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**PROJECT NO. 58480**

<b>RULEMAKING TO ESTABLISH</b>	<b>§</b>	<b>PUBLIC UTILITY COMMISSION</b>
<b>LARGE LOAD FORECASTING</b>	<b>§</b>	
<b>CRITERIA UNDER PURA §37.0561</b>	<b>§</b>	<b>OF TEXAS</b>

**TCPA COMMENTS AND RECOMMENDATION ON THE PROPOSAL FOR  
PUBLICATION**

Texas Competitive Power Advocates (TCPA) appreciates the opportunity to provide comments on the Proposal for Publication (PfP) approved by the Commission on September 18, 2025. TCPA represents thirteen companies in the ERCOT competitive market that are independent generation resource owners, independent power marketers, or both. The generation assets in our companies' portfolios are primarily thermal dispatchable generation comprised of natural gas, nuclear, coal, and some energy storage resources. Our members own approximately 56,000 megawatts (MW) of generation capacity in ERCOT and represent approximately half of the MWs under due diligence review or with executed loan agreements in the Texas Energy Fund (TEF). In addition, several TCPA member companies are also building new thermal generation resources in ERCOT through conventional market financing, outside of the TEF.

The provisions of Senate Bill (SB) 6<sup>1</sup> being implemented in this PfP sought to establish standard criteria for load forecasting to better ensure inclusion of loads that are likely to come to fruition while excluding speculative or duplicative loads with little indication they will energize in the ERCOT region. The skepticism surrounding ERCOT's load forecast since implementation of

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<sup>1</sup> 89th Tex. Leg., R.S., Senate Bill 6, § 2 (effective Jun. 20, 2025) (codified at PURA § 37.0561).

House Bill (HB) 5066 (which resulted in the introduction of officer-attested loads into ERCOT's load forecasting processes)<sup>2</sup> is evidenced by the lack of corroborating increase in the forward market prices that would signal more generation is needed to serve the new load. The skepticism has also been noted in numerous public hearings at the Legislature, ERCOT, and the Commission as well as in news articles across the state for the past two years. TCPA has consistently advocated for standardization of the large load interconnection process to ensure all TDSPs use the same criteria. TCPA has also consistently advocated for data-driven verification of loads to ensure improved accuracy in establishing an official load forecast. It is imperative that all market participants understand the methodology and the criteria for exclusion or inclusion and trust the veracity of the forecast used for both transmission planning and resource adequacy.

TCPA appreciates the work that has gone into producing this Pfp and the time spent in workshops to obtain information from market participants in advance of the Pfp. Comments below are focused on the following issues—(1) the importance of having a single threshold for large loads rather than multiple thresholds, which should be 75 MW absent evidence that it should be lower for all purposes under §37.0561 (i.e., interconnection standards and forecasting criteria); (2) the need for the forecasting criteria to appropriately reflect the stage of development that the load is in (i.e., related to studies and permits) so that the forecast does not over-correct to exclude loads in the out years that are actually real (but that would not have completed studies or obtained approval of permits yet); (3) the need for ERCOT's load forecast to be appropriately validated and adjusted; and (4) the need for stakeholders to have more visibility into the basis for ERCOT's forecast (via aggregated data that TCPA suggests should be reported by ERCOT).

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<sup>2</sup> 88th Tex. Leg., R.S., House Bill 5066, § 1 (effective Jun. 13, 2023) (codified at PURA § 37.056(c-1)).

Undergirding TCPA's suggestions and comments is a desire for the forecast to be accurate, standardized, and credible and to avoid the need for ERCOT to seek good cause exceptions (GCEs) like it did earlier this year. In its discussion of the ERCOT GCE related to the load forecasts received from the TDSPs,<sup>3</sup> Commissioners commented that the process itself should create an accurate forecast, and it should be standardized so that all loads are counted in the same way across all transmission service providers, such that future GCEs would not be needed.<sup>4</sup> The Commission further reiterated the need for standardization of load forecasts to promote greater accuracy across the board rather than allow ERCOT to make adjustments. In so doing, multiple Commissioners clearly specified they were only comfortable with the one-time GCE, since they expected that the passage and subsequent implementation of rules for SB 6 would provide a standardized process applicable to both TDSPs and ERCOT.<sup>5</sup>

