PROJECT NO. 58481

RULEMAKING TO IMPLEMENT LARGE LOAD INTERCONNECTION STANDARDS UNDER PURA § 37.0561	**§**	**PUBLIC UTILITY COMMISSION**
	§	**OF TEXAS**
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NRG ENERGY, INC.'S COMMENTS ON PUCT STAFF QUESTIONS

NRG Energy, Inc. (NRG) appreciates the opportunity to provide comments in this project in response to questions from Public Utility Commission of Texas (PUCT) Staff regarding large load interconnection standards to implement Public Utility Regulatory Act (PURA)[1] § 37.0561 adopted by the Texas Legislature through Senate Bill 6 (SB6) in the 89th Legislative Session.[2] NRG is the parent company of well-established retail electric providers (REPs) and power generation companies (PGCs) in the competitive electricity markets in Texas.

INTRODUCTION

NRG appreciates the opportunity to provide input on Staff's questions regarding large load interconnection standards introduced through SB6. The proliferation of large loads will undoubtedly pose challenges and opportunities for the ERCOT market. Establishing interconnection standards is an important step in the evolution of the processes at ERCOT to accommodate this unprecedented growth. In implementing this step of SB6, NRG encourages the Commission to bear in mind the stated goals of PURA § 37.0561—i.e., "support business development in this state while minimizing the potential for stranded infrastructure costs and maintaining system reliability."[3]

To accomplish these objectives, it is important for the Commission to establish meaningful but achievable interconnection standards and financial commitment levels. As first suggested by NRG in the Permian Basin Reliability Plan project,[4] requiring demonstration of financial commitment through posted security early in the load interconnection process will be a useful policy tool for the Commission to determine project viability, help size the necessary transmission infrastructure, and contain the risk for stranded transmission costs borne by consumers. In general, NRG recommends that large load customers bear the financial risk of their interconnection facilities and share the cost burden of the transmission system. Sizing the contribution in aid of construction (CIAC) to cover the full cost of the

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[1] Tex. Util. Code §§ 11.001-66.016 (PURA).

[2] 89th Tex. Leg., R.S., Senate Bill 6 (SB6), § 2 (effective Jun. 20, 2025) (codified in PURA § 37.0561).

[3] PURA § 37.0561(b).

[4] *Reliability Plan for the Permian Basin Under PURA § 39.167*, Project No. 55718, NRG Energy, Inc.'s Comments on the Permian Basin Reliability Plan (Aug. 9, 2024), *available at*: 55718_33_1418347.PDF.

interconnection facilities, while also requiring a reasonable dollar per megawatt (MW) financial security (e.g., $10,000 per MW) to be refunded fully following three years of operation (but used to offset transmission system costs if a load withdraws its request at a late stage of development), will strike this balance. Specifically, loads that withdraw their request after they have signed an interconnection agreement and are included in the load forecast in ERCOT's transmission system planning process should forfeit their financial security; if the withdrawal is made earlier in the process, the load should receive a full refund. NRG responds to Staff's specific questions below.

RESPONSES TO STAFF QUESTIONS

Question 1: PURA §37.0561(f) requires the commission to establish standards for interconnecting a large load customer that includes a flat study fee of at least $100,000. Should the study fee be set at an amount that is greater than $100,000?

NRG Response: No. Since the study fee will apply uniformly to all large load customers seeking interconnection regardless of size or load type, NRG recommends the Commission adopt $100,000 as the study fee. For the Commission's reference, NRG is aware of a range nationally that is as low as $0 to as high as $1,000,000 or greater[5] to initiate a study associated with the interconnection of a new large load customer, however in the latter instance unused funds are refunded to the customer and not necessarily used, as SB6 requires, "toward satisfying financial obligations for procurement or interconnection agreements at the same geographic site."[6]

Question 2: PURA §37.0561(g) requires that a large load customer demonstrate site control for the proposed load location through an ownership interest, lease, or another legal interest acceptable to the commission. What other legal interest should the commission accept?

NRG Response: A commonly-used arrangement for obtaining site control is an option to lease or purchase property, which provides flexibility for the parties negotiating a large load transaction. A similar legal interest to an option is a written contract to purchase or obtain a lease in property. NRG recommends both these types of arrangement be included as acceptable forms of site control. Notably, the ERCOT Planning Guides already allow "options" for, and contracts to obtain, leases or purchases

[5] Commonwealth Edison in Illinois has proposed a $1 million deposit for initial engineering for loads up to 200 MWs in size, with an additional $500,000 for each 100 MW over the 200 MW threshold. *In re Commonwealth Edison Company*, ICC Docket Nos. 25-0677 & 25-0679, Proposed Revised General Terms and Conditions (filed June 23, 2025).

