract term because the amount is exhausted, then ERCOT should file a request with the commission stating the amount needed and provide justification for the additional amount (not to exceed $25 million). OPUC recommended that at least one round of public comment should be allowed before the commission determines the additional budget for renewal. TPPA stated that if ERCOT is allowed to recontract with ERS providers without first seeking commission approval for the additional expenditure, it may provide an incentive to deploy ERS instead of other reliability measures. TPPA agreed with OPUC that this provision of the rule should be deleted and recommended that ERCOT should instead seek explicit approval from the commission to spend beyond its commission-approved spending limit.

Commission Response

The commission declines to remove the provisions allowing ERCOT to procure an additional $25 million for contract term renewals or to require commission approval and public comment before permitting contract term renewals. Adding a review process contravenes the goal of making the additional $25 million available as a safety net in the event that the initial amount is exhausted. However, the commission is cognizant of customer cost concerns and limits ERCOT's ability to increase the program budget to $25 million in a program year. For any additional increases, commission approval is required.

TCPA commented that as an out-of-market reliability program, it is critical that Texans realize reliability benefits when the ERS is needed. TCPA argued that a resource that has received payment for a previous procurement period should be prohibited from participating in the future if it fails to deploy its contracted capacity when called on. TCPA suggested language be added to (b)(2) requiring ERCOT to reject any offer from an ERS resource that has failed to deploy its contracted capacity when called upon during a previous procurement period.

Commission Response

The commission declines to modify the rule to require ERCOT to reject bids from entities that failed to deploy during previous contract periods. The rule already directs ERCOT to develop criteria under which an ERS resource or a qualified scheduling entity (QSE) will be suspended from participation in ERS or receive a reduced payment for failure to meet its ERS obligations. The commission can pursue administrative penalties or other enforcement actions for noncompliance as necessary. The commission agrees that it is critical that an ERS resource meet its obligations, but an inflexible disqualification policy, such as recommended by TCPA, would risk eliminating interested participants without consideration of the circumstances that led to the failure to meet prior obligations.

§25.507(c)(5) – Definition of ERCOT

Proposed 25.507(c)(5) defines ERCOT as "the staff of the Electric Reliability Council of Texas Inc."

OPUC suggested deleting the definition of ERCOT in (c)(5) which would allow the definition of ERCOT found in 16 TAC § 25.5 (40) to apply to this rule. OPUC argued that this is inconsistent with how ERCOT is used in the rest of the commission's rules.

Commission Response

The commission agrees with OPUC that removing the definition of ERCOT from this rule and allowing the definition of ERCOT in §25.5 to apply to this section would be consistent with the term's usage in other commission rules. Under §25.5, ERCOT is defined, in part, as "the independent organization" and ERCOT staff is a part of that organization. The commission has determined that eliminating the definition of ERCOT from this rule would not change how the program is administered and would allow ERCOT staff to continue operating the program as it does today. Therefore, the commission removes the definition of ERCOT from this rule.

§25.507(d)(2) – QSE submittal of offers

Proposed section 25.507(d)(2) requires a QSE to submit offers to ERCOT on behalf of its resources.

TPPA pointed out that this could be taken to mean that all QSEs must submit offers for ERS. TPPA suggested clarifying this provision to ensure that offers are only submitted by QSEs that have resources and that would like to participate.

Commission Response

The commission agrees with TPPA that the proposed rule language could be misinterpreted to require all QSEs to submit ERS offers and clarifies the language accordingly.

§25.507(d)(7) – Deployment of ERS

Proposed §25.507(d)(7) states that ERCOT may deploy an ERS resource *as necessary*, subject to the annual expenditure cap.

TCPA stated that "ERS is intended to be a system-wide capacity product and should not be used 'as necessary' on a locational basis." TCPA opined that ERS should ensure minimal disruption to the wholesale market and that the use of ERS for local issues undermines locational marginal prices. TCPA noted that the use of ERS for local issues was rejected by the commission in a prior ERS rulemaking in 2017 and recommended adding a provision to (d)(7) to prevent ERCOT from deploying ERS resources to address a local transmission constraint.

