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## REPORT



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# Winter Weather Readiness Requirements for Generation Entities in Texas

*By James F. Bowe, Jr., Craig Stanfield and Tyler R Brown\**

*The authors summarize the rules the Public Utility Commission of Texas recently approved to reduce the chances that another winter storm will cause devastation similar to the devastation that occurred in Texas last winter.*

Many are questioning whether Texas will be able to avoid another catastrophic loss of power this winter like that experienced during Winter Storm Uri in February 2021. While regulators have known the causes of the catastrophe for months,<sup>1</sup> on October 21, 2021, the Public Utility Commission of Texas (“PUCT”) took steps to “ensure that the [Texas] electric industry is prepared to provide continuous reliable electric service throughout this upcoming winter weather season.”<sup>2</sup>

This article summarizes the rules the PUCT recently approved to reduce the chances that another winter storm will cause similar devastation.

## **WEATHER EMERGENCY PREPARATION RULES**

On October 21, 2021, as directed by Senate Bill 3, 87th Legislature Regular Session of the Texas Legislature,<sup>3</sup> the PUCT approved new rules requiring

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<sup>1</sup> See The University of Texas at Austin Energy Institute, “The Timeline and Events of the February 2021 Texas Electric Grid Blackouts,” (July 2021), available at [http://interchange.puc.texas.gov/Documents/51825\\_5\\_1138886.PDF](http://interchange.puc.texas.gov/Documents/51825_5_1138886.PDF); Letter from ERCOT to Public Utility Commission of Texas (Apr. 6, 2021), available at [http://interchange.puc.texas.gov/Documents/51878\\_20\\_1120255.PDF](http://interchange.puc.texas.gov/Documents/51878_20_1120255.PDF); FERC, NERC and Regional Entity Joint Staff Inquiry, “February 2021 Cold Weather Grid Operations: Preliminary Findings and Recommendations,” (Sept. 22, 2021), available at <https://www.ferc.gov/february-2021-cold-weather-grid-operations-preliminary-findings-and-recommendations>.

<sup>2</sup> Rulemaking to Establish Electric Weatherization Standards, Project No. 51840, Order Adopting New 16 TAC § 25.55 as Approved at the October 21, 2021 Open Meeting (Oct. 26, 2021), available at [https://interchange.puc.texas.gov/Documents/51840\\_102\\_1162080.PDF](https://interchange.puc.texas.gov/Documents/51840_102_1162080.PDF).

<sup>3</sup> Tex. S.B. 3, 83d Leg., R.S. (2021), available at <https://capitol.texas.gov/tlodocs/87R/billtext/pdf/SB00003F.pdf#navpanes=0>.

weather emergency preparation measures for the Electric Reliability Council of Texas (“ERCOT”), generation entities, and transmission service providers.<sup>4</sup>

The new rules: (i) adopt certain recommendations identified in a 2012 report commissioned by the PUCT,<sup>5</sup> and (ii) require fixes to any known issues that arose from the winter weather conditions during the 2020–2021 winter weather season. The new rules are the first phase of two planned phases; the to-be-developed phase two rules will consist of a more comprehensive, year-round set of weather emergency preparedness reliability standards informed by a weather study being conducted by ERCOT in consultation with the Office of the Texas State Climatologist.

The deadline for implementation for many of the new rules was December 1, 2021. This article focuses on the new requirements for generation entities.<sup>6</sup>

## REQUIREMENTS FOR GENERATION ENTITIES

Specifically, under the new rules, a generation entity within ERCOT<sup>7</sup> had to complete the following by December 1, 2021 (referred to throughout this article as the “December 1 Requirements”):

1. Use best efforts to implement weather emergency preparation measures to ensure sustained operation of all cold weather critical components during winter weather conditions;
2. Install adequate wind breaks for resources susceptible to outages or derates caused by wind; enclose sensors for cold weather critical components; inspect thermal insulation for damage or degradation and repair damaged or degraded insulation; confirm the operability of instrument air moisture prevention systems; conduct maintenance of freeze protection components for all applicable equipment, including fuel delivery systems controlled by the generation entity, the failure of which could cause an outage or derate, and establish a schedule for

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<sup>4</sup> See Rulemaking to Establish Electric Weatherization Standards, Project No. 51840, Order Adopting New 16 TAC § 25.55 as Approved at the October 21, 2021 Open Meeting (Oct. 26, 2021), available at [https://interchange.puc.texas.gov/Documents/51840\\_102\\_1162080.PDF](https://interchange.puc.texas.gov/Documents/51840_102_1162080.PDF). 16 TAC § 25.55 (2021).

<sup>5</sup> Quanta Technology, “Report on Extreme Weather Preparedness Best Practices,” Prepared for the Public Utility Commission of Texas (Sept. 28, 2012), available at <https://www.preventionweb.net/publication/report-extreme-weather-preparedness-best-practices>.

