

ADOPTED RULES

Adopted rules include new rules, amendments to existing rules, and repeals of existing rules. A rule adopted by a state agency takes effect 20 days after the date on which it is filed with the Secretary of State unless a later date is required by statute or specified in the rule (Government Code, §2001.036). If a rule is adopted without change to the text of the proposed rule, then the *Texas Register* does not republish the rule text here. If a rule is adopted with change to the text of the proposed rule, then the final rule text is included here. The final rule text will appear in the Texas Administrative Code on the effective date.

TITLE 1. ADMINISTRATION

PART 15. TEXAS HEALTH AND HUMAN SERVICES COMMISSION

CHAPTER 355. REIMBURSEMENT RATES

The executive commissioner of the Texas Health and Human Services Commission (HHSC) adopts amendments to §355.502, concerning Reimbursement Methodology for Common Services in Home and Community-Based Services Waivers; §355.505, concerning Reimbursement Methodology for the Community Living Assistance and Support Services Waiver Program; §355.513, concerning Reimbursement Methodology for the Deaf-Blind with Multiple Disabilities Waiver Program; §355.723, concerning Reimbursement Methodology for Home and Community-Based Services and Texas Home Living Programs; and §355.725, concerning Reimbursement Methodology for Common Waiver Services in Home and Community-based Services (HCS) and Texas Home Living (TxHmL).

Sections 355.502 and 355.723 are adopted without changes to the proposed text as published in the January 24, 2025, issue of the *Texas Register* (50 TexReg 513). These rules will not be republished.

Sections 355.505, 355.513, and 355.725 are adopted with changes to the proposed text as published in the January 24, 2025, issue of the *Texas Register* (50 TexReg 513). These rules will be republished.

BACKGROUND AND JUSTIFICATION

The amendments are necessary to add in-home and out-of-home settings for home health care services (including nursing, occupational therapy, and physical therapy) to the reimbursement methodologies for Community Living Assistance and Support Services Waiver Program (CLASS), the Deaf-blind Multiple Disabilities (DBMD), Home and Community-based Services (HCS), and Texas Home Living (TxHmL) waiver programs. These amendments ensure compliance with the 21st Century Cures Act, which requires all states to implement the use of electronic visit verification (EVV).

The amendments also establish the reimbursement methodology for employment readiness services in the DBMD, HCS, and TxHmL waiver programs in accordance with House Bill 4169, 88th Legislature, Regular Session, 2023.

COMMENTS

The 31-day comment period ended on February 24, 2025.

During this period, HHSC did not receive any comments regarding the proposed rules.

HHSC made minor edits to §§355.505, 355.513, and 355.725 to specify the location of cross references and correct an incorrect capitalization in §355.505(c)(4)(C).

SUBCHAPTER E. COMMUNITY CARE FOR AGED AND DISABLED

1 TAC §§355.502, 355.505, 355.513

STATUTORY AUTHORITY

The amendments are adopted under Texas Government Code §524.0151, which provides that the executive commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies; and Texas Human Resources Code §32.021 and Texas Government Code §532.0051(a), which provide HHSC with the authority to administer the federal medical assistance (Medicaid) program in Texas; and Texas Government Code §532.0057(a), which establishes HHSC as the agency responsible for adopting reasonable rules governing the determination of fees, charges, and rates for medical assistance payments under the Texas Human Resources Code Chapter 32.

§355.505. Reimbursement Methodology for the Community Living Assistance and Support Services Waiver Program.

(a) General requirements. The Texas Health and Human Services Commission (HHSC) applies the general principles of cost determination as specified in §355.101 of this chapter (relating to Introduction). Providers are reimbursed for waiver services provided to Medicaid-enrolled persons with related conditions. Additionally, providers will be reimbursed a one-time administrative expense fee for a pre-enrollment assessment of potential waiver participants. The pre-enrollment assessment covers care planning for the participant.

(b) Reporting of cost.

(1) Providers must follow the cost reporting guidelines as specified in §355.105 of this chapter (relating to General Reporting and Documentation Requirements, Methods, and Procedures).

(2) Number of cost reports to be submitted. All legal entities must submit a cost report unless the number of days between the date the legal entity's first Texas Department of Aging and Disability Services (DADS) client received services and the legal entity's fiscal year end is 30 days or fewer.

(A) Contracted providers participating in the attendant compensation rate enhancement.

(i) At the same level of enhancement. If all the contracts under the legal entity participate in the enhancement at the same level of enhancement, the contracted provider must submit one cost report for the legal entity.

(ii) At different levels of enhancement. If all the contracts under the legal entity participate in the enhancement but they

participate at more than one enhancement level, the contracted provider must submit one cost report for each level of enhancement.

(B) Contracted providers not participating in the attendant compensation rate enhancement. If all the contracts under the legal entity do not participate in the enhancement, the contracted provider must submit one cost report for the legal entity.

(C) Contractors participating and not participating in attendant compensation rate enhancement.

(i) At the same level of enhancement. If some of the contracts under the legal entity do not participate in the enhancement and the rest of the contracts under the legal entity participate at the same level of enhancement, the contracted provider must submit:

(I) one cost report for the contracts that do not participate; and

(II) one cost report for the contracts that do participate.

(ii) At different levels of enhancement. If some of the contracts under the legal entity do not participate in the enhancement and the rest of the contracts under the legal entity participate in the enhancement but they participate at more than one enhancement level, the contracted provider must submit:

(I) one cost report for the contracts that do not participate; and

(II) one cost report for each level of enhancement.

(3) Excused from submission of cost reports. If required by HHSC, a contracted provider must submit a cost report unless the provider meets one or more of the conditions in §355.105(b)(4)(D) of this chapter.

(c) Waiver reimbursement determination methodology.

(1) Unit of service reimbursement or reimbursement ceiling by unit of service. Reimbursement or reimbursement ceilings for related-conditions waiver services, habilitation, nursing services provided by a registered nurse (RN), nursing services provided by a licensed vocational nurse (LVN), physical therapy, occupational therapy, speech and language pathology, behavioral support, auditory integration training/auditory enhancement training (audiology services), nutritional services, employment assistance, supported employment, day activity and health services, and in-home and out-of-home respite care services will be determined on a fee-for-service basis. These services are provided under §1915(c) of the Social Security Act Medicaid waiver for persons with related conditions.

(2) Monthly reimbursement. The reimbursement for case management waiver service will be determined as a monthly reimbursement. This service is provided under the §1915(c) of the Social Security Act Medicaid waiver for persons with related conditions.

(3) Reporting and verification of allowable cost.

(A) Providers are responsible for reporting only allowable costs on the cost report, except where cost report instructions indicate that other costs are to be reported in specific lines or sections. Only allowable cost information is used to determine recommended reimbursements. HHSC excludes from reimbursement determination any unallowable expenses included in the cost report and makes the appropriate adjustments to expenses and other information reported by providers; the purpose is to ensure that the database reflects costs and other information that are necessary for the provision of services and are consistent with federal and state regulations.

(B) Individual cost reports may not be included in the database used for reimbursement determination if:

(i) there is reasonable doubt as to the accuracy or allowability of a significant part of the information reported; or

(ii) an auditor determines that reported costs are not verifiable.

(4) Reimbursement determination. Recommended unit of service reimbursements and reimbursement ceilings by unit of service are determined in the following manner:

(A) Unit of service reimbursement for habilitation, and cost per unit of service for in-home and out-of-home nursing services provided by an RN, in-home and out-of-home nursing services provided by an LVN, in-home and out-of-home physical therapy, in-home and out-of-home occupational therapy, speech and language pathology, behavioral support services, auditory integration training/auditory enhancement training (audiology services), nutritional services, employment assistance, supported employment, and in-home and out-of-home respite care are determined in the following manner.

(i) The total allowable cost for each contracted provider cost report will be determined by analyzing the allowable historical costs reported on the cost report and other pertinent cost survey information.

(ii) The total allowable cost is reduced by the amount of the administrative expense fee and requisition fee revenues accrued for the reporting period.

(iii) Each provider's total allowable cost, excluding depreciation and mortgage interest, is projected from the historical cost reporting period to the prospective reimbursement period as described in §355.108 of this chapter (relating to Determination of Inflation Indices).

(iv) Payroll taxes and employee benefits are allocated to each salary line item on the cost report on a pro rata basis based on the portion of that salary line item to the amount of total salary expense for the appropriate group of staff. Employee benefits will be charged to a specific salary line item if the benefits are reported separately. The allocated payroll taxes are Federal Insurance Contributions Act (FICA) or social security, Medicare contributions, Workers' compensation Insurance (WCI), the Federal Unemployment Tax Act (FUTA), and the Texas Unemployment Compensation Act (TUCA).

(v) Allowable administrative and facility costs are allocated or spread to each waiver service cost component on a pro rata basis based on the portion of each waiver service's units of service to the amount of total waiver units of service.

(vi) Each provider's projected total allowable cost is divided by the number of units of service to determine the projected cost per unit of service.

(vii) For in-home and out-of-home nursing services provided by an RN, in-home and out-of-home nursing services provided by an LVN, in-home and out-of-home physical therapy, in-home and out-of-home occupational therapy, speech and language pathology, in-home respite care, behavioral support services, auditory integration training/auditory enhancement training (audiology services), nutritional services, employment assistance, and supported employment, the projected cost per unit of service, for each provider is multiplied by 1.044. This adjusted allowable cost per unit of service may be combined into an array with the allowable cost per unit of service of similar services provided by other programs in determining rates for these services in accordance with §355.502 of this subchapter (relating

to Reimbursement Methodology for Common Services in Home and Community-Based Services Waivers).

(viii) For habilitation services two cost areas are created:

(I) The attendant cost area includes salaries, wages, benefits, and mileage reimbursement calculated as specified in §355.112 of this chapter (relating to Attendant Compensation Rate Enhancement).

(II) Another attendant cost area is created which includes the other habilitation services costs not included in subclause (I) of this clause as determined in clauses (i) - (v) of this subparagraph to create an other attendant cost area. An allowable cost per unit of service is calculated for the other habilitation cost area. The allowable costs per unit of service for each contracted provider cost report are arrayed and weighted by the number of units of service, and the median cost per unit of service is calculated. The median cost per unit of service is multiplied by 1.044.