Commission Response

The commission declines to modify the rule in response to TCPA's comment as the change is unnecessary. The proposed amendments to this rule did not include any reference to the deployment of ERS on a locational basis. The adopted version of (d)(7) only differs from the existing version of this provision superficially. As TCPA noted, the commission rejected the use of local deployment of ERS in the order adopting that version of the rule. Moreover, adopted subsection (b), as with its predecessor, specifically notes that ERS is to be deployed to help prevent or alleviate an actual or anticipated EEA. EEAs are issued for system-wide operational reserve shortfalls, not to address local transmission-constraint driven issues.

§25.507(d)(8) – Contract hours

Proposed §25.507(d)(8) increases the amount of hours ERCOT can contract for from ERS resources. Currently an ERS resource can be deployed for up to eight hours per contract period and may extend for an additional four hours in the event that an ERS event is still occurring when the eight hours has been exhausted. Under the proposed rule, ERCOT may procure ERS resources for up to 24 hours per contract period.

PowerSecure was supportive of giving ERCOT the ability to procure up to 24 hours in a contract term.

Enel opposed the increase, favoring the current 12-hour product, because it balances the technical and economic requirements of ERS resources with benefits to the grid. Enel stated that the proposed rule would allow ERCOT to triple the current obligation, and if ERCOT were to use the expanded authority, then it would require resources to be available 24 hours a day, seven days a week. Enel argued that current ERS resources would no longer be able to meet this deployment obligation and the cost to procure the same amount of ERS capacity as procured today could be expected to increase significantly. AEMA agreed that the result would be to reduce competitive options to provide this service as well as increase the cost of the service.

Commission Response

The commission disagrees with Enel and AEMA that proposed 25.507 (d)(8) requires an ERS resource to be available 24 hours a day, seven days a week. The intent of this provision is to give ERCOT flexibility to procure ERS resources for up to 24 hours in a contract term, not

to change the nature of the program. Additionally, the 24-hour allowance does not require ERCOT to procure resources for all 24 hours in all contract terms nor does it require an ERS resource to provide service outside of the time period it has contracted to provide the service, unless otherwise required to do so under the rule.

§25.507(f) – Compliance

Proposed §25.507(f) establishes the circumstances in which and how a QSE representing an ERS resource is subject to administrative penalties for noncompliance.

TPPA noted that proposed §25.507(f) removed language limiting administrative penalties to violations of "this rule or any related ERCOT Protocols, Operating Guides, or other ERCOT standards." TPPA recommended keeping this limiting language to ensure that QSEs understand they will be responsible for any violations by their ERS resources related to the ERS program.

Commission Response

The commission agrees with TPPA that QSEs and ERS resources are subject to enforcement actions or other consequences, such as suspension from participation in the ERS program, for noncompliance with this rule or any related ERCOT Protocols, Operating Guides, or other ERCOT standards. The commission modifies the rule accordingly and adds other similar clarifications throughout this subsection.

§25.507(f)(1) – Compliance penalty

Proposed §25.507(f)(1), adopted as §25.407(f)(2), requires ERCOT to establish criteria for reducing a QSE's payment *or* suspending a QSE from participation in the ERS program for failure to meet its ERS obligations.

TPPA recommended maintaining previous rule language that provided ERCOT the option of reducing a payment "and/or" suspending a QSE, because ERCOT should have the flexibility to choose to take both actions, particularly in instances of an extreme violation. In the alternative, TPPA recommended modifying the language to clarify that ERCOT must establish criteria for reducing a QSE's payment, suspending a QSE from participation, "or both."

Commission Response

The proposed rule removed "and/or" from this subsection to align with the commission's updated drafting practices – it was not proposed as a substantive change to the rule. The commission agrees with TPPA that ERCOT may both reduce a QSE's payment and suspend the QSE from participation in the program as a result of noncompliance with the rules of the ERS program. The commission disagrees with TPPA that the proposed rule's use of "or" would require ERCOT to choose between these two options. However, the commission adopts TPPA's alternative recommendation of adding "or both" to ensure clarity.

§25.507(g) – Reporting

Proposed §25.507(g) encompasses ERCOT's annual reporting requirement prior to the start of an ERS standard contract term.