This rulemaking is a critical component of SB 6 implementation. If done correctly, it will increase confidence in the accuracy of the load forecast by the market and the public. Toward that end, TCPA supports the Commission considering additional information to support the veracity of the large load and its inclusion in ERCOT forecasts. For example, TCPA suggests that the Commission consider reviewing whether the large load has the access to capital necessary to bring the project to fruition; whether there is an end-use customer secured via a letter of intent from the

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<sup>3</sup> PUC Open Meeting, May 15, 2025, Project 55999, *Update on ERCOT's Adjusted Load Forecast and Request for Good Cause Exception for 2025 Regional Transmission Plan*, Agenda Item 27 and PUC Open Meeting, June 5, 2025, Project 55999, *Update on ERCOT's Adjusted Load Forecast and Request for Good Cause Exception for 2025 Regional Transmission Plan*, Agenda Item 32.

<sup>4</sup> PUC Open Meeting, May 15, 2025, Project 55999, *Update on ERCOT's Adjusted Load Forecast and Request for Good Cause Exception for 2025 Regional Transmission Plan*, Agenda Item 27.

<sup>5</sup> PUC Open Meeting, June 5, 2025, Project 55999, *Update on ERCOT's Adjusted Load Forecast and Request for Good Cause Exception for 2025 Regional Transmission Plan*, Agenda Item 32.

large load's customer; whether a public announcement of the capital expenditure has been made; or whether some other binding document has been executed to demonstrate the actual load is secured to use the requested interconnection capacity. The prime objective is to ensure the load is real and not just speculative or duplicative so these components will help discern real projects with a high likelihood of energizing in ERCOT from those that may be considering ERCOT among other markets without having made any meaningful commitments toward reaching commercial operations.

With that context in mind, TCPA provides its specific recommended rule changes below.

### **COMMENTS AND RECOMMENDED CHANGES**

TCPA provides recommended changes to PfP language in red below and provides an explanation for its recommended changes following each section of the PfP. If no changes are recommended to a section, the section is not included below.

#### **§25.370 ERCOT Large Load Forecasting Criteria.**

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

- (1) Large load customer -- An entity seeking interconnection of one or more facilities at a single site with an aggregate new load or load addition greater than or equal to ~~25~~ 75 megawatts (MW) behind one or more common points of interconnection (POI) or service delivery points.
- (2) Load -- non-coincident peak demand in MW.

- (3) Transmission and/or distribution service provider -- the electric utility, municipally owned utility, or electric cooperative that is certificated to provide retail electric service at the site that a large load customer seeks to interconnect or the transmission service provider delegated authority by the electric utility, municipally owned utility, or electric cooperative to act on its behalf for purposes of providing information to ERCOT under this section.

Reason for recommended change: The Legislature included a default threshold of 75 MW for large load designation and allows the Commission to choose a lower threshold only if warranted. Specifically, PURA §37.0561(a) specifies that §37.0561 applies to large loads that exceed “the demand threshold” set under subsection (c), which, in turn, clearly sets the threshold at a demand of 75 MW “unless the commission determines that a lower threshold is necessary....” The use of “the demand threshold” in subsection (a) (i.e., the applicability section for *all* of §37.0561) makes clear that the Commission should establish a single threshold for large load designation for all of §37.0561 (i.e., for both interconnection standards and forecasting criteria) and should only lower the threshold from the default standard of 75 MW if there is some data or evidence to support it. The statute does not contemplate multiple thresholds, and the Commission should not entertain establishing more than one threshold (such as 75 MW for interconnection standards but 25 MW for forecasting criteria).

TCPA has seen no data suggesting a threshold lower than 75 MW is appropriate or needed for any purpose under §37.0561, and the ERCOT Protocols and policies previously adopted related to large loads have used a 75 MW threshold for differentiating large load from other types of load. In addition, there is no persuasive data or stakeholder testimony throughout the comments filed and workshops held over the course of this year that provides any evidence supporting a lower

threshold. Should such information or data become available, then the Commission would be justified in considering a lower threshold, but that threshold (if justified) should apply across the board to the implementation of §37.0561 (and not just to the forecasting criteria section of that statute). In the meantime, the current 75 MW threshold that is used in existing ERCOT Protocols and Planning Guides should be the threshold established in the current rule.