[6] PURA § 37.0561(f).

to qualify as evidence of site control for a generation interconnection request.[7] These legal interests (options and contracts) should also qualify for a large load interconnection request.

Question 3: PURA §37.0561(h) requires the commission to establish standards that include uniform financial commitment requirements for the development of transmission infrastructure needed to serve a large load customer.

a. For security provided on a dollar per megawatt basis, what dollar amount per megawatt should the commission set?

b. For contribution in aid of construction, what amount should a large load customer be required to pay?

c. For security provided under an agreement that requires a large load customer to pay for significant equipment or services in advance of signing an agreement to establish electric service, how should the commission define significant?

d. What other form of financial commitment not set forth in PURA §37.0561 should the commission accept?

NRG Response: NRG responds to all of Question 3 collectively. Establishing financial commitment requirements for large load customers seeking interconnection is one of the most important policy additions included in SB6 and should be set in a manner that meets the stated goals of the statute to both support business development in the state and minimize stranded infrastructure costs. Ensuring financial viability of projects upfront will provide significant benefits to the ERCOT market and consumers through improved transparency of demand growth, justification for transmission and generation infrastructure investments, and mitigation of stranded costs.

As an initial matter, NRG reads PURA § 37.0561 as providing the Commission with discretion to require one or more of the stated options for financial commitment—i.e., (1) a dollar per MW financial security, (2) CIAC, (3) security to cover costs of major equipment or services, or (4) something else the Commission deems acceptable—notwithstanding the inclusion of the term "or" in the list of potential requirements.[8] For one thing, the statute includes discretionary language "may include" before

[7] *See* ERCOT Planning Guide § 5.3.2.1(providing that site control can be demonstrated if the interconnecting entity, through an affiliated company, trustee, or directly in its name: (a) is the owner in fee simple of the real property to be used for the interconnection; (b) holds a valid written leasehold interest in the real property; (c) **holds a valid written option to purchase or obtain a leasehold interest in the real property**; or (d) **holds a duly executed written contract to purchase or obtain a leasehold in the real property**) (emphasis added).

[8] *See* PURA § 37.0561(h) ("The standards **must include uniform financial commitment requirements** for the development of transmission infrastructure needed to serve a large load customer subject to Subsection (c). The standards must provide that satisfactory proof of financial commitment **may include**: (1) security provided on a dollar per megawatt basis as set by the commission; (2) contribution in aid of construction; (3) security provided under an agreement that requires a large load customer to pay for significant equipment or services in advance of signing an agreement to establish electric delivery service; **or** (4) a form of financial commitment acceptable to the commission other than those provided by Subdivisions (1)-(3)") (emphasis added).

the list of potential financial commitment requirements, indicating that the Commission can select options from the menu of potential forms of financial commitment in the statute.[9] In addition, transmission and distribution utilities (TDUs) already require CIAC today to extend facilities to (i.e., interconnect) a new customer if the construction will exceed a "standard allowance,"[10] which NRG understands it would for large load customers. Thus, to give the statute meaning,[11] something more than CIAC should be required to demonstrate financial commitment. Otherwise, the statute's mandatory requirements for financial commitments of some type to be imposed would be undermined, and the statute's goal of minimizing stranded infrastructure costs would not be met. In other words, if the Commission is limited only to one option, then it would arguably have to be CIAC (since that is already required by TDU tariff), and thus, the required financial commitment would just be an endorsement of the status quo. The statute is thus best interpreted as allowing the Commission the discretion to pick more than one option to be satisfied to demonstrate the required financial commitment.

As a framework for financial commitment requirements, NRG recommends that the CIAC be sized to cover the entire cost of the interconnection facilities required for the large load customer. In advance of making a capital contribution through a CIAC but after a cost estimate for the interconnection facilities is provided by the interconnecting utility, a large load customer should be permitted to post financial security through either a letter of credit or a surety bond to cover the expected CIAC ultimately required when the utility begins to incur costs to develop and construct the interconnection. The utility should be able to draw down funds from the security to cover expenses incurred if the customer withdraws their interconnection request prior to execution of the interconnection agreement. This ensures that the public will not be exposed to interconnection facility costs and that each large load customer pays for their own interconnection facility, while ensuring that customer funds are not inefficiently tied up in what could be a lengthy process of interconnection.