(III) The attendant cost area and the other attendant cost area are summed to determine the habilitation attendant cost per unit of service.

(ix) For out-of-home respite care, the allowable costs per unit of service are calculated as determined in clauses (i) - (vi) of this subparagraph. The allowable costs per unit of service for each contracted provider cost report are multiplied by 1.044. The costs per unit of service are then arrayed and weighted by the number of units of service, and the median cost per unit of service is calculated.

(B) The monthly reimbursement for case management services is determined in the following manner:

(i) Total allowable costs for each provider will be determined by analyzing the allowable historical costs reported on the cost report and other pertinent cost survey information.

(ii) Total allowable costs are reduced by the amount of administrative expense fee revenues reported.

(iii) Each provider's total allowable costs, excluding depreciation and mortgage interest, are projected from the historical cost reporting period to the prospective reimbursement period as described in §355.108 of this chapter (relating to Determination of Inflation Indices).

(iv) Payroll taxes and employee benefits are allocated to each salary line item on the cost report on a pro rata basis based on the portion of that salary line item to the amount of total salary expense for the appropriate group of staff. Employee benefits will be charged to a specific salary line item if the benefits are reported separately. The allocated payroll taxes are Federal Insurance Contributions Act (FICA) or social security, Medicare contributions, Workers' compensation Insurance (WCI), the Federal Unemployment Tax Act (FUTA), and the Texas Unemployment Compensation Act (TUCA).

(v) Each provider's projected total allowable costs are divided by the number of monthly units of service to determine the projected cost per client month of service.

(vi) Each provider's projected cost per client month of service is arrayed from low to high and weighted by the number of units of service and the median cost per client month of service is calculated.

(vii) The median projected cost per client month of service is multiplied by 1.044.

(C) The unit of service reimbursement for day activity and health services is determined in accordance with §355.6907 of this chapter (relating to Reimbursement Methodology for Day Activity and Health Services).

(D) HHSC also adjusts reimbursement according to §355.109 of this chapter (relating to Adjusting Reimbursement When New Legislation, Regulations, or Economic Factors Affect Costs) if new legislation, regulations, or economic factors affect costs.

(5) The reimbursement for support family services and continued family services will be determined as a per day rate using a method based on modeled costs which are developed by using data from surveys, cost report data from other similar programs, payment rates from other similar programs, consultation with other service providers and/or professionals experienced in delivering contracted services, or other sources as determined appropriate by HHSC. The per day rate will have two parts, one part for the child placing agency and one part for the support family.

(d) Administrative expense fee determination methodology.

(1) One-time administrative expense fee. Reimbursement for the pre-enrollment assessment and care planning process required to determine eligibility for the waiver program will be provided as a one-time administrative expense fee.

(2) Administrative expense fee determination process. The recommended administrative expense fee is determined using a method based on modeled projected expenses which are developed using data from surveys, cost report data from other similar programs or services, professionals' experience in delivering similar services, and other relevant sources.

(e) Requisition fees. Requisition fees are reimbursements paid to the CLASS direct service agency contracted providers for their efforts in acquiring adaptive aids, medical supplies, dental services, specialized therapies, and minor home modifications for CLASS participants. Reimbursement for requisition fees for adaptive aids, medical supplies, dental services, specialized therapies, and minor home modifications will vary based on the actual cost of the adaptive aids, medical supplies, dental services, specialized therapies, and minor home modifications. Reimbursements are determined using a method based on modeled projected expenses which are developed by using data from surveys; cost report data from similar programs; consultation with other service providers and/or professionals experienced in delivering contracted services; and/or other sources.

(f) Allowable and unallowable costs.

(1) Providers must follow the guidelines in determining whether a cost is allowable or unallowable as specified in §355.102 and §355.103 of this chapter (relating to General Principles of Allowable and Unallowable Costs, and Specifications for Allowable and Unallowable Costs) as well as the following provisions.

(2) Participant room and board expenses are not allowable, except for those related to respite care.

(3) The actual cost of adaptive aids, medical supplies, dental services, and home modifications is not allowable for cost reporting purposes. Allowable labor costs associated with acquiring adaptive aids, medical supplies, dental services, and home modifications should be reported in the cost report. Any item purchased for participants in this program and reimbursed through a voucher payment system is unallowable. Refer to §355.103(b)(20)(K) of this chapter (relating to Specifications for Allowable and Unallowable Costs).

(g) Authority to determine reimbursement. The authority to determine reimbursement is specified in §355.101 of this chapter (relating to Introduction).

(h) Reporting revenue. Revenues must be reported on the cost report in accordance with §355.104 of this chapter (relating to Revenues).

(i) Reviews and field audits of cost reports. Desk reviews or field audits are performed on all contracted providers' cost reports. The frequency and nature of the field audits are determined by HHSC to ensure the fiscal integrity of the program. Desk reviews and field audits will be conducted in accordance with §355.106 of this chapter (relating to Basic Objectives and Criteria for Audit and Desk Review of Cost Reports), and providers will be notified of the results of a desk review or a field audit in accordance with §355.107 of this chapter (relating to Notification of Exclusions and Adjustments). Providers may request an informal review and, if necessary, an administrative hearing to dispute an action taken under §355.110 of this chapter (relating to Informal Reviews and Formal Appeals).

(j) Reporting requirements. The program director's full salary is to be reported on the line item of the cost report designated for the director.

§355.513. Reimbursement Methodology for the Deaf-Blind with Multiple Disabilities Waiver Program.

(a) General information. The Texas Health and Human Services Commission (HHSC) applies the general principles of cost determination as specified in §355.101 of this chapter (relating to Introduction). Providers are reimbursed for waiver services provided to individuals who are deaf-blind with multiple disabilities.

(b) Other sources of cost information. If HHSC has determined that there is not sufficient reliable cost report data from which to set reimbursements and reimbursement ceilings for waiver services, reimbursements and reimbursement ceilings will be developed by using rates for similar services from other Medicaid programs; data from surveys; cost report data from other similar programs; consultation with other service providers or professionals experienced in delivering contracted services; and other sources.

(c) Waiver rate determination methodology. If HHSC deems it appropriate to require contracted providers to submit a cost report, recommended reimbursements for waiver services will be determined on a fee-for-service basis in the following manner for each of the services provided:

(1) Total allowable costs for each provider will be determined by analyzing the allowable historical costs reported on the cost report.

(2) Each provider's total reported allowable costs, excluding depreciation and mortgage interest, are projected from the historical cost-reporting period to the prospective reimbursement period as described in §355.108 of this chapter (relating to Determination of Inflation Indices). The prospective reimbursement period is the period of time that the reimbursement is expected to be in effect.

(3) Payroll taxes and employee benefits are allocated to each salary line item on the cost report on a pro rata basis based on the portion of that salary line item to the amount of total salary expense for the appropriate group of staff. Employee benefits will be charged to a specific salary line item if the benefits are reported separately. The allocated payroll taxes are Federal Insurance Contributions Act (FICA) or Social Security, Medicare Contributions, Workers' Compensation Insurance (WCI), the Federal Unemployment Tax Act (FUTA), and the Texas Unemployment Compensation Act (TUCA).

(4) Allowable administrative and overall facility/operations costs are allocated or spread to each waiver service cost component on a pro rata basis based on the portion of each waiver service's service units reported to the amount of total waiver service units reported. Service-specific facility and operations costs for out-of-home respite, and individualized skills and socialization services will be directly charged to the specific waiver service.

(5) For in-home and out-of-home nursing services provided by a registered nurse (RN), in-home and out-of-home nursing services provided by a licensed vocational nurse (LVN), in-home and out-of-home physical therapy, in-home and out-of-home occupational therapy, speech and language pathology, behavioral support services, audiology services, dietary services, employment assistance, and supported employment, an allowable cost per unit of service is calculated for each contracted provider cost report in accordance with paragraphs (1) - (4) of this subsection. The allowable costs per unit of service for each contracted provider cost report is multiplied by 1.044. This adjusted allowable costs per unit of service may be combined into an array with the allowable cost per unit of service of similar services provided by other programs in determining rates for these services in accordance with §355.502 of this subchapter (relating to Reimbursement Methodology for Common Services in Home and Community-Based Services Waivers).

(6) Requisition fees are reimbursements paid to the Deaf-Blind with Multiple Disabilities (DBMD) Waiver contracted providers for their efforts in acquiring adaptive aids, medical supplies, dental services, and minor home modifications for DBMD participants. Reimbursement for adaptive aids, medical supplies, dental services, and minor home modifications will vary based on the actual cost of the adaptive aid, medical supply, dental service, and minor home modification. Reimbursements are determined using a method based on modeled projected expenses which are developed by using data from surveys, cost report data from similar programs, consultation with other service providers or professionals experienced in delivering contracted services, or other sources.

(7) For residential habilitation transportation, chore, and intervener (excluding Interveners I, II, and III), services, two cost areas are created:

(A) The attendant cost area, which includes salaries, wages, benefits, and mileage reimbursement calculated as specified in §355.112 of this chapter (relating to Attendant Compensation Rate Enhancement).

(B) An administration and facility cost area, which includes costs for services not included in subparagraph (A) of this paragraph as determined in paragraphs (1) - (4) of this subsection. An allowable cost per unit of service is determined for each contracted provider cost report for the administration and facility cost area. The allowable costs per unit of service for each contracted provider cost report are arrayed. The units of service for each contracted provider cost report in the array are summed until the median unit of service is reached. The corresponding expense to the median unit of service is determined and is multiplied by 1.044.

(C) The attendant cost area, and the administration and facility cost area are summed to determine the cost per unit of service.

(8) For Interveners I, II, and III, payment rates are developed based on rates determined for other programs that provide similar services. If payment rates are not available from other programs that provide similar services, payment rates are determined using a pro forma approach in accordance with §355.105(h) of this chapter (relating to General Reporting and Documentation Requirements, Methods, and Procedures). Interveners I, II, and III are not considered atten-

dants for purposes of the Attendant Compensation Rate Enhancement described in §355.112 of this chapter, and providers are not eligible to receive direct care add-ons to the Intervener I, II, or III rates.