Notably, if a lower threshold were to be used for purposes of forecasting (i.e., 25 MW) than is used for purposes of interconnection standards (i.e., 75 MW), then the risk is that the loads between 25 MW and 75 MW will not be included in the forecast even though they are real, and there will be a blind spot in the forecast. In other words, loads that are between 25 MW and 75 MW will not be counted under the proposed rule criteria because they will not be required to satisfy, and thus presumably will not satisfy, the interconnection standards that they would have to meet in order to be counted (such as the financial commitment criteria), even though they may be very real loads that will materialize. Thus, to set the threshold lower in the forecasting rule than the interconnection standards rule runs a greater risk of excluding real loads from the forecast and potentially having load materialize that the market and ERCOT is unable to plan for.

(c) **Criteria for inclusion in ERCOT load forecast.** A large load customer's forecasted demand must not be included in an ERCOT load forecast used for transmission planning or resource adequacy unless the large load customer executed and securitized an interconnection agreement or meets the following criteria:

- (1) disclosed to the TDSP whether it is pursuing a separate request for electric service, the approval of which would result in the customer materially changing, delaying, or withdrawing the interconnection request, and if so, the location, size, and anticipated timing of energization associated with such request;

- (2) demonstrated to the TDSP site control for the proposed load location through an ownership interest, lease, or other means accepted in the applicable commission rule for large load interconnection standards;
- (3) paid a study fee to the TDSP that is the greater of \$100,000 or an amount that is set by the applicable commission rule for large load interconnection standards;
- (4) demonstrated financial commitment to the TDSP by means of:
  - (A) payment of security on a dollar per megawatt basis as set by the applicable commission rule for large load interconnection standards;
  - (B) payment of contribution in aid of construction; or
  - (C) payment of security provided under an agreement that requires the large load customer to pay for significant equipment or services in advance of signing an agreement to establish electric delivery service;
- (5) provided a load ramping schedule to the TDSP, if applicable;
- (6) submitted an attestation to the TDSP that attests significant, verifiable progress, as appropriate for the current stage of development, toward completion of site-related studies and engineering services required for project development before energization (e.g., water, wastewater, or gas); and
- (7) submitted an attestation to the TDSP that attests significant, verifiable progress, as appropriate for the current stage of development, toward obtaining state and local regulatory approvals required for project development before energization (e.g., water, air, or backup generation permits, or city or county building permits).

Reason for recommended change: Different stages of development require different permitting and progress toward applicable studies, and there may be studies or permitting that has not been



completed or obtained, or the process begun, because it is too early in the development cycle to warrant any action. For example, obtaining an elevator permit from the Texas Department of Licensing and Regulation (TDLR) may be needed prior to energization but is not a process that would start at a time that an interconnection request is filed (and might not be done until very close to energization). Similarly, certain engineering or other site-related studies may be very early in the process (and thus might not be deemed to have “significant, verifiable progress toward completion,” as would be required by the PIP) if the load does not plan to energize until a few years in the future. Without the added modifying language, the potential unintended consequence is under-counting load coming to ERCOT and not having enough transmission infrastructure or generation to serve real load that is being developed but has not reached a stage to warrant certain permitting or studies. Adding the language “as appropriate for the current stage of development” would allow for loads to present evidence that they are undertaking the tasks they will need to complete in order to energize by their planned date, without excluding them from the forecast in later years based on them not having completed tasks that would not be expected at their stage of development.

(e) **ERCOT forecast.** Using the load data provided by TDSPs under subsection (d) of this section, ERCOT must develop load forecasts for the ERCOT region.

(1) **Validation of load data.** ERCOT and commission staff may access information collected by a TDSP to ensure compliance with this section and validate load data submitted by a TDSP. If load data submitted by a TDSP cannot be validated, including the use of other objective, credible, independent information, the data must be excluded from the load forecast developed by ERCOT.