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[9] *See* Tex. Gov't Code § 311.016 ("The following constructions apply unless the context in which the word or phrase appears necessarily requires a different construction or unless a different construction is expressly provided by statute: (1) "May" creates discretionary authority or grants permission or a power…").

[10] *See* 16 Tex. Admin. Code (TAC) § 25.214, figure (d), Pro Forma Tariff for Retail Delivery Service at § 5.7.4 ("Payments in the form of a contribution in aid of construction may be required for requested extensions **in excess of the allowance** in accordance with Chapter 6.") (emphasis added). The individual TDU tariffs, which each contain specific allowances used by each TDU, are available here: https://www.puc.texas.gov/industry/electric/rates/tdr/.

[11] Tex. Gov't Code § 311.021 ("In enacting a statute, it is presumed that: (1) compliance with the constitutions of this state and the United States is intended; (2) the entire statute is intended to be effective; (3) a just and reasonable result is intended; (4) a result feasible of execution is intended; and (5) public interest is favored over any private interest.").

Furnishing CIAC should directly offset capital outlays associated with interconnection facilities. However, additional financial security should be required in addition to the CIAC in order to demonstrate viability of the project, create an incentive for each large load customer to reach commercial operation, and protect the public from broader transmission-system stranded costs in the event the project fails to materialize. If the large load customer fails to develop the project, the costs to build the interconnection facility will be covered by the CIAC, and in the event the project is withdrawn late in the process (as discussed under Question 4, below[12]), financial security can also be drawn down to offset the costs of the transmission system socialized to consumers. If the large load customer develops the project and takes electric service, the security should be refunded after a certain period of time (i.e., three years), and the large load customer should contribute to socialized costs of the transmission system through their ongoing payments for transmission service in accordance with the reforms to transmission cost allocation being implemented in PUCT Project No. 58484. If the large load customer withdraws early enough in the process (as defined under Question 4, below), they should be refunded their financial security in full.

Other jurisdictions are considering "take-or-pay" or "minimum commitment" contracts that oblige large load customers to furnish a certain amount of guaranteed revenue to offset the costs of transmission system upgrades regardless of their usage of the system during the hours that define their payment obligations under normal ratemaking.[13] This policy approach has trades offs to be considered. One positive attribute of this take-or-pay approach for non-large load consumers is that it guarantees very substantial contributions to transmission system costs, well beyond interconnection costs, even if the large load customer later exits the market. A clear downside to this approach, however, is that the guarantee of revenue toward the transmission system cost may not be closely associated with the actual incremental costs of upgrading the transmission system associated with new large loads and could deter large load development activity. NRG is concerned about traditional consumers paying a

[12] Although PURA § 37.0561(i) requires a refund of financial security "in whole or in part" if the customer withdraws its request, the statute also allows for an offset to be applied to cover "any outstanding amounts owed." NRG thinks it is reasonable to interpret the statute as allowing for the entire financial security amount to be forfeited and used to offset socialized transmission costs (i.e., to treat those costs as "outstanding amounts owed" that equal the amount of financial security) if the large load is far enough in the interconnection process at the time of the withdrawal that they have been accounted for (and thus have caused costs to be incurred) in the transmission system planning process.

[13] AEP-Ohio, for example, requires that the large load customer furnish transmission revenues up to 85% of its maximum demand multiplied by the utility's transmission rate for at least 8 years, plus a 4-year ramp-up period as the load reaches its maximum. Financial security is required to secure these amounts, then rolls off through the lifespan of the customer. *In re Ohio Power Company for New Tariffs Related to Data Centers and Mobile Data Centers*, PUCO Docket No. 24-508-EL-ATA, Opinion and Order (July 9, 2025) at PP. 17-23 regarding 10/23 Stipulation.

disproportionate share of transmission cost related to the growth of large loads and encourages the Commission to address this concern by redesigning transmission cost allocation, which is being evaluated in Project No. 58484, to distribute costs equitably among customer classes.