(9) Assisted living services payment rates are determined using a pro forma approach in accordance with §355.105(h) of this chapter. The rates are adjusted periodically for inflation. The room and board payments for waiver clients receiving assisted living services are covered in the reimbursement for these services and will be paid to providers from the client's Supplemental Security Income, less a personal needs allowance.

(10) Pre-enrollment assessment services and case management services payment rates are determined by modeling the salary for a Case Manager staff position. This rate is periodically updated for inflation.

(11) The orientation and mobility services payment rate is determined by modeling the salary for an Orientation and Mobility Specialist staff position. This rate is updated periodically for inflation.

(12) The employment readiness payment rates will initially be determined using a pro forma approach in accordance with §355.105(h) of this chapter. Once cost report data for this service are available, HHSC will calculate the methodological rate for employment readiness as a weighted median cost of the service from the most recently examined Medicaid cost report, adjusted for anticipated programmatic and staffing requirements, and inflated from the cost reporting year to the prospective rate year. The employment readiness rates will be rebased every biennium from the most recent projected cost report data. Adopted rates will be limited within available appropriations.

(13) HHSC may adjust reimbursement if new legislation, regulations, or economic factors affect costs, according to §355.109 of this chapter (relating to Adjusting Reimbursement When New Legislation, Regulations, or Economic Factors Affect Costs).

(d) The individualized skills and socialization services payment rate is equal to the individualized skills and socialization services payment rate for an individual with a Level of Need 9 in the Home and Community-based Services waiver program as specified in §355.723 of this chapter (relating to Reimbursement Methodology for Home and Community-Based Services and Texas Home Living Programs).

(e) Authority to determine reimbursement. The authority to determine reimbursement is specified in §355.101 of this chapter.

(f) Reporting of cost.

(1) Cost-reporting guidelines. If HHSC requires a cost report for any waiver service in this program, providers must follow the cost-reporting guidelines as specified in §355.105 of this chapter.

(2) Excused from submission of cost reports. If required by HHSC, a contracted provider must submit a cost report unless the provider meets one or more of the conditions in §355.105(b)(4)(D) of this chapter.

(3) Reporting and verification of allowable cost.

(A) Providers are responsible for reporting only allowable costs on the cost report, except where cost-report instructions indicate that other costs are to be reported in specific lines or sections. Only allowable cost information is used to determine recommended reimbursements. HHSC excludes from reimbursement determination any unallowable expenses included in the cost report and makes the appropriate adjustments to expenses and other information reported by providers to ensure the database reflects costs and other information

necessary for the provision of services and is consistent with federal and state regulations.

(B) Individual cost reports may not be included in the database used for reimbursement determination if:

(i) there is reasonable doubt as to the accuracy or allowability of a significant part of the information reported; or

(ii) an auditor determines that reported costs are not verifiable.

(4) Allowable and unallowable costs. Providers must follow the guidelines specified in §355.102 and §355.103 of this chapter (relating to General Principles of Allowable and Unallowable Costs and Specifications for Allowable and Unallowable Costs) in determining whether a cost is allowable or unallowable. In addition, providers must adhere to the following principles:

(A) Client room and board expenses are not allowable, except for those related to respite care.

(B) The actual cost of adaptive aids, medical supplies, dental services, and minor home modifications is not allowable for cost-reporting purposes. Allowable labor costs associated with acquiring adaptive aids, medical supplies, dental services, and home modifications should be reported in the cost report. Any item purchased for participants in this program and reimbursed through a voucher payment system is unallowable. Refer to §355.103(b)(20)(K) of this chapter.

(g) Reporting revenue. Revenues must be reported on the cost report in accordance with §355.104 of this chapter (relating to Revenues).

(h) Reviews and field audits of cost reports. Desk reviews or field audits are performed on cost reports for all contracted providers. The frequency and nature of field audits are determined by HHSC staff to ensure the fiscal integrity of the program. Desk reviews and field audits will be conducted in accordance with §355.106 of this chapter (relating to Basic Objectives and Criteria for Audit and Desk Review of Cost Reports), and providers will be notified of the results of a desk review or a field audit in accordance with §355.107 of this chapter (relating to Notification of Exclusions and Adjustments). Providers may request an informal review and, if necessary, an administrative hearing to dispute an action taken under §355.110 of this chapter (relating to Informal Reviews and Formal Appeals).

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

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For further information, please call: (512) 867-7817



SUBCHAPTER F. REIMBURSEMENT METHODOLOGY FOR PROGRAMS SERVING PERSONS WITH MENTAL ILLNESS OR

INTELLECTUAL OR DEVELOPMENTAL DISABILITY

1 TAC §355.723, §355.725

STATUTORY AUTHORITY

The amendments are adopted under Texas Government Code §524.0151, which provides that the executive commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies; and Texas Human Resources Code §32.021 and Texas Government Code §532.0051(a), which provide HHSC with the authority to administer the federal medical assistance (Medicaid) program in Texas; and Texas Government Code §532.0057(a), which establishes HHSC as the agency responsible for adopting reasonable rules governing the determination of fees, charges, and rates for medical assistance payments under the Texas Human Resources Code Chapter 32.

§355.725. *Reimbursement Methodology for Common Waiver Services in Home and Community-based Services (HCS) and Texas Home Living (TxHmL).*

(a) Common waiver services. For in-home and out-of-home nursing services provided by a registered nurse (RN), in-home and out-of-home nursing services provided by a licensed vocational nurse (LVN), in-home and out-of-home physical therapy, in-home and out-of-home occupational therapy, speech and language pathology, behavioral support services, audiology services, dietary services, employment assistance, and supported employment, an allowable cost per unit of service is calculated for each contracted provider in accordance with §355.723 of this subchapter (relating to Reimbursement Methodology for Home and Community-Based Services (HCS) and Texas Home Living (TxHmL) Programs). This adjusted allowable cost per unit of service may be combined into an array with the allowable cost per unit of service of similar services provided by other programs in determining rates for these services in accordance with §355.502 of this chapter (relating to Reimbursement Methodology for Common Services in Home and Community-Based Services Waivers).

(b) Requisition fees. Requisition fees are reimbursements paid to the HCS and TxHmL contracted providers for their efforts in acquiring adaptive aids, medical supplies, dental services, and minor home modifications for HCS and TxHmL participants. Requisition fee reimbursement for adaptive aids, medical supplies, dental services, and minor home modifications will vary based on the actual cost of the adaptive aid, medical supply, dental service, and minor home modification. Reimbursements are determined using a method based on modeled projected expenses which are developed by using data from surveys; cost report data from similar programs; consultation with other service providers and/or professionals experienced in delivering contracted services; and/or other sources.

(c) Requisition fees unallowable costs. The actual cost of adaptive aids, medical supplies, dental services, and home modifications is not allowable for cost reporting purposes. Allowable labor costs associated with acquiring adaptive aids, medical supplies, dental services, and home modifications should be reported in the cost report. Any item purchased for participants in this program and reimbursed through a voucher payment system is unallowable. Refer to §355.103(b)(20)(K) of this chapter (relating to Specifications for Allowable and Unallowable Costs).

(d) Transition assistance services. The reimbursement for transition assistance services will be determined in accordance with §355.502(e) of this chapter.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

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TITLE 16. ECONOMIC REGULATION

PART 2. PUBLIC UTILITY COMMISSION OF TEXAS

CHAPTER 25. SUBSTANTIVE RULES APPLICABLE TO ELECTRIC SERVICE PROVIDERS

SUBCHAPTER D. RECORDS, REPORTS, AND OTHER REQUIRED INFORMATION

16 TAC §25.98

The Public Utility Commission of Texas (commission) adopts new §25.98, relating to Permian Basin Reliability Plan Reporting Requirements and Monitor with changes to the proposed text as published in the March 7, 2025 issue of the *Texas Register* (50 TexReg 1747) and will be republished. The rule implements Public Utility Regulatory Act (PURA) §39.166 and §39.167 as enacted by House Bill (HB) 5066 during the Texas 88th Legislature, Regular Session. The rule creates reporting requirements associated with implementing the reliability plan for the Permian Basin region, establishes the responsibilities of a third-party monitor, and requires that the transmission service providers (TSPs) implementing the reliability plan for the Permian Basin region pay for the monitor. The reporting requirements created by the rule will enable the monitor to identify schedule and cost components that may impact the timely development and approval of necessary transmission service requirements. Additionally, the rule provides transparency related to costs for the projects that comprise the Permian Basin Reliability Plan (PBRP). This new section is adopted under Project Number 57602.

The commission received comments on proposed new §25.98 from: AEP Texas Inc. and Electric Transmission Texas, LLC (AEP Companies); the City of San Antonio, acting by and through the City Public Service Board (CPS Energy); LCRA Transmission Services Corporation (LCRA TSC); the Office of Public Utility Counsel (OPUC); Oncor Electric Delivery Company LLC (Oncor); South Texas Electric Cooperative, Inc. (STEC); Texas-New Mexico Power Company (TNMP); and the Texas Public Power Association (TPPA).

General Comments

Days v. working days

AEP observed that the proposed rule inconsistently uses "days" and "working days" and recommended modifying the rule to re-

place references to "days" with "working days" for consistency. Similarly, LCRA commented that the use of "days" without specifying "calendar days" or "working days" is insufficient.

Commission Response

The commission declines to adopt AEP's recommendation to replace references to "days" with "working days." The terms "days" and "working days" are intentionally used throughout the rule to differentiate between calendar days and days that the commission is open for the conduct of business. Section 22.2 of this title (relating to Definitions) defines "days" to mean calendar days, not working days, and defines "working days" to mean days on which the commission is open for the conduct of business.

Reporting on construction of facilities and county

CPS Energy recommended modifying proposed §25.98(b) and proposed §25.98(c)(3)(G) to clarify that TSPs are required to report on only those facilities that are to be constructed as part of a project, and not any previously existing facilities to which a project may interconnect. CPS Energy also recommended modifying proposed §25.98(b) and proposed §25.98(c)(3)(H) to clarify that the requirement to identify counties is limited to those counties in which facilities may be constructed.