- (2) **Adjustments to load data.** ~~ERCOT, in consultation with commission staff, The~~ commission may direct ERCOT to make adjustments to the load data provided by a TDSP under this section based on ~~actual historical realization rates or other~~ objective, credible, independent information. ERCOT must provide a market notice to TDSP market participants with the data and calculations used to adjust the forecasted load if directed to make adjustments by the commission.
- (3) **Use of load forecasts.** ERCOT's load forecasts must use the load data provided by TDSPs under this section in its transmission planning and resource adequacy models and reports. Applicable adjustments to the load forecast may be made to accommodate differences in study scope, use cases, time horizons, and modeling details.
- (4) **Load interconnection report.** ERCOT will publish an aggregated report of megawatts by county level that meets the criteria under subsection (c) for inclusion in the load forecast. For Loads that have requested interconnection but have not met all the criteria under subsection (c) for inclusion in the load forecast, ERCOT will publish the aggregated megawatts by county level that have met each of the different sub criteria under subsection (c). Confidentiality of information will remain protected as only aggregate megawatts for each county level will be reported.

Reason for recommended changes: TCPA's recommended change to subsection (e)(1) is intended to ensure that the load forecast is realistic compared to external data. If load forecasts yield an expected load that is outside of the expectations for all markets across the country or some other type of benchmarking data point that renders it impossible for the amount expected for ERCOT

alone to materialize, then it is appropriate to make changes to ensure a forecast within the bounds of realistic potential.

With respect to TCPA's recommended changes to subsection (e)(2), the load forecast projections for the next five to ten years are at a pace not seen in recent history so actual historical realization rates likely have less bearing on the veracity of current load forecasts projecting growth over the next decade than during more steady growth periods. Therefore, those should not be a sole basis for adjusting the load forecasts, particularly after the forecasts are determined using the Commission-prescribed standard process this rulemaking will yield, and thus, the reference to "actual historical realization rates" should be deleted. Should other objective and credible information be available that suggests adjustments should be made to the forecast, such as the example in the preceding paragraph, then it is appropriate for the Commission to consider that information.

However, should any adjustments be warranted, then it should be the Commission (and not ERCOT on its own accord or even in consultation with Commission Staff) that directs such adjustment to be made. The Legislature directed the Commission (not ERCOT) to establish the standards and the process for the forecast. Further, Commissioners were very clear in their communications from the dais during both the May 15, 2025 and June 5, 2025 Open Meetings that they were not comfortable with ERCOT making adjustments to load forecasts in perpetuity and that the GCE granted for 2025 was a one-time exception that they expected not to be needed in the future since the Commission would undertake a rulemaking following passage of SB 6 to establish a standard for all TDSPs and ERCOT to use in the future. TCPA further recommends that any such adjustments be appropriately communicated to the market via a market notice, rather than just to the TDSPs that provided the underlying data for the forecasts.

With respect to TCPA's recommended changes to subsection (e)(3), there was significant discussion about the load forecast used for transmission planning compared to that used for resource adequacy. While the data may have different use cases and it is appropriate to make adjustments based on the use case (e.g., in concurrently filed comments in Project No. 58479, TCPA notes that not all loads in the load forecast are appropriate to use in evaluating the resource adequacy impact of a proposed net metering arrangement), the actual, final load forecast should be the same regardless of whether it is used for transmission planning purposes or resource adequacy. If loads are coming to ERCOT, they will need transmission infrastructure but also electrons running through that infrastructure to meet the energy demand. Therefore, the actual load expected in determining what transmission needs to be built should be the same as the load expected in determining the region's resource adequacy needs. Failing to use the same forecast creates a systemic imbalance in which ratepayer costs continue to go up without sending the commensurate signals to invest in generation needed to provide the electrons to serve the load.

TCPA is recommending the addition of subsection (4) to protect confidential information provided to TDSPs and ERCOT while providing vital information in aggregate to allow the market to work best in responding to the needs of the system as it prepares for these new loads. While generators are competitive market participants and provide competitively sensitive information regarding interconnection of new generation assets, ERCOT has long published monthly GIS Report providing generation interconnection milestones and trend information for generation resources in the ERCOT region. This report provides transparent information to all market participants as well as regulators to discern what types of generation, in what quantities and in which locations are likely to materialize and which are more speculative in nature. With the significant planning impact the influx of new large loads will have on the ERCOT system, it makes

sense to have a Load Interconnection Survey (LIS) published while protecting confidential information. Nodal Protocol Revision Request (NPRR) 1267 was introduced by the residential consumer segment to create such a report for large loads to accomplish this needed transparency. It was finally approved by the Commission on July 31, 2025, and the Commission could direct ERCOT to prioritize implementation of this NPRR as part of the order on this rulemaking. T CPA supported NPRR 1267's passage and would support giving its implementation high priority for 2026 as part of its overall SB 6 implementation efforts.