In terms of the financial commitment requirements under consideration in this project, NRG recommends a balanced approach for ERCOT, specifically that the financial security requirements be *at least* $10,000/MW. This would equate to a posting requirement of $10 million for a 1,000MW project and $1 million for a 100MW project. As a practical matter, ERCOT does not plan transmission upgrades upstream of the interconnection facilities in a manner that would allow a transmission project to be attributed to individual new large loads and thus create an avenue for the direct allocation of transmission system costs to customers. This contrasts with PJM, which considers supplemental transmission projects that are intended to serve particular customers and makes a direct allocation of costs more plausible. Assuming the CIAC is set to cover the interconnection facility costs, the uniform financial security requirement of $10,000/MW would act as additional demonstration of commitment to the project and reserve the project's place in the interconnection process. The security should be used to partially cover stranded transmission system costs if the customer withdraws their request too late in the process (as detailed below under Question 4). If the customer completes their project and takes service, they should contribute to the recovery of transmission system costs going forward as a result of the transmission cost allocation redesign underway in Project No. 58484. NRG defers to the interconnecting utilities as to what should constitute "significant" in Question 3.c under an agreement for the customer to pay for significant equipment or services (however, if the CIAC is set as recommended by NRG, then this option likely would not be needed). Regarding other acceptable forms of financial security requested in Question 3.d, NRG recommends that surety bonds be included in addition to letters of credit and cash postings but still supports setting the required amount equal to $10,000/MW, regardless of the form of posting.

Question 4: PURA §37.0561(i) requires security to be refunded, in whole or in part, under certain circumstances.

a. For how long should a large load customer be required to sustain operations to be eligible for a refund of the security that the large load customer paid?

b. If a large load customer withdraws its request for all or a portion of the requested capacity, what restrictions should apply to the refunded security?

c. If capacity subject to a financial commitment will be reallocated to one or more other customers, what restrictions should apply to the refunded security?

NRG Response: NRG responds to all of Question 4 collectively. A large load customer should sustain commercial operations for at least 3 years before they are eligible for a refund of their financial security. Alternatively, the Commission could establish a prorated refund mechanism where a large load customer receives 1/3 of their posted security on the anniversary of their commercial operations date for the first 3 years of operation. Both approaches create the incentive for customers to pursue interconnection requests that are likely to reach energization and thus minimize the risk of stranded infrastructure costs. It is also reasonable to refund security for a large load customer that withdraws its request early in the interconnection process. If a large load customer has not yet executed an interconnection agreement and their load for an interconnection request is not included in the load forecast used in the transmission planning process or Regional Transmission Plan (RTP), then it should follow that the interconnecting utility has not incurred any cost beyond the interconnection facility, which should be covered by the CIAC. Therefore, the withdrawal of the interconnection request will not result in stranded costs socialized to consumers and the customer can be refunded their security. On the other hand, if the load for an interconnection request has signed an interconnection agreement and is included in the load forecast used in the transmission planning process or RTP, then the customer should forfeit their security if they withdraw their interconnection request, and the security should be used to reduce the transmission system costs allocated to consumers.[14]

If the interconnection capacity can be reallocated to another customer upon withdrawal, then the original customer should be refunded their security once a new customer posts and replaces the required amount of security.

[14] *Supra* note 12.

Question 5: PURA §37.0561(j) requires the commission to establish uniform requirements for determining when capacity that is subject to an outstanding financial commitment may be reallocated. What requirements should the commission establish to uniformly determine when capacity that is subject to an outstanding financial commitment may be reallocated?

NRG Response: NRG defers to the interconnecting utilities on the process for reallocating interconnection capacity. The utilities are uniquely suited to address this question given their role in the interconnection process and the corresponding data available to them to assess the potential for reallocation of interconnection capacity.

Question 6: PURA §37.0561(k) requires the commission to establish a procedure that allows ERCOT to access information collected by an interconnecting electric utility or municipally owned utility to ensure compliance with the standards for transmission planning analysis. What procedure should the commission establish?

NRG Response: In establishing a process for ERCOT to collect information from utilities regarding large load customers, the information should be treated as Protected Information under Section 1.3 of the ERCOT Nodal Protocols.[15]

Question 7: What additional information should the commission consider in its implementation of PURA §37.0561?

NRG Response: NRG does not have any comments on this question at this time.

[15] *See* ERCOT Protocols § 1.3, *available at*: https://www.ercot.com/files/docs/2023/01/26/01-090125_Nodal.docx.

CONCLUSION

NRG appreciates the Staff's consideration of its comments in response to PUCT Staff questions pertaining to the implementation of large load interconnection standards in SB6 from the 89th Legislative Session.