Commission Response

The commission declines to adopt CPS Energy's recommendations to specify that TSPs must report on those facilities that are to be constructed as part of a project and the counties in which facilities may be constructed because the specifications are unnecessary. Section 25.98(b) states the requirements apply to PBRP projects. Additionally, CPS Energy's recommendation would substantively narrow the required information to facilities that will be constructed and counties in which facilities will be constructed, omitting upgraded facilities and the counties in which facilities will be upgraded.

Frequency of reporting

AEP recommended modifying the proposed rule to reduce the reporting frequency from quarterly to bi-annually because quarterly reporting is unduly burdensome to TSPs in terms of cost, time, and staffing resources, and reporting on a bi-annual basis is sufficient based on AEP's past experiences. Similarly, LCRA recommended modifying the reporting frequency from quarterly to bi-annually or annually because most of the relevant information will already be provided to the commission in the monthly construction progress report (MCPR) and, for projects requiring a certificate of convenience and necessity (CCN) amendment, in the CCN application itself.

Commission Response

The commission declines to adopt AEP and LCRA's recommendations to reduce the reporting frequency. PURA §39.166 requires the commission to develop a plan to implement the PBRP to ensure timely development and approval of necessary transmission service improvements. Due to the size and magnitude of the PBRP, streamlining the necessary information and having that information updated on a quarterly basis in a single repository for the monitor to review outweighs the benefits of reporting less frequently. Quarterly reports provide greater transparency, and more frequent reporting identifies issues earlier, which enables the monitor to inform the commission of issues in a timely manner. Moreover, the requirements in this rule that go beyond the MCPR requirements (e.g., initial implementation schedule) will assist the monitor by providing a holistic overview of the

PBRP projects. For the requirements that are similar to the MCPR, the compliance reporting portal allows for consolidated reporting to reduce the compliance burden on TSPs.

Requirement to update load forecasts

OPUC recommended modifying the proposed rule to include a subsection that requires TSPs to submit an annual update detailing changes in their projected load forecasts and requires the monitor to validate the updated forecasts to ensure accuracy and alignment with trends and conditions. According to OPUC, mandatory updates would enable the commission and ERCOT to adjust long-term planning for the PBRP through 2038. OPUC also noted that PURA §37.056(c)(1) does not preclude the commission from validating projected load forecasts.

Commission Response

The commission declines to adopt OPUC's recommendation to add a subsection that (1) requires TSPs to submit an annual update detailing changes in their projected load forecasts, and (2) requires the monitor to validate the updated forecasts because this information does not serve to assist in ensuring timely development and approval of necessary transmission service improvements consistent with PURA §39.166. Additionally, a forum already exists for evaluating the need for individual projects. The need for individual projects, including the underlying data relied on to support the need for a project, is evaluated in a CCN proceeding.

Proposed §25.98(a) - Purpose and applicability

Proposed §25.98(a) sets forth the purpose and applicability of the rule. Specifically, the proposed rule sets forth the reporting requirements for a TSP responsible for the ownership, construction, and operation of a PBRP common local project or import path (PBRP project) approved by the commission's order issued on October 7, 2025 in Project No. 55718, relating to Reliability Plan for the Permian Basin Under PURA §39.167.

CPS Energy and LCRA recommended modifying proposed §25.98(a) to specify the import paths that are approved for construction. CPS Energy recommended adding specificity by citing to the commission's order in Docket No. 57441, approving assignment of TSP ownership. LCRA recommended adding specificity related to approved import paths by citing to paragraph number four of the commission's October 7, 2024 order in Project No. 55718, approving the import paths, based on the commission's selection of 345-kilovolt (kV) or 765-kV import paths.

Oncor recommended modifying subsection (a) to explain that TSPs must report at the Upgrade ID level. Oncor also recommended modifying subsection (a) to clarify the platform or process that will be used to submit reports.

Commission Response

The commission declines to adopt CPS Energy and LCRA's recommended redline changes specifying the import paths that are approved for construction by citing to the commission's order in Docket No. 57441 or paragraph number four of the commission's October 7, 2024 order in Project No. 55718. CPS Energy's recommendation to cite to a docket that identifies the TSP owners of PBRP projects omits at least one project, the ownership of which is being decided in a separate, pending docket. On April 24, 2025, following the public comment deadline for this rulemaking project, the commission issued a second order in Project No. 55718. The commission's second order in Project No. 55718 ap-

proves the three 765-kV import paths identified in Table 7.5 of the Permian Basin Reliability Plan and terminates authorization to prepare CCN applications for the 345-kV import paths identified in Table 1 of the Reliability Plan Addendum. Therefore, to better capture the accuracy and clarity suggested by commenters, the commission moves the applicability provision to §25.98(b), renumbers the subsequent subsections accordingly, and modifies §25.98(b) to reflect that the requirements of new §25.98 are applicable to a TSP that is responsible for the ownership, construction, and operation of a PBRP project. The commission also modifies §25.98(b) to reflect that a PBRP project means: (1) a common local project approved by the commission's October 7, 2024 order in Project No. 55718, or (2) an import path approved by the commission's second order issued on April 24, 2025 in Project No. 55718.

In addition to these modifications, the commission adopts Oncor's recommendations to explain that TSPs must report at the Upgrade ID level and reports must be submitted using the commission's compliance reporting portal. The commission modifies §25.98(a) accordingly.

Proposed §25.98(b) - Initial implementation schedule requirements

Proposed §25.98(b) requires a TSP responsible for the ownership, construction, and operation of a PBRP project to file an initial implementation schedule within 30 days of an order issued by the commission and sets forth the information that TSPs are required to provide in an initial implementation schedule.

LCRA recommended deleting proposed §25.98(b) because the commission will already have the best available schedule information through other channels, such as MCPRs and the Petition for Consolidated Permian Basin Reliability Plan CCN Filing Authorization in Docket No. 57441. CPS Energy recommended adding "in [Docket] 57441" after "an order issued by the commission."

Commission Response

The commission declines to adopt LCRA's recommendation to delete proposed §25.98(b), requiring TSPs to provide an initial implementation schedule. The initial implementation schedules will provide the monitor with a complete but concise overview of the PBRP in one single repository to assist the monitor in the performance of its duties. The commission declines to adopt CPS Energy's recommended redline change to specify that the initial implementation schedule is due 30 days after a commission issued order in Docket No. 57441 because it omits at least one project, the ownership of which is being decided in a separate, pending docket. In response to the comments described below, relating to the deadline to file the initial implementation schedule, the commission modifies §25.98(c) to require the initial implementation schedule be filed by July 15, 2025 or 30 days after a commission order identifying a TSP as responsible for the ownership, construction, and operation of a PBRP project, whichever is later. This modification addresses CPS Energy's recommendation.

Deadline to file

To give the TSPs sufficient time to prepare the information requested in the format prescribed by the commission, AEP, LCRA, Oncor, and STEC recommended modifying proposed §25.98(b) to modify the deadline to file an initial implementation. AEP recommended modifying the filing deadline to 30 days from the date the reporting form is available. As an alternative to its

primary recommendation to delete proposed §25.98(b), LCRA recommended modifying the deadline to the later of 30 days from a commission order assigning the TSP responsibility or 30 days from the date the commission form is developed and published. Similarly, STEC recommended modifying the deadline to the later of a commission order assigning the TSP responsibility or the date the commission form is developed and published. Oncor recommended modifying proposed §25.98(b) by the later of: (1) 60-90 days after the commission's Extra High Voltage (EHV) decision on 345-kV or 765-kV import paths, and (2) 30 days after the commission's finalization of the form it will prescribe for reporting purposes under this rule.

Commission Response

The commission agrees that TSPs should be provided additional time to prepare the information requested in the format prescribed by the commission. Commission Staff continues to engage with stakeholders in the development of the compliance reporting portal for the purpose of submitting MCPRs and the PBRP reports. Commission Staff opened Project No. 57925, relating to Compliance Reporting Portal Updates, on April 4, 2025, to receive stakeholder feedback and address questions. Additionally, Commission Staff made the compliance reporting portal available for stakeholders to test beginning May 9, 2025. Accordingly, the commission modifies §25.98(c) to require TSPs to file an initial implementation schedule by the later of July 15, 2025 or 30 days after an order is issued by the commission. The July 15, 2025 deadline provides stakeholders more than 60 days to become familiar with the compliance reporting portal and prepare the information in the format prescribed by the commission before reporting is required. The requirement to report the initial implementation schedule 30 days after a commission order identifying a TSP as responsible for the ownership, construction, and operation of a PBRP project accounts for the PBRP project that is being decided in a pending docket.

Start and completion dates

As an alternative to its recommendation to delete proposed §25.98(b), LCRA recommended modifying proposed §25.98(b) to allow the submission of estimated date ranges (e.g., across calendar quarters) rather than specific dates because detailed project schedules will still be under development at the time the initial reports must be submitted.

Commission Response

The commission declines to adopt LCRA's recommendation to allow the submission of estimated date ranges. The compliance reporting portal is configured for the entry of specific dates and the TSPs are required to report estimated dates. The commission expects the estimated dates to be based on the most up-to-date information available at the time the initial implementation schedule is filed. Additionally, in response to comments described below, relating to the reporting of significant changes to a milestone, the commission modifies the reporting requirements of a significant change to be based on the information reported in the first quarterly progress report instead of the initial implementation schedule. This modification results in the initial implementation schedule being informational for the monitor rather than a basis for additional reporting.

Additional requirements

OPUC recommended modifying proposed §25.98(b) to increase transparency by requiring TSPs include information relating to (1) the estimated cost of the PBRP project, (2) an explanation of

benefits associated with the PBRP project, and (3) why the TSP selected a 765-kV import path over a 345-kV import path.

Commission Response

The commission declines to adopt OPUC's recommendations to require TSPs to report the estimated cost of the PBRP project, the benefits associated with the PBRP project, and why the TSP selected a 765-kV import path over a 345-kV import path. The estimated costs of the PBRP project will be reported in the quarterly progress reports after a CCN has been approved, or for those projects that do not require a CCN, nearer to the time that construction begins. This provides transparency, is more consistent with how costs are reported in MCPRs, and results in more accurate cost information being reported to the monitor. The appropriate voltage of a PBRP project is outside the scope of this rulemaking.