### **CONCLUSION**

T CPA appreciates the opportunity to provide comments on this important P f P. T CPA believes the coming load growth is a strong sign of the state's continued economic success but understands the importance of ensuring the load forecasts are verifiable and realistic. Balancing economic development with protecting ratepayers from overbuilding transmission is critical and the P f P does a good job of balancing those competing interests. T CPA's recommendations offer greater transparency, ensure standardization, and seek to protect the veracity of load forecasts so the competitive market can appropriately respond. T CPA looks forward to continuing to work with Staff, the Commission, and other stakeholders to ensure the large loads coming to ERCOT are real and verifiable, that transmission planning and resource adequacy reflect realistic load growth, and that consumers are protected from paying for stranded costs.

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Respectfully submitted,

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**PROJECT NO. 58480**

**RULEMAKING TO ESTABLISH  
LARGE LOAD FORECASTING  
CRITERIA UNDER PURA §37.0561**

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**PUBLIC UTILITY COMMISSION  
  
OF TEXAS**

**TCPA EXECUTIVE SUMMARY**

SECTION OF RULE	RECOMMENDED CHANGE	RATIONALE
§25.370 (a)	NONE	N/A
§25.370 (b)	Change 25 MW to 75MW	Used in statute as default threshold, is the standard for large loads in Planning Guides & protocols, and no data or testimony to support a lower threshold; should have one threshold for all purposes under 37.0561 (i.e., interconnection standards and forecasting) to avoid potential undercounting in the forecast (because loads under 75 MW do not have to meet the interconnection standards in the statute, they likely will not meet the forecasting criteria that is based on those standards and thus will be excluded from the forecast even though they are real loads)
§25.370 (c)	Add “as appropriate for the stage of development” to the attestation regarding permitting and studies	Some permitting is not obtained or even applied for, and some studies are not started or completed, until closer to energization and would not be something in process at the time of an interconnection request. If these criteria are too stringent, the forecast may exclude real loads until very close to the energization date and thus make it difficult to plan for those loads
§25.370 (d)	NONE	N/A

§25.370 (e)	<ol style="list-style-type: none"> <li>1. Validation of load should include using other objective, credible, independent information.</li> <li>2. The Commission should direct ERCOT to adjust load forecasts if that is needed and adjustments should not be done by ERCOT &amp; commission staff alone.</li> <li>3. A market notice should be sent by ERCOT when an adjustment is directed to provide data &amp; calculations used for the adjustment.</li> <li>4. Add “uses cases” to the list of reasons applicable adjustments may be made.</li> <li>5. Add a section to require ERCOT to implement a Load Interconnection Survey (LIS) similar to the GIS</li> </ol>	<ol style="list-style-type: none"> <li>1. Validation should ensure forecast is not outside the norm for other markets combined or realistic supply chain constraints.</li> <li>2. SB 6 directed the Commission to implement a standardized process to ensure veracity of the load forecast and consistency across service territories. Only the Commission should direct ERCOT to adjust the load forecast.</li> <li>3. Transparency to the market about adjustments to the load forecast, the data used, and the methodology is critical &amp; should be required.</li> <li>4. While use cases may dictate focus on different aspects of the data (e.g., PURA § 39.169(d) reviews), the underlying load forecast should be a constant whether in transmission planning or resource adequacy.</li> <li>5. LIS provides transparency to the market while maintaining confidentiality of sensitive data by providing aggregate information by milestones, county, and load type similar to that provided in the GIS. The Commission has already approved NPRR 1267 to accomplish this and could direct ERCOT to make implementation a high priority in 2026.</li> </ol>
§25.370 (f)	NONE	N/A
§25.370 (g)	NONE	N/A