Respectfully submitted,

Bill Barnes

Bill Barnes
Sr. Dir. Regulatory Affairs
Mandy Kimbrough
Senior Counsel, Regulatory Affairs
State Bar No. 24050613
NRG Energy, Inc.
1005 Congress Avenue, Suite 950
Austin, Texas 78701
Telephone: (512) 691-6137
bill.barnes@nrg.com
mandy.kimbrough@nrg.com

NRG ENERGY, INC.'S EXECUTIVE SUMMARY

- The proliferation of large loads will undoubtedly pose challenges and opportunities for the ERCOT market. Establishing interconnection standards is an important step in the evolution of the processes at ERCOT to accommodate this unprecedented growth.
- In implementing this step of Senate Bill 6 (SB6), NRG encourages the Commission to bear in mind the stated goals of PURA § 37.0561—i.e., "support business development in this state while minimizing the potential for stranded infrastructure costs and maintaining system reliability"—and to set financial commitment requirements that are both meaningful and achievable.
- As a threshold matter, PURA § 37.0561(h) gives the Commission discretion to impose one or more of the options listed for financial commitment, notwithstanding the use of the word "or" in the list. Contribution in aid of construction (CIAC) (i.e., one of the four options in the list of financial commitment options) is already required under utility tariffs for large loads. Thus, to make the statute meaningful, and give effect to the permissive "may include" language, PURA § 37.0561(h) should be interpreted as allowing more than one option to be required.
- In general, NRG recommends that large load customers bear the financial risk of their interconnection facilities and share the cost burden of the transmission system.
- In particular, NRG recommends that the Commission impose the following financial commitment requirements to discipline the large load interconnection queue and thereby minimize the potential for stranded transmission infrastructure investment, while also supporting business development in the state—(1) require the large load to fund 100 percent of the costs to interconnect the load, through a CIAC; and (2) impose a financial security requirement of at least $10,000 per megawatt (MW) (to be refunded as addressed below). [Question 3(a)-(b)]
    - NRG defers to utilities on what qualifies as "significant" for purposes of paying for equipment or services, but this should be moot if the CIAC covers 100 percent of the interconnection costs. [Question 3(c)]
    - For the financial $/MW security, the load should be able to use letters of credit or surety bonds in addition to cash, in order to provide flexibility and not unnecessarily tie up capital. [Question 3(d)]
    - For CIAC, in advance of making a capital contribution, a large load customer should be permitted to post financial security through either a letter of credit or a surety bond to cover the expected CIAC ultimately required when the utility begins to incur costs to develop and construct the interconnection. The utility should be able to draw down funds from the security to cover expenses incurred if the customer withdraws their interconnection request prior to execution of the interconnection agreement. [Question 3(d)]
- Refunds of the dollar/MW financial security should be handled as follows: [Questions 4 and 5]
    - The financial security should be refunded in full after the load has been energized for long enough to minimize stranded cost opportunities, but not so long as to be punitive (e.g., 3 years).
    - If the large load withdraws its interconnection request after the load has been included in the forecast for transmission planning purposes or the Regional Transmission Plan and has signed an interconnection agreement, then the load should forfeit the entire financial security, which should be used to offset the system costs that would otherwise be included in the utility's rate base.
        - Although the statute requires a full or partial refund in the event of a withdrawal, it also allows the refund to be reduced to account for outstanding amounts owed—if a large load withdraws after it has been included in long-term transmission planning, then it is likely that real system costs have been incurred to accommodate the large load's planned interconnection, and the financial security amount thus should be deemed to equal the outstanding amounts owed and be used to offset those system costs.
    - If the large load withdraws earlier in the process, then it should be refunded its security in full, as it is unlikely any costs would have been incurred other than those that will be covered by the CIAC.
    - If the interconnection capacity can be reallocated to another customer upon withdrawal, then the original customer should be refunded their security once a new customer posts and replaces the required amount of security. NRG defers to the utilities on the appropriate process for this purpose. [Question 5]
- NRG supports the $100,000 study fee (i.e., the floor in SB6) for all large loads, but notes that the range of study fee amounts varies widely in other parts of the country. [Question 1]
- Options to lease or purchase property should be included as legal interests deemed sufficient to establish site control, consistent with the standards that apply under the ERCOT Planning Guides for generation resources. [Question 2]
- In establishing a process for ERCOT to collect information from utilities regarding large load customers, the information should be treated as Protected Information under Section 1.3 of the ERCOT Nodal Protocols. [Question 6]