Proposed §25.98(c) - Quarterly progress report requirements

Proposed §25.98(c) requires a TSP to file a quarterly progress report by the fifteenth day of each quarter. For PBRP projects that require a CCN, the first quarterly progress report is due the first quarter following the date of a commission order approving the TSP's CCN application for the PBRP project and for PBRP projects that do not require a CCN, the first quarterly progress report is due the first quarter following the date that the TSP files an initial implementation schedule for the PBRP project. Proposed §25.98(c) also sets forth the information that a TSP is required to provide in a quarterly progress report, including the assigned docket number; the percentage of engineering and design, procurement, and construction that is completed; a summary of the PBRP project's progress; estimated costs and actual costs for specific categories associated with a PBRP project; and milestone start and completion dates. Finally, proposed §25.98(c) requires TSPs to submit the information on a form prescribed by the commission.

Deadline to file quarterly progress reports on the fifteenth day of a quarter

Oncor recommended extending the deadline to file a quarterly progress report from the fifteenth to the twentieth day of a new quarter because a deadline that falls on the same day as the deadline for filing MCPRs could prove burdensome if using different forms. Oncor asserted that adding an extra 5 days would allow TSPs more time to complete the standard processes and forms necessary to accurately report the cost estimates required by proposed §25.98(c)(4) and other data that may need to be input into separate documents or forms.

Commission Response

The commission declines to adopt Oncor's recommendation to extend the deadline to file quarterly progress reports to five days after the deadline to file MCPRs. The compliance reporting portal allows for consolidated reporting for TSPs to fulfill the requirements for MCPRs and the reports required under this rule. Therefore, the change recommended by Oncor is unnecessary.

Deadline to file the first quarterly progress report

For a project that does not require a CCN, Oncor recommended modifying proposed §25.98(c)(2) to modify the deadline to file the first quarterly progress report from 30 days after the initial implementation schedule is filed to six to 12 months before construction is estimated to begin. LCRA recommended modifying the deadline in proposed §25.98(c)(2) to 45 days or at most 6 months before construction is estimated to begin. Oncor and LCRA as-

serted that their recommended timelines would promote better quality information in the report. LCRA noted that cost estimates provided in a 2025 initial progress report are likely to be stale and bear little relationship to the actual cost of constructing a project that will not go to bid for several years, let alone commence construction. Oncor estimated that approximately two dozen of its PBRP projects that do not require a CCN would begin construction in 2027 or later. Oncor also observed that the recommended timelines would still provide the commission and other interested parties with much more advanced notice for PBRP projects than the current 45-day advance filing for MCPRs.

Commission Response

The commission agrees that better quality information based on more accurate data is preferable to stale data that bears little relationship to the actual cost of constructing a project that will not go to bid for several years. Accordingly, the commission modifies §25.98(d)(2) to require TSPs begin reporting on PBRP projects that do not require a CCN six months before construction is estimated to begin and on a quarterly basis thereafter.

PBRP project description and summary

CPS Energy recommended modifying proposed §25.98(c)(3)(B) to clarify that an assigned docket number must be reported only if one is associated with a project that requires a CCN. CPS Energy also recommended modifying proposed §25.98(c)(3)(J) through (L) by adding "estimated" in front of "percentages" to clarify that completion percentages are estimates. OPUC recommended modifying proposed §25.98(c)(3)(I) to specifically require the following information in the project summary: (1) the tasks that are necessary to complete the construction of the transmission lines and facilities, (2) time estimates for completing each task, and (3) a log of tasks and construction that have been completed.

Commission Response

The commission declines to adopt CPS Energy's recommendation to modify §25.98(d)(3)(B) to state that an assigned docket number must be reported only if one is associated with a project that requires a CCN because the modification is unnecessary. Section 25.98(d)(3) already requires that the TSP report information in subparagraphs (A) through (L) "as applicable." The commission agrees with CPS Energy's recommendation to add clarity in §25.98(d)(3)(J) through (L) by adding "estimated" in front of "percentages." The commission modifies §25.98(d)(3)(J) through (L) accordingly. The commission declines to adopt OPUC's recommendation to modify §25.98(d)(3)(I) to require TSPs report the tasks that are necessary to complete the construction of transmission line facilities, time estimates for completing each task, and a log of tasks and construction that have been completed because this information is already functionally captured by other reporting requirements. For example, §25.98(d)(4) through (5) require that each TSP report on right-of-way and land acquisition, engineering and design, material and equipment procurement, and construction of facilities (the tasks that are necessary to complete construction); §25.98(d)(5) requires reporting estimated start and completion dates (time estimates) for completing each task; and §25.98(d)(3)(J) through (L) require reporting the percentage of engineering and design, procurement, and construction that is complete to date (log of tasks and construction that have been completed).

Costs

AEP recommended deleting proposed §25.98(c)(4) because requiring costs broken down by the categories identified in proposed §25.98(c)(4) places an undue burden on TSPs in terms of cost, time, and staffing resources. In the alternative, AEP recommended only requiring reporting of baselines and current total costs spent to date consistent with reporting requirements for the Competitive Renewable Energy Zones (CREZ) program. Similarly, LCRA recommended modifying proposed §25.98(c)(4) to require a TSP report an overall project cost estimate, not broken down into the more granular cost categories in proposed §25.98(c)(4)(A) through (E). LCRA observed that it is not customary for costs to be tracked in this manner for projects that do not require a CCN amendment, and some of the categories would not apply to a CCN-exempt project. Additionally, LCRA asserted that there will be significant challenges associated with prematurely reporting cost estimates in a quarterly progress report for projects that will not be constructed for several years. Moreover, given the impacts of inflation and other market factors on engineering and construction labor, equipment, and materials, it would be misleading to compare a cost estimate generated in 2025 dollars for a project that is expected to begin in 2027, or even later.

CPS Energy recommended redline changes to add clarity to the cost reporting requirements in proposed §25.98(c)(4). Specifically, CPS Energy recommended adding "current total" in front of "cost estimates" and replacing "as costs are incurred" with "incurred as of the end of the last quarter prior to the report being filed." CPS Energy also recommended modifying proposed §25.98(c)(4)(F) to replace "the total to complete the PBRP project" with "the estimated total for the PBRP project."

Oncor recommended modifying proposed §25.98(c)(4) to include an "other" category for costs that do not fit neatly in the categories identified in §25.98(c)(4). Oncor also requested clarification as to how TSPs should apply inflation and other cost variable changes to cost estimates made in previous years. However, Oncor noted that this request is largely mitigated if its recommendation for proposed §25.98(c)(2) is adopted because the cost information will be more accurate closer to the commencement of construction.

OPUC recommended adding a qualifier to proposed §25.98(c)(4) to state that any costs that substantially deviate from the initial cost without justification and documentation will be deemed unrecoverable.

Commission Response

The commission declines to adopt AEP's recommendation to delete §25.98(d)(4), requiring TSPs to report on categories of costs associated with a PBRP project. Reports on the cost categories identified in §25.98(d)(4) provide the public and the commission with transparency on the general underlying cause for cost escalations, if any, related to a PBRP project. The commission also declines to adopt AEP's alternative recommendation to require reporting of baselines and current total costs spent to date consistent with reporting requirements for the CREZ program. A review of the commission orders in Docket Nos. 35665 and 37902 and the reports filed in Project No. 37858 demonstrate that the TSPs involved in the buildout of CREZ did file cost estimates in the proposed cost categories. For the same reasons, the commission declines to adopt LCRA's recommendation to require a TSP report an overall project cost estimate, not broken down into the more granular cost categories proposed. The commission declines to adopt CPS Energy's recommended

redline changes. However, the commission agrees that clarity should be added and therefore modifies §25.98(d)(4) to state that the current cost estimates must be reported using the most up-to-date information available during the reported quarter and the actual costs that must be reported are the costs incurred during the reported quarter.

The commission declines to adopt CPS Energy's recommendation to modify §25.98(d)(4)(F) to replace "the total to complete the PBRP project" with "the estimated total for the PBRP project" because the preceding §25.98(d)(4) already identifies that TSPs are required to report estimated and actual costs. Additionally, CPS Energy's recommendation would narrow the reporting requirement to estimated costs.

The commission declines to adopt Oncor's recommendation to add an "other" cost category. The cost categories in §25.98(d)(4) are consistent with the cost categories that must be reported in a CCN application. Moreover, the compliance reporting portal will allow TSPs to provide additional information, as needed. With respect to Oncor's request for clarification as to how TSPs should apply inflation and other cost variable changes to cost estimates made in previous years, the commission notes that Oncor acknowledged that adoption of its recommended change to §25.98(d)(2) mitigates this concern. Because the commission adopts Oncor's recommended change to §25.98(d)(2), the requested clarification in §25.98(d)(4) is unnecessary. Finally, the commission declines to adopt OPUC's recommended change to §25.98(d)(4) because a robust regulatory framework already exists for evaluating costs placed into rates and therefore, it is not necessary to address in this rulemaking.

Implementation schedule

AEP recommended modifying proposed §25.98(c)(5)(A) through (D) to eliminate the requirement to report milestone start dates. AEP reasoned that eliminating this requirement would provide TSPs with the necessary flexibility to modify start dates, which are often contingent on certain factors and may need to be adaptable to fit the overall schedule of a project.

OPUC recommended modifying proposed §25.98(c)(5) to require more detailed reporting related to delays so that adjustments can be made to project plans. Specifically, OPUC recommended that TSPs be required to identify any known and/or anticipated delays, provide an explanation of delays, including supply-chain issues, and provide supporting documentation that explains the reason for delay. In light of the magnitude of the PBRP, both in terms of scale and costs, OPUC also recommended that the rule require that the supporting documentation submitted by a TSP include: (1) an explanation indicating how the delay will or will not increase the total costs of the project, and (2) steps that the TSP will take to remedy or eliminate the identified delay to minimize an increased cost of the project.