TCPA recommended amending proposed §25.507(g) to require a cost effectiveness comparison between ERS and utility load management programs, because ERS and load management programs serve the same purpose.

TPPA recommended expanding the reporting requirement in proposed subsection (g) so that ERCOT is required to list any Conservation Alerts, Control Room Advisories, and Watches issued by ERCOT during an ERS contract period to provide the commission and the public better insight on the effectiveness of the program. Because proposed §25.507(f)(4) requires ERCOT to maintain records relating to any alleged noncompliance, TPPA recommended including in this annual report an anonymized listing of all instances where a deployment did not result in the full expected response.

Commission Response

The commission declines to expand the reporting requirements. Utility load management programs are not part of ERS, nor are they managed by ERCOT. The effectiveness of the load management program is analyzed in a separate process directed by the commission. To the extent ERCOT has information on the load management programs, it could voluntarily include that in the report.

With regard to a scenario in which the result of a deployment is not what ERCOT expected, there is likely to be an investigation that may not be completed by the time a report is filed. If the investigation is complete and ERCOT would like to voluntarily include that information in the report, it may include it.

All comments, including any not specifically referenced herein, were fully considered by the commission. In adopting this rule, the commission makes other minor modifications for the purpose of clarifying its intent.

The amended rule is adopted under PURA §14.002, which provides the Public Utility Commission with the authority to make, adopt, and enforce rules reasonably required in the exercise of its powers and jurisdiction. The rule is also proposed under §39.151, which provides the commission the authority to oversee ERCOT.

Cross Reference to Statute: Public Utility Regulatory Act §14.002 and §39.151.

§25.507. Electric Reliability Council of Texas (ERCOT) Emergency Response Service (ERS).

(a) **Purpose**. The purpose of this section is to promote reliability through provisions that provide ERCOT flexibility in the implementation and administration of ERS.

(b) **ERS procurement.** ERCOT must procure ERS, a special emergency response service to be deployed by ERCOT to help prevent or alleviate an actual or anticipated Energy Emergency Alert (EEA) event.

(1) ERCOT will determine the ERS standard contract terms under which ERS resources are obligated to provide ERS, including renewal of ERS contract periods ERCOT deems necessary due to the depletion of available ERS.

(2) ERCOT may spend a maximum of $75 million in a 12-month period on ERS, unless otherwise determined by the commission. During that 12-month period, ERCOT may exceed the $75 million maximum by up to an additional $25 million for ERS contract renewals under paragraph (d)(9) of this section during a period where ERS has been exhausted. ERCOT may determine cost limits for each ERS standard contract term in order to ensure that the ERS expenditure cap is not exceeded. To minimize the cost of ERS, ERCOT may reject any offer that ERCOT determines to be unreasonable or outside of the parameters of an acceptable offer. ERCOT may also reject any offer placed on behalf of any ERS resource if ERCOT determines that it lacks a sufficient basis to verify whether the ERS resource complied with

ERCOT-established performance standards in an ERS deployment event during the preceding ERS standard contract term.

(c) **Definitions.**

(1) ERS contract period -- A period defined by ERCOT for which an ERS resource is obligated to provide ERS, consisting of all or part of the hours in an ERS standard contract term.

(2) ERS resource -- A resource contracted to provide ERS that meets one of the following descriptions:

(A) A load or aggregation of loads; or

(B) A dispatchable generator that is not registered with ERCOT as a Generation Resource, or an aggregation of such generators.

(3) ERS standard contract term -- Periods for which ERCOT may procure ERS.

(4) ERS time period -- Set of hours designated by ERCOT within an ERS standard contract term.

(d) **Participation in ERS**. In addition to requirements established by ERCOT, the following requirements apply for the provision of ERS:

(1) An ERS resource must be represented by a qualified scheduling entity (QSE).

(2) Offers must be submitted to ERCOT through a QSE.

(A) An offer may be submitted for one or more ERS time periods within an ERS contract period.

(B) QSEs representing ERS resources may aggregate multiple loads to reach the minimum capacity offer requirement established by ERCOT. Such aggregations will be considered a single ERS resource for purposes of submitting offers.

(3) ERCOT must establish qualifications for QSEs and ERS resources to participate in ERS.