<sup>6</sup> Defined as “an ERCOT-registered resource entity acting on behalf of an ERCOT-registered generation resource or energy storage resource.” See 16 TAC § 25.55(b)(3).

<sup>7</sup> “A generation resource with an ERCOT-approved notice of suspension of operations for the 2021–2022 winter weather season is not required to be in compliance under this section until it is returned to service.” See 16 TAC § 25.55(a).

testing of such freeze protection components on a monthly basis from November through March; and install monitoring systems for cold weather critical components, including circuitry providing freeze protection or preventing instrument air moisture;

3. Use best efforts to address cold weather critical component failures that occurred in the 2020–2021 winter;
4. Provide training on winter weather preparations and operations to relevant operational personnel; and
5. Determine minimum design temperature or minimum experienced operating temperature and other operating limitations.<sup>8</sup>

Also by December 1, 2021, a generation entity had to submit to the PUCT and ERCOT, on an ERCOT-prescribed form, a Winter Weather Readiness Report that included the following:<sup>9</sup>

1. A description of all activities engaged in by the generation entity to complete the December 1 Requirements, including any assertions of good cause for noncompliance with the December 1 Requirements (discussed below); and
2. A notarized attestation sworn by the generation entity's highest-ranking representative, official, or officer with binding authority over the generation entity attesting to the completion of all December 1 Requirements, subject to any notice of or request for good cause exception, and to the accuracy and veracity of the information.<sup>10</sup>

In the event a generation entity cannot comply timely with the December 1 Requirements, there is a mechanism for a generation entity to seek an exception to the December 1 Requirements for good cause. For a generation entity seeking a good-cause exception, the generation entity had to submit by December 1, 2021, as part of its Winter Weather Readiness Report, a notice including the following:

1. An explanation and supporting documentation of the generation entity's inability to comply with a specific December 1 Requirement;
2. A description and supporting documentation of the generation entity's

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<sup>8</sup> 16 TAC § 25.55(c)(1)(A)–(E).

<sup>9</sup> A generation entity that submits the Winter Weather Reading Report to ERCOT by December 1, 2021 shall be exempt from the requirement in ERCOT Protocols that requires a generation entity to submit the Declaration of Completion of Generation Resource Winter Weatherization Preparations. 16 TAC § 25.55(5) and ERCOT Protocols Section 3.21(3).

<sup>10</sup> 16 TAC § 25.55(c)(2)(A)–(B).



efforts to comply with the December 1 Requirements; and

3. A plan, including supporting documentation and a proposed deadline, to comply with the December 1 Requirement for which good cause is being asserted.<sup>11</sup>

The PUCT and ERCOT will review good-cause exception requests, and the PUCT reserves the right to notify the generation entity that it disagrees with the assertion of good cause.<sup>12</sup> If the PUCT disagrees with the assertion of good cause, the generation entity must submit to the PUCT a request for approval of the good-cause exception.<sup>13</sup> The request for approval must contain:

1. An explanation, with supporting documentation, of the inability of the generation entity to comply with a specific December 1 Requirement;
2. A detailed description and supporting documentation of the efforts that have been made to comply with the December 1 Requirements;
3. A plan, including supporting documentation and a deadline, to comply with the December 1 Requirement for which the good cause exception is being requested;
4. Proof that notice of the request has been provided to ERCOT; and
5. A notarized attestation sworn to by the generation entity's highest-ranking representative, official, or officer with binding authority over the generation entity attesting to the accuracy and veracity of the information in the request for approval.<sup>14</sup>

Generation entities that have resources that experience repeated or major weather-related forced interruptions of service are required to contract a qualified, third party professional engineer to assess the generation entity's weather emergency preparation measures, plans, procedures, and operations.<sup>15</sup> The engineer's assessment must be submitted to the PUCT and ERCOT.<sup>16</sup>

Finally, the new rules require ERCOT to conduct inspections of resources during 2021–2022 winter weather season, prioritizing such inspections based

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<sup>11</sup> 16 TAC § 25.44(c)(6)(A)(i)–(iii).

<sup>12</sup> 16 TAC § 25.44(c)(6)(B).

<sup>13</sup> 16 TAC § 25.44(c)(6)(C).

<sup>14</sup> 16 TAC § 25.44(c)(6)(E)(i)–(v).

<sup>15</sup> 16 TAC § 25.44(e).

<sup>16</sup> *Id.*

on risk level.<sup>17</sup> Based on ERCOT inspections, a generation entity may be subject to PUCT enforcement investigation.<sup>18</sup>

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<sup>17</sup> 16 TAC § 25.44(d)(1).

<sup>18</sup> 16 TAC § 25.44(d)(1)(D).