Commission Response

The commission declines to adopt AEP's recommendation to eliminate the requirement to report milestone start dates and OPUC's recommendations to require more detailed reporting related to delays. With respect to AEP's recommendation, the requirement to report milestone start dates does not impede TSPs' ability to modify start dates because the reporting requirements do not dictate how projects are managed. Rather, the reported information is informative for the monitor overseeing completion of the PBRP.

With respect to OPUC's recommendations, the additions are unnecessary. This information is already functionally captured by other provisions of the rule. For example, §25.98(d)(5) requires TSPs to report and update the estimated start and completion dates for five categories, including energization (identification of known or anticipated delays), §25.98(e) requires TSPs to report significant changes and a detailed explanation of the reason for the significant change (explanation of delays), and §25.98(f) requires TSPs to provide responsive information to the monitor or Commission Staff if additional explanation, including supporting documentation, is needed (supporting documentation). Whether a delay will increase the total cost of the project will be reflected in the cost estimates that must be reported under §25.98(d)(4).

Form

Oncor requested clarification that the form described in proposed §25.98(c)(6) will require only the information listed in proposed §25.98(c)(3) through (5). AEP recommended modifying proposed §25.98(c)(6) to require collaboration between TSPs and the commission on development of the form to ensure it is user-friendly and seamlessly integrates with other regularly scheduled deliverables. Similarly, STEC recommended that a draft of the form be filed with sufficient time for TSPs to complete the form before the submission of quarterly progress reports.

Commission Response

The commission deletes proposed §25.98(c)(6) and instead incorporates the requirement for TSPs to submit the reports using the commission's compliance reporting portal in §25.98(d). The commission declines to adopt Oncor's recommendation to clarify only the information listed in proposed §25.98(c)(3) through (5) because it is unnecessary. Moreover, the information that must be reported under this rule is integrated into the compliance reporting portal. To facilitate collaboration with stakeholders, Commission Staff opened Project No. 57925, relating to Compliance Reporting Portal Updates, on April 4, 2025. Project No. 57925 is the appropriate forum to facilitate stakeholder feedback and address questions related to the compliance reporting portal. To further support collaboration, Commission Staff also hosted a webinar to review the compliance reporting portal with stakeholders on May 9, 2025, and has made the compliance reporting portal available for stakeholders to test beginning on May 9, 2025, more than 60 days before the first report must be submitted using the compliance reporting portal. In light of these collaborative steps that have already taken place, the commission declines to adopt AEP's recommendation to require collaboration between TSPs and the commission on development of the form. Additionally, the commission notes that STEC's recommendation has already been implemented.

Cost impact assessment

OPUC recommended adding a new proposed §25.98(c)(7) that requires TSPs to provide an assessment of the projected impact of a PBRP project on costs to consumers. To show how costs will impact rates and ensure transparency for consumers, OPUC recommended that the assessment identify cost -savings implemented by the TSP to mitigate the impact of the project on consumers and/or how much each project will lower costs for consumers.

Commission Response

The commission declines to adopt OPUC's recommendation to require TSPs to provide an assessment of the projected impact of a PBRP project on costs to consumers. The requirement in

§25.98(d)(4) for TSPs to report costs associated with categories comprising the total cost for a project provides transparency. With respect to an assessment of how project costs will impact rates, such a cost-assessment by individual TSPs would require a number of assumptions that may introduce confusion instead of transparency. For instance, as TSP commenters have related in this project, the route that is selected for a project in a CCN proceeding may impact costs and how the costs will be allocated among rate classes will not be known until: (1) a project is used and useful in providing service to the public and (2) the TSP seeks recovery of its costs in a rate proceeding. To the extent that a TSP can identify cost-savings implemented to mitigate the impact of a project on consumers and/or how much each project will lower costs for consumers, the appropriate forum for reporting and evaluating the latter is in a CCN proceeding and the appropriate forum for reporting and evaluating the former is in a rate proceeding.

Proposed §25.98(d) - Reporting significant changes

Proposed §25.98(d) requires TSPs to report significant changes to information previously reported in a TSP's initial implementation schedule for a PBRP project. Proposed §25.98(d) requires a TSP to report a significant change within 10 days of becoming aware of the significant change and defines what constitutes a significant change to include a cost variance of more than 10 percent, a change of more than 60 days to the initial estimated date to complete a milestone, a delay to the energization date of a PBRP project that is caused by the incomplete status of another PBRP project, and circumstances that pose a risk to the energization date of a PBRP project.

TNMP recommended deleting proposed §25.98(d) because the additional requirement to file supplemental significant change reports within a 10-day window will impose a significant burden on TSPs with little or no marginal benefit given that changes in estimated costs or implementation dates will already be reflected in the quarterly progress reports required under proposed §25.98(c). Alternatively, TNMP recommended modifying proposed §25.98(d) to remove ambiguity and reduce the burden imposed on TSPs. TNMP's alternative recommendation is described in more detail below.

CPS Energy, LCRA, and Oncor recommended modifying proposed §25.98(d) to impose a less subjective standard by requiring reporting after a TSP determines that a significant change is likely to occur (or has occurred) instead of when a TSP becomes aware of a significant change.

AEP, CPS Energy, LCRA, and TNMP recommended modifying proposed §25.98(d) to increase the time to report a significant change. AEP recommended increasing the time from 10 days to 30 working days; CPS Energy recommended 30 days; LCRA recommended 15 business days; and TNMP recommended 20 working days if the commission does not delete proposed §25.98(d).

Finally, CPS Energy recommended modifying proposed §25.98(d) to clarify that the list of circumstances constituting a significant change is exhaustive. To achieve this, CPS Energy recommended replacing "significant change includes" with "significant change means." CPS Energy also recommended other redline changes to make the rule flow better.

Commission Response

The commission declines to adopt TNMP's primary recommendation to delete proposed §25.98(d). The requirement to report

significant changes as they are identified serves to provide the monitor with more timely information.

The commission adopts CPS Energy, LCRA, and Oncor's recommendation to require a more objective standard requiring that a TSP report a significant change to the monitor after the TSP determines that a significant change is likely to occur (or has occurred) instead of when a TSP becomes aware of a significant change. The commission modifies §25.98(e) accordingly.

The commission declines to adopt AEP, CPS Energy, and TNMP's recommendations with respect to the timeline for reporting a significant change because of the importance of ensuring that the monitor has timely information related to significant changes. However, the commission agrees that more than 10 days is warranted for a TSP to determine whether a significant change is likely to occur or has occurred and prepare a report with a detailed explanation of the significant change. Therefore, the commission adopts LCRA's recommendation to require reporting of a significant change within 15 working days and modifies §25.98(e) accordingly.

The commission adopts CPS Energy's recommendation to clarify that the list of significant changes set forth in §25.98(e)(1) through (4) is exhaustive and modifies §25.98(e) accordingly. The commission declines to adopt CPS Energy's stylistic red-line changes.

Cost variance

AEP recommended modifying proposed §25.98(d)(1) to require reporting a cost variance of 15 percent instead of 10 percent because it is possible for a cost increase in one area of project development to be balanced out by savings in another. As an example, AEP observed that while there may be potential cost savings in right-of-way easement acquisition of a project, it is often best to wait until assessing construction bids before determining if total costs exceed a 10 percent delta threshold. Oncor requested confirmation that proposed §25.98(d)(1) refers to a cost increase greater than 10 percent in a PBRP project's total overall estimated cost at the Upgrade ID level and not increases at a more granular, line-item level, such as 10 percent in the right-of-way cost category even if the overall project does not experience a 10 percent increase.

Commission Response

The commission declines to adopt AEP's recommendation to require variance reporting for costs that exceed 15 percent instead of 10 percent. The 10 percent cost variance reporting requirement does not prevent TSPs from balancing cost increases in one category with savings in another cost category. Rather, the reporting requirement is informative so that the monitor can identify trends across PBRP projects and keep the commission apprised of significant changes to a project in a timely manner. If project costs exceed 10 percent of the initial estimate that is an important data point for the monitor to understand, particularly if the increase is driven by supply chain issues. Additionally, the 10 percent threshold is consistent with information that Commission Staff typically requests when evaluating project costs. With respect to Oncor's request for clarification, §25.98(e)(1) requires reporting an increase of more than 10 percent to the total cost estimate that was included in the TSP's initial quarterly progress report. For further clarification, the commission modifies §25.98(e)(1) to reflect that the increase to the cost estimate must be reported at the Upgrade ID level.

Reporting a change of more than 60 days

LCRA recommended modifying proposed §25.98(d)(2), relating to the requirement to report a change of more than 60 days from the initial estimated date to complete a milestone, to instead require reporting a change of more than 90 days to the energization date. LCRA asserted that the rule incorrectly characterizes the shifting of any component schedule activity as "significant" when a shift in activities like engineering and design or procurement may have no bearing on whether the project will complete on time. Oncor recommended changing the requirement to reporting a change of more than 90 days from the estimated date to complete a milestone in the TSP's schedule provided in its most recent quarterly progress report. First, Oncor noted that its intent to provide initial implementation schedules based on end of quarter dates combined with the rule's 60-day standard would likely yield quite a few filings. Secondly, Oncor noted that if a project's schedule were to be permanently shifted by more than 60 days from the initial implementation schedule, then a TSP would be put in the unintended situation where any subsequent schedule shift—even of a single day—would again trigger the "significant change" reporting requirement because the rule refers to the initial implementation schedule even if it has already been reported to be outdated. Finally, Oncor recommended modifying proposed §25.98(d)(2) to clarify whether the use of the term "milestone" in paragraph (d)(2) refers to the items specified in §25.98(b)(8) and/or §25.98(c)(5).

