

DOCKET NO. 52933

| | | |
|--------------------------------------|----------|----------------------------------|
| PETITION OF ELECTRIC | § | PUBLIC UTILITY COMMISSION |
| RELIABILITY COUNCIL OF TEXAS, | § | |
| INC. FOR APPROVAL OF BYLAWS | § | OF TEXAS |
| AMENDMENT | § | |

**PETITION OF ELECTRIC RELIABILITY COUNCIL OF TEXAS, INC.
FOR APPROVAL OF BYLAWS AMENDMENT**

Electric Reliability Council of Texas, Inc. (ERCOT), pursuant to Public Utility Regulatory Act (PURA)¹ § 39.151(g-1), respectfully requests Commission approval of an amendment to the *Amended and Restated Bylaws of Electric Reliability Council of Texas, Inc.* (Bylaws).² The proposed Bylaws amendment is attached as *Attachment A* (clean version) and *Attachment B* (redlined version), and is expected to be approved by the ERCOT Board of Directors (Board) on December 20, 2022.

I. BACKGROUND

ERCOT operates pursuant to Bylaws that set forth rules regarding the governance of ERCOT according to PURA, the Commission’s Substantive Rules,³ and Texas Business Organizations Code (TBOC) Chapter 22.

On June 8, 2021, Texas Governor Greg Abbott signed Senate Bill 2 (SB 2) into law. SB 2 amended PURA to make significant changes with respect to ERCOT governance, including modifying Board composition to remove positions for ERCOT Corporate Member representatives from the various Segments and transferring the power to select Board members from the Board and Corporate Members to the newly-created ERCOT board selection committee (Selection Committee).⁴ On October 12, 2021, following approval by the Board, the Commission approved ERCOT’s petition to amend the Bylaws to conform with the legal requirements imposed by SB 2.

¹ Tex. Util. Code Ann. §§ 11.001-66.016.

² In Docket No. 52683, *Petition of Electric Reliability Council of Texas, Inc. for Expedited Approval of Bylaws Amendment*, the Commission approved the Bylaws at an Open Meeting on October 12, 2021. A Commission Order consistent with the Commission’s approval was issued on October 20, 2021.

³ 16 Tex. Admin. Code § 25.362 (TAC).

⁴ See PURA §§ 39.151(g-1) & 39.1513.

At its meeting on August 16, 2022, following a presentation during the previous day's Human Resources and Governance (HR&G) Committee meeting, the Board announced its intention to amend the Bylaws to clarify the Board's right to amend ERCOT's governing documents without the approval of the Corporate Members while preserving the rights of Corporate Members to comment on any amendment proposals and to propose amendments themselves. In furtherance of this intent, at the Board's direction, on September 9, 2022, ERCOT staff issued a Market Notice⁵ requesting Corporate Member comments on a draft Bylaws amendment, of which nine sets were received, many of which disagreed with the proposal.⁶

Following consideration of the comments, on November 8, 2022, ERCOT staff on the Board's behalf filed the proposed Bylaws amendment with the Commission and requested Commission input pursuant to PURA § 39.151(g-1).⁷ In response, at its Open Meeting on November 10, 2022, the Commission approved a statement of input stating that the Board is empowered to amend the Bylaws without Corporate Member approval; that it is necessary for ERCOT to amend its Bylaws such that the Board has sole authority to change the Bylaws, subject only to the approval of the Commission; and that the Bylaws should be amended to provide that the Board cannot eliminate the Technical Advisory Committee without specific direction from the Commission.⁸

On December 13, 2022, ERCOT published an agenda⁹ for the December 20, 2022 Board meeting that provided notice that the Board intends to vote on the proposed Bylaws amendment at its meeting on December 20, 2022, following an anticipated recommendation by the HR&G Committee on the previous day. At such meeting, the Board is expected to approve the proposed Bylaws amendment. The proposed Bylaws amendment addresses all input provided by the Commission in the statement of input. ERCOT files this Petition and is requesting the

⁵ ERCOT Market Notice M-E090922-01, *Request for comments on proposed amendment to ERCOT Bylaws* (Sep. 9, 2022), available at https://www.ercot.com/services/comm/mkt_notices/M-E090922-01.

⁶ These comments are available on the ERCOT website under Key Documents at <https://www.ercot.com/committees/board/proposal?id=852701c3-9c04-75da-fbeb-a7be15b8115f>.

⁷ *CY 2022 Reports of the Electric Reliability Council of Texas*, Project No. 52933, Request for Public Utility Commission of Texas Input regarding Proposed Amendment to the ERCOT Bylaws (Nov. 8, 2022).

⁸ Project No. 52933, Commission's Statement of Input (Nov. 10, 2022).

⁹ Available at <https://www.ercot.com/calendar/12202022-Board-of-Directors-Meeting>.

Commission's final approval of the proposed amendment, following the Board's approval thereof.¹⁰

II. STATEMENT OF JURISDICTION AND AUTHORITY

The Commission has jurisdiction over this matter pursuant to PURA § 39.151(g-1) and 16 TAC § 25.362(c)(4).

III. IDENTIFICATION OF APPLICANT

The name and address of the Applicant is Electric Reliability Council of Texas, Inc., 8000 Metropolis Drive, Building E, Suite 100, Austin, Texas 78744.

The name, address, telephone, and facsimile numbers of Applicant's authorized representatives are as follows:

Chad V. Seely
Vice President, General Counsel and
Corporate Secretary
ERCOT
8000 Metropolis Drive
Building E, Suite 100
Austin, Texas 78744
(512) 225-7035 (Telephone)
(512) 225-7079 (Fax)
chad.seely@ercot.com

Jonathan Levine
Assistant General Counsel and
Assistant Corporate Secretary
ERCOT
8000 Metropolis Drive
Building E, Suite 100
Austin, Texas 78744
(512) 225-7017 (Telephone)
(512) 225-7079 (Fax)
jonathan.levine@ercot.com

Kimberly Rainwater
Corporate Counsel
ERCOT
8000 Metropolis Drive
Building E, Suite 100
Austin, Texas 78744
(512) 225-7179 (Telephone)
(512) 225-7079 (Fax)
kimberly.rainwater@ercot.com

¹⁰ The Commission is scheduled to consider the Bylaws amendment at an Open Meeting scheduled on December 20, 2022, to run concurrently with the Board meeting, the agenda for which has been publicly posted on the Commission's website at <https://www.puc.texas.gov/agency/om/12202022ercotboardofdirectorsmtg.pdf>.

Also available as part of the eCourse

[2023 Renewable Energy Law eConference](#)

First appeared as part of the conference materials for the
18th Annual Renewable Energy Law Institute session
"ERCOT Panel Discussion: Market Redesign"