(4) A resource must not commit to provide ERS if it is separately obligated to provide response with the same capacity during any of the same hours.

(5) ERCOT must establish performance criteria for QSEs and ERS resources.

(6) When dispatched by ERCOT, an ERS resource must deploy consistent with its obligations and must remain deployed until recalled by ERCOT.

(7) ERCOT may deploy ERS as necessary, subject to the annual expenditure cap.

(8) Deployment of an ERS resource must be limited to the number of hours for which the service was contracted, up to a maximum of 24 cumulative hours in an ERS contract period. However, if an instruction causes the cumulative total ERS deployment time to exceed the number of hours contracted within an ERS contract period, each ERS resource must remain deployed until permitted by ERCOT procedures or by ERCOT instructions to return from deployment.

(9) Upon exhaustion of an ERS resource’s obligation in any ERS contract period, ERCOT may renew that obligation, subject to the consent of the ERS resource and its QSE. ERCOT may renew the obligation on each occasion that the resource’s obligation is exhausted. ERCOT may limit the renewal quantity to manage the overall cost of the service or for reliability needs.

(10) ERCOT must establish procedures for testing of ERS resources.

(11) A resource with a pre-existing obligation to provide ERS may submit a proposal to serve as an alternative to a resource subject to reliability must-run (RMR) service for the same period. If the resource is selected, ERCOT must appropriately modify or terminate the resource's pre-existing ERS obligation to allow the resource to participate as an RMR alternative.

(e) **ERS payment and charges**.

(1) ERCOT must make a payment to each QSE representing an ERS resource on an as-bid basis, a market clearing price mechanism, or such other mechanism as ERCOT deems appropriate, subject to modifications determined by ERCOT based on the ERS resource's availability during an ERS standard contract term and the ERS resource's performance in any deployment event.

(2) ERCOT must charge each QSE a charge for ERS based upon its load ratio share during the relevant ERS time period and ERS standard contract term.

(3) ERCOT must settle an ERS contract period within 80 days following the completion of the ERS standard contract term.

(f) **Compliance**.

(1) A QSE representing an ERS resource is subject to administrative penalties for noncompliance with this rule or any related ERCOT Protocols, Operating Guides, or other ERCOT standards, by the QSE or the ERS resource it represents.

(2) ERCOT must establish criteria for reducing a QSE's payment, suspending a QSE from participation in ERS, or both, for failure to meet its ERS obligations, and must also establish criteria for subsequent reinstatement.

(3) ERCOT must establish criteria under which an ERS resource will be suspended for noncompliance with this rule or any related ERCOT Protocols, Operating Guides, or other ERCOT standards, and must also establish criteria for subsequent reinstatement.

(4) ERCOT must notify the commission of all instances of noncompliance with this rule or any related ERCOT Protocols, Operating Guides, or other ERCOT standards.

(5) ERCOT must maintain records relating to any alleged noncompliance with this rule or any related ERCOT Protocols, Operating Guides, or other ERCOT standards.

(g) **Reporting**. Prior to the start of an ERS standard contract term, ERCOT must report publicly the number of megawatts (MW) procured per ERS time-period, the number and type of ERS resources providing the service, and the projected total cost of the service for that ERS standard contract term. ERCOT must review the effectiveness and benefits of ERS and report its findings to the commission annually by April 15 of each calendar year. The report must contain, at a minimum, the number of MW procured in each period, the total dollar amount spent, the number and duration of deployments, and the circumstances that led to each deployment.

(h) **Implementation**. ERCOT must develop, in consultation with commission staff, additional procedures, guides, technical requirements, protocols, or other standards that are consistent with this section and that ERCOT finds necessary to implement ERS, including, but not limited to, developing a standard form ERS Agreement and specific performance guidelines and grace periods for ERS resources.

(i) **Self Provision**. ERCOT must establish procedures for self-provision of ERS by any QSE.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Signed at Austin, Texas the _____ day of August 2022.

PUBLIC UTILITY COMMISSION OF TEXAS

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PETER LAKE, CHAIRMAN

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WILL MCADAMS, COMMISSIONER

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LORI COBOS, COMMISSIONER

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JIMMY GLOTFELTY, COMMISSIONER

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