Commission Response

The commission declines to adopt LCRA's recommendation to change the requirement from reporting a change of 60 days in the initial estimated date to complete a milestone to reporting a change of 90 days to the energization date. A change of 60 days to complete a milestone may ultimately have an impact to the energization date and therefore is an important data point for the monitor to be aware of and closely monitor, particularly because delays in one project could have an impact to other projects. Therefore, to ensure that the monitor has a timely and complete picture, reporting a change of 60 days to a project milestone is appropriate. However, the commission modifies §25.98(e) to reflect that any significant change must be reported based on the information reported in the TSP's first quarterly progress report instead of the information reported in the TSP's initial implementation schedule. This ensures that for all projects, including those projects that do not begin development for several years, the change must be reported based on more accurate information available closer in time to when construction begins. Because delays beyond 60 days, even if only by one additional day, increasingly have the potential to impact other projects, the reporting requirement in §25.98(e)(2) should be based on a change of more than 60 days to the estimated dates provided in the first quarterly progress report instead of a change of 60 days to the estimated dates provided in the TSP's previous quarterly progress report. The commission agrees with Oncor's recommendation that once a significant change of 60 days has been reported, a TSP is not required to repeat its report of the significant change. However, the commission modifies §25.98(e)(2) to specify that for a PBRP project that the TSP has previously reported a significant change of 60 days, the TSP is required to report an additional delay of more than 15 days from the adjusted estimated date reported under this provision. The commission adopts Oncor's recommendation to clarify §25.98(e)(2) and modifies the paragraph to specify the milestones referred to are those that the TSP reported under §25.98(d)(5) in the TSP's first quarterly progress report.

Circumstances that pose a risk to the energization date

Oncor recommended modifying proposed §25.98(d)(4) to clarify that new circumstances presenting a "material" risk to the energization of a PBRP project would trigger the reporting requirement. Specifically, Oncor recommended the commission define "material risk" as a "substantial likelihood that a project's energization date may not occur or may be delayed by more than 30 days beyond the date included in the TSP's most recent quarterly progress report."

Commission Response

The commission modifies §25.98(e)(4) to incorporate Oncor's recommendations but bases the reporting requirement on the information reported in the TSP's first quarterly progress report instead of on the TSP's most recent quarterly progress report for the reasons stated above, relating to reporting a change of more than 60 days to a milestone date. Because an energization beyond 30 days, even if only by one additional day, increasingly has the potential to impact other projects, the reporting requirement in §25.98(e)(4) should be based on a change of more than 30 days to the estimated energization date provided in the first quarterly progress report instead of a change of 30 days to the estimated energization date provided in the TSP's previous quarterly progress report.

Proposed §25.98(e) - Requests for additional information

Under proposed §25.98(e), if a TSP receives a request for additional information from commission staff or the commission's monitor, the TSP must provide the requested information within 10 working days of receiving the request.

CPS Energy recommended modifying proposed §25.98(e) to increase the time to respond to a request for information from 10 to 15 working days. This additional time would allow a TSP to properly gather information and prepare a response to requests for information.

Commission Response

The commission declines to adopt CPS Energy's recommendation to increase the amount of time a TSP has to respond to requests for additional information from 10 to 15 days because it is unnecessary. §25.98(f) allows a TSP to seek an extension to the deadline based on the specific request and time needed to gather and prepare responsive information. The commission expects TSPs, commission staff, and the commission's monitor to work together in good faith to ensure the commission receives accurate information in a timely fashion.

Proposed §25.98(f) - Confidential information

Proposed §25.98(f) sets forth the requirements for filing confidential information.

AEP and CPS Energy recommended modifying proposed §25.98(f) to remove the requirement to file redacted and unredacted copies of confidential information. AEP reasoned that providing confidential information in a redacted format is unduly burdensome in terms of costs, time, and staffing resources. CPS Energy based its recommendation on simplifying and clarifying the rule. Oncor and STEC recommended modifying proposed §25.98(f) to remove the requirement to file a memorandum prescribed by the commission that specifies the reasons and legal basis for submitting the information confidentially. Oncor's recommendation was based on aligning the language with common existing practice and the terms of standard protective orders commonly issued by the commission. Similarly, STEC observed that the commission's standard protective order to

designate information as confidential and protected already requires that the legal basis supporting the protection of the information from disclosure be provided. TNMP recommended clarifying whether the commission would adopt a protective order for use by all parties or if TSPs would submit their own proposed protective order. CPS Energy recommended modifying proposed §25.98(f) to clarify what the phrase "upon signing a protective order" is intended to modify.

Commission Response

The commission declines to adopt AEP and CPS Energy's recommendations. State agencies are required to make information available to the public unless the information is made confidential by law. Requiring submission of a redacted copy is both reasonable and justified in light of the commission's obligations under state laws. The commission declines to adopt Oncor and STEC's recommendations because protective orders are specific to parties in a contested case proceeding. However, the commission modifies §25.98(g) to clarify that information submitted confidentially may be accessed by commission staff or the monitor upon signing a confidentiality agreement or as otherwise authorized by commission rule.

Proposed §25.98(g) - Monitor

Proposed §25.98(g) delegates authority to the executive director to contract with a third-party monitor and sets forth the monitor's duties, including monitoring and reviewing the required reports under this rule; communicating with TSPs, as needed to fulfill the monitor's responsibilities; requesting additional information, as needed; providing regular status updates to the commission; informing commission staff of a significant change to a PBRP project; and any other function deemed appropriate by the executive director or the executive director's designee.

Criteria to guide selection of a monitor

Oncor recommended adding criteria to help guide the executive director's choice of a PBRP monitor and specify that the monitor's duties include communicating with TSPs as they reasonably request. Specifically, Oncor recommended adding: (1) the monitor must have the qualifications needed to effectively carry out the monitoring functions prescribed by §25.98; (2) the monitor must be knowledgeable regarding the development and construction of electric transmission facilities; and (3) the monitor must be familiar with all commission rules and Texas statutes relating to the construction of electric transmission facilities and the PBRP.

Commission Response

The commission declines to add criteria to the rule to guide the executive director's selection of a PBRP monitor as recommended by Oncor. The executive director routinely enters contracts with third parties under delegated authority of the commission and does not require this type of guidance on criteria for choosing a monitor. Moreover, the position of executive director is codified in PURA §12.103, and the selection of qualified contractors is consistent with the executive director's statutory responsibilities over the operations and personnel of the commission.

Introduction to the monitor's duties

To make proposed §25.98(g) grammatically correct, CPS Energy recommended modifying the last sentence of §25.98(g) to state "The monitor shall" instead of "The monitor's duties include"

and modifying proposed §25.98(g)(6) to state "perform any other function related to the implementation of this rule"

Commission Response

The commission declines to adopt CPS Energy's recommended redline changes because the sentence is grammatically correct. Moreover, CPS Energy's recommendation would change the description of the monitor's duties to a requirement imposed on the monitor. The appropriate forum for imposing requirements on the monitor is the contract with the monitor.

TSP review of contractual terms

TNMP recommended adding language to proposed §25.98(g) that allows the TSPs to review the contractual terms for the monitor as well as any amendments to those terms since the monitor's costs will be paid for by the TSPs.

Commission Response

The commission declines to adopt TNMP's recommendation to allow TSPs to review the contractual terms for the monitor as well as any amendments to those terms because it is unnecessary. The commission already makes its contracts publicly available on its website. To the extent that TNMP's recommendation is intended to put TSPs in a position as a reviewing party to the contract, the commission notes that the executive director routinely enters into contractual arrangements on behalf of the commission as part of the executive director's duties to oversee the operations and personnel of the commission in compliance with state procurement laws. Moreover, a description of the monitor's duties and responsibilities was provided in the proposed rule to allow TSPs an opportunity to provide feedback on the services that will be contracted for. Further involvement of a regulated entity in the contractual process is neither necessary nor appropriate. The Texas Legislature has provided a robust framework for contractual requirements with which a state agency must comply.

Expansion of the monitor's duties

OPUC recommended modifying proposed §25.98(g) to expand the monitor's duties to: (1) monitor project costs and schedules, ensuring costs and delays are properly mitigated with corrective action by the TSP; (2) conduct an annual review of each PBRP project, assessing the impact on consumers focusing on cost increases, project delays, and the effectiveness of mitigation measures taken by the TSP; and (3) work in conjunction with ERCOT to validate any loads the monitor or ERCOT believes are speculative.

Commission Response

The commission declines to modify the rule to expand the monitor's duties as recommended by OPUC. The TSPs are best situated to manage their projects. Moreover, processes already exist to evaluate the need for a project and TSPs' project management decisions. The need for projects will be evaluated in CCN proceedings and TSPs' project management decisions will be evaluated in rate proceedings.

Two-way communication

Oncor recommended modifying proposed §25.98(g) to specify that the monitor's duties include communicating with TSPs as they reasonably request.

Commission Response

The commission agrees that two-way communication between the monitor and TSPs is essential. However, the commission declines to adopt Oncor's recommendation to specify that the monitor's duties include communicating with TSPs as they reasonably request because it is not necessary. Section 25.98(h)(2) already states that the monitor's duties include communicating with TSPs as needed to fulfill the monitor's responsibilities. This includes communications initiated by a TSP.

Requests for additional information

STEC recommended modifying proposed §25.98(g)(3) to clarify that the monitor is only allowed to request additional information directly related to a TSP's designated PBRP project, and only if such information is necessary for the monitor to meet its obligations under the proposed rule. Alternatively, STEC recommended modifying proposed §25.98(g)(3) to expressly identify and list specific and limited types of information that may be requested by commission staff and/or the commission's monitor under proposed §25.98(g).

Commission Response

The commission adopts STEC's primary recommendation to clarify that the monitor is only allowed to request additional information directly related to a TSP's designated PBRP project and modifies §25.98(h)(3) accordingly.

Other functions deemed appropriate by the Executive Director

STEC recommended deleting proposed §25.98(g)(6). Alternatively, STEC recommended limiting the actions of the monitor to its review of the progress of the PBRP projects.

Commission Response

The commission adopts STEC's recommendation to modify §25.98(h)(6) such that the monitor's duties include any other function deemed appropriate by the executive director or designee to oversee the completion of the PBRP.

Proposed §25.98(h) - Monitor cost assignment and apportionment

Proposed §25.98(h) relates to payment of the monitor's costs and apportionment of those costs.

TNMP recommended modifying proposed §25.98(h) to allow TSPs to review and correct any costs assigned or invoiced to that TSP.

LCRA and TPPA urged the commission to ensure that a transparent and collaborative process is used to develop a clear methodology for apportioning costs and to ensure the costs of the monitor can be verified by those paying for the monitor.

OPUC recommended modifying proposed §25.98(h)(2) through (3) to require that the monitor's costs be apportioned based on the level of demand for the transmission expansion across customer classes and to authorize TSPs to seek recovery on the amounts paid for the monitor only if such costs are found to be just and reasonable and apportioned relative to the level of causation for transmission expansion. OPUC reasoned that it would be fundamentally unfair for residential and small commercial consumers to bear the cost of a large-scale transmission buildout to support these operations given that they are not the impetus behind the transmission buildout and associated costs, nor do they share the same mechanisms to limit their exposure to costs.

CPS Energy recommended modifying proposed §25.98(h)(3) to state the amounts paid by a TSP are recoverable instead of stating that TSPs may seek recovery of the amounts paid. CPS Energy did not explain the basis for its recommendation.

Commission Response

The commission declines to adopt TNMP's recommendation to allow TSPs to review and correct invoiced costs assigned to the TSP. However, the commission modifies §25.98(i) in response to TNMP, LCRA, and TPPA's comments to increase transparency related to the assignment and apportionment of monitor costs. The commission declines to adopt OPUC's recommendation to apportion costs based on the level of demand for the transmission expansion across customer classes and to limit cost recovery to costs found to be just and reasonable and apportioned relative to the level of causation for transmission expansion because the modification is unnecessary. Costs passed on to consumers will be evaluated and allocated among TSPs' rate classes based on evidence presented in a rate proceeding. The commission declines to adopt CPS Energy's recommended redline changes to replace authorization for TSPs to seek recovery of the amounts paid with a statement that the amounts paid by a TSP are recoverable because the redline changes are unnecessary.

In adopting this section, the commission makes other minor modifications for the purpose of clarifying its intent.

This section is adopted under the following provisions of PURA: §14.001, which grants the commission the general power to regulate and supervise the business of each public utility within its jurisdiction and to do anything specifically designated or implied by this title that is necessary and convenient to the exercise of that power and jurisdiction; §14.002, which authorizes the commission to adopt and enforce rules reasonably required in the exercise of its powers and jurisdiction; §14.003, which authorizes the commission to require a public utility to report to the commission information relating to the utility, establish the form for a report, and determine the time and frequency for a report; §14.151, which authorizes the commission to prescribe any form, record, and memorandum to be kept by a public utility, including a municipally owned utility, that the commission considers necessary to carry out Title II, Texas Utilities Code; §39.166, which requires the commission to develop a plan to implement each reliability plan adopted under §39.166(a); and §39.167, which requires the commission to direct the Electric Reliability Council of Texas, Inc. (ERCOT) to develop a reliability plan under PURA §39.166 for the Permian Basin region.

Cross Reference to Statutes: Public Utility Regulatory Act §§14.001; 14.002; 14.003; 14.151; 39.166; and 39.167.

§25.98. *Permian Basin Reliability Plan Reporting Requirements and Monitor.*

(a) Purpose. This section sets forth the requirements for a transmission service provider (TSP) to report information to the commission using the commission's compliance reporting portal and establishes the duties of the commission's monitor to oversee the completion of the PBRP.

(b) Applicability. This section applies to a TSP that is responsible for the ownership, construction, and operation of a Permian Basin Reliability Plan (PBRP) project. The requirements in this section apply to PBRP projects at the Upgrade ID level and are in addition to the reporting requirements set forth in §25.83 of this title (relating to Transmission Construction Reports). A PBRP project means:

(1) a common local project approved by the commission's order issued on October 7, 2024, in Project No. 55718, relating to Reliability Plan for the Permian Basin Under PURA §39.167, or

(2) an import path approved by the commission's second order issued on April 24, 2025, in Project No. 55718.

(c) Initial implementation schedule requirements. Using the commission's compliance reporting portal, the TSP must file an initial implementation schedule by July 15, 2025 or 30 days after a commission order identifying a TSP as responsible for the ownership, construction, and operation of a PBRP project, whichever is later. The implementation schedule must identify the following information:

- (1) name of the PBRP project;
- (2) PBRP project ID, as identified in the ERCOT Permian Basin Reliability Plan Study Report;
- (3) upgrade ID;
- (4) transmission upgrade;
- (5) voltage;
- (6) facilities;
- (7) counties affected;
- (8) the initial estimated start and completion dates for each of the following milestones, as applicable:

- (A) CCN application,
 - (B) right-of-way and land acquisition,
 - (C) engineering and design,
 - (D) materials and equipment procurement, and
 - (E) construction of facilities; and
- (9) the initial estimated energization date of the PBRP project.

(d) Quarterly progress report requirements. The first of January, April, July, and October is the start of a new quarter. Using the commission's compliance reporting portal, the TSP must file, by the fifteenth day of each new quarter, a report with the commission in accordance with this subsection, detailing each PBRP project's progress during the previous quarter, through energization of the PBRP project.

(1) PBRP projects that require a certificate of convenience and necessity (CCN). For each PBRP project that requires a CCN, a TSP must file a quarterly progress report with the commission beginning the fifteenth day of a new quarter following the date of a commission order approving the TSP's CCN application for the PBRP project and quarterly thereafter.

(2) PBRP projects that do not require a CCN. For each PBRP project that does not require a CCN, a TSP must file a quarterly progress report with the commission six months before construction is scheduled to begin and on a quarterly basis thereafter.

(3) PBRP project description and summary. For each PBRP project, a TSP must provide a description and summary of the PBRP project in its quarterly progress report that identifies the following, as applicable:

- (A) name of the PBRP project;
- (B) assigned docket number that is associated with the TSP's CCN application for the PBRP project;
- (C) PBRP project ID, as identified in the ERCOT Permian Basin Reliability Plan Study Report;

- (D) upgrade ID;
- (E) transmission upgrade;
- (F) voltage;
- (G) facilities;
- (H) counties affected;
- (I) a brief summary of the PBRP project progress to date;

(J) the estimated percentage of engineering and design that is complete to date;

(K) the estimated percentage of procurement that is complete to date; and

(L) the estimated percentage of construction that is complete to date.

(4) Costs. For each PBRP project, a TSP must identify in its quarterly progress report current cost estimates using the most up-to-date information available during the reported quarter and actual costs incurred during the reported quarter for each of the following, as applicable:

- (A) CCN acquisition;
- (B) right-of-way and land acquisition;
- (C) engineering and design;
- (D) material and equipment procurement;
- (E) construction of facilities; and
- (F) the total to complete the PBRP project.

(5) Implementation schedule. For each PBRP project, a TSP must identify in its quarterly progress report estimated dates, using the most up-to-date information available, and actual dates for each of the following milestones, as applicable:

- (A) start and completion of right-of-way and land acquisition;
- (B) start and completion of engineering and design;
- (C) start and completion of materials and equipment procurement;
- (D) start and completion of construction of facilities; and
- (E) PBRP project energization.

(e) Reporting significant changes. Fifteen working days after a TSP determines that a significant change to the information provided in the TSP's first quarterly progress report for a PBRP project is likely to occur or has occurred, the TSP must provide a detailed explanation of the reasons for the significant change and report that information to the commission's monitor in writing. A significant change means:

- (1) an increase of more than 10 percent to the total cost estimate at the Upgrade ID level;
- (2) an initial change of more than 60 days to the estimated date to complete a milestone under subsection (d)(5) of this section or for a project that the TSP has previously reported a significant change of more than 60 days, an additional change of more than 15 days from an adjusted estimated date reported under this paragraph;
- (3) a delay to the TSP's energization date of a PBRP project that is caused by the incomplete status of another PBRP project; or

(4) new circumstances that pose a material risk to the energization date of a PBRP project, such that there is a substantial likelihood that a project's energization date will not occur or will be delayed by more than 30 days.

(f) Requests for additional information. Within 10 working days of receiving a request from commission staff or the commission's monitor for additional information relating to the progress or implementation of a PBRP project, a TSP must provide responsive information to the requestor, including applicable supporting documentation. A TSP may seek, and the requestor may agree to, an extension to the deadline for a TSP to provide responsive information.

(g) Confidential information. Information that is submitted confidentially must be included in a redacted and unredacted form. The redacted form must be redacted only to the minimum extent necessary to ensure confidentiality. The unredacted form must include a memorandum prescribed by the commission that specifies the reasons and legal basis for submitting the information confidentially. Information submitted confidentially may be accessed by commission staff or the monitor upon signing a confidentiality agreement or as otherwise authorized by applicable commission rules.

(h) Monitor. The commission delegates authority to the executive director to award, negotiate pricing and performance requirements, and execute and administer a contract for a third-party monitor for the PBRP. Before commencing its duties, the monitor must sign a confidentiality agreement to access confidential information submitted by a TSP under this section. The monitor's duties include:

- (1) monitoring and reviewing the reports that TSPs are required to file under this section;
 - (2) communicating with TSPs as needed to fulfill the monitor's responsibilities under this section;
 - (3) requesting additional information directly related to a TSP's designated PBRP project, as needed;
 - (4) providing regular status updates to the commission;
 - (5) informing commission staff of a significant change to a PBRP project; and
 - (6) any other function deemed appropriate by the executive director or the executive director's designee to oversee completion of the PBRP.
- (i) Monitor cost assignment and apportionment. A TSP identified through a commission order as responsible for the ownership, construction, and operation of a PBRP project must pay the invoiced costs approved by the executive director or the executive director's designee for the monitor.

(1) The funding of the monitor must be sufficient to ensure the selection of a monitor in accordance with the scope and activities set forth in subsection (h) of this section.

(2) The executive director or executive director's designee will determine a monthly cost to invoice each TSP based on the factors that include:

- (A) the total number of PBRP projects;
- (B) the total number of PBRP projects that each TSP is responsible for owning, constructing, and operating; and
- (C) the monthly costs of the monitor to perform the duties described in subsection (h) of this section.

(3) A TSP may seek recovery of the amounts paid under this paragraph as part of the overall PBRP project costs.

(j) Agency record. Notwithstanding any other commission rule, the official agency record for filings under this section is the compliance reporting portal.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

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