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*Interim Report*  
TO THE EIGHTY-NINTH TEXAS LEGISLATURE

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HOUSE COMMITTEE ON  
STATE AFFAIRS  
JANUARY 2025

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**HOUSE COMMITTEE ON STATE AFFAIRS  
TEXAS HOUSE OF REPRESENTATIVES  
INTERIM REPORT 2024**

**A REPORT TO THE  
HOUSE OF REPRESENTATIVES  
89TH TEXAS LEGISLATURE**

**TODD HUNTER  
CHAIRMAN**

**COMMITTEE CLERK  
MARGAUX FOX**

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Committee On  
State Affairs

January 10, 2025

Todd Hunter  
Chairman

P.O. Box 2910  
Austin, Texas 78768-2910

The Honorable Dade Phelan  
Speaker, Texas House of Representatives  
Members of the Texas House of Representatives  
Texas State Capitol, Rm. 2W.13  
Austin, Texas 78701

Dear Mr. Speaker and Fellow Members:

The Committee on State Affairs of the Eighty-eighth Legislature hereby submits its interim report including recommendations and drafted legislation for consideration by the Eighty-ninth Legislature.

Respectfully submitted,

Todd Hunter

(Ana Hernandez)

(Senfronia Thompson)

(John T. Smithee)

(Richard Peña Raymond)

(Charlie Geren)

(Ryan Guillen)

(Rafael Anchía)

(Chris Turner)

(Will Metcalf)

(Jay Dean)

(Shelby Slawson)

(David Spiller)

[Ana Hernandez]  
Vice-Chairman

Members: Senfronia Thompson, John T. Smithee, Richard Peña Raymond, Charlie Geren, Ryan Guillen, Rafael Anchía, Chris Turner, Will Metcalf, Jay Dean, Shelby Slawson, David Spiller

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## INTRODUCTION

On February 8, 2023, the Honorable Dade Phelan, Speaker of the Texas House of Representatives, appointed thirteen members to serve on the House Committee on State Affairs. The following members were appointed to the committee: Chairman Todd Hunter, Vice-Chair Ana Hernandez, Representative Charlie Geren, Representative Ryan Guillen, Representative Richard Raymond, Representative John Smithee, Representative Rafael Anchía, Representative Jay Dean, Representative Will Metcalf, Representative Shelby Slawson, Representative David Spiller, Representative Senfronia Thompson, and Representative Chris Turner.

Pursuant to House Rule 3, Section 31, the House Committee on State Affairs has 13 members with jurisdiction over all matters pertaining to:

- (1) questions and matters of state policy;
- (2) the administration of state government;
- (3) the organization, operation, powers, regulation, and management of state departments, agencies, and institutions;
- (4) the operation and regulation of public lands and state buildings;
- (5) the duties and conduct of officers and employees of the state government;
- (6) the duties and conduct of candidates for public office and of persons with an interest in influencing public policy;
- (7) the operation of state government and its agencies and departments; all of above except where jurisdiction is specifically granted to some other standing committee;
- (8) access of the state agencies to scientific and technological information;
- (9) the regulation and deregulation of electric utilities and the electric industry;
- (10) the regulation and deregulation of telecommunications utilities and the telecommunications industry;
- (11) electric utility regulation as it relates to energy production and consumption;
- (12) pipelines, pipeline companies, and all others operating as common carriers in the state;
- (13) the regulation and deregulation of other industries jurisdiction of which is not specifically assigned to another committee under these rules;
- (14) advances in science and technology, including telecommunications, electronic technology, or automated data processing, by state agencies, including institutions of higher education;
- (15) the promotion within the state of an advance described by Subdivision (14) of this section;
- (16) cybersecurity; and

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(17) the following organizations and state agencies: the Council of State Governments, the National Conference of State Legislatures, the Office of the Governor, the Texas Ethics Commission, the Texas Facilities Commission, the Department of Information Resources, the Inaugural Endowment Fund Committee, the Sunset Advisory Commission, the Public Utility Commission of Texas, and the Office of Public Utility Counsel.



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## SUMMARY OF COMMITTEE ACTION

The committee held five public hearings during the interim to address interim charges and other matters within the jurisdiction of the committee.

On June 10, 2024, the committee held its first public interim hearing to address a portion interim charge 1, related to monitoring the agencies and programs under the committee's jurisdiction and overseeing the implementation of relevant legislation passed by the 88th Legislature. Invited witnesses had the opportunity to address the committee on the interim charge.

The second public interim hearing was held on July 31, 2024 to address the second portion of interim charge 1. It also monitored the implementation of House Bill 1500 and assessed utility preparedness, response, and recovery protocols, as well as reviewed recent performance in addressing severe weather events. The committee heard testimony from invited witnesses only.

The third public interim hearing was held on August 16, 2024 to address interim charge 4, reviewing the Texas Windstorm Insurance Association (TWIA) funding. The committee heard testimony from invited witnesses only.

The fourth public interim hearing was held on September 17, 2024 to address interim charges 3, economic challenges impacting insurance premiums, and 5, Panhandle wildfires. The committee also heard testimony related to key barriers to broadband deployment in rural areas. The committee heard from invited witnesses only.

To conclude its interim activities, the committee held its final public interim hearing on September 30, 2024 to address interim charge 2, securing the border. The committee heard invited testimony only.

Video recordings of the interim hearings can be found here:

### **June 10, 2024**

<https://house.texas.gov/videos/20588>

### **July 31, 2024**

<https://house.texas.gov/videos/20669>

### **August 16, 2024**

<https://house.texas.gov/videos/11177>

### **September 17, 2024**

<https://house.texas.gov/videos/11178>

### **September 30, 2024**

<https://house.texas.gov/videos/20703>

The House Committee on State Affairs adopted the following interim report.

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## INTERIM STUDY CHARGES

### **CHARGE I: MONITORING**

Monitor the agencies and programs under the Committee's jurisdiction and oversee the implementation of relevant legislation passed by the 88th Legislature. Conduct active oversight of all associated rulemaking and other governmental actions taken to ensure the intended legislature outcome of all legislation, including the following:

- HB 9, relating to the development and funding of broadband and telecommunications services;
- HB 2555, relating to transmission and distribution system resiliency planning by and cost recovery for electric utilities;
- HB 5174, relating to the establishment and administration of the Texas Semiconductor Innovation Consortium;
- SB 1699, relating to electricity service in the ERCOT power region, including the participation of aggregated distributed energy resources in the ERCOT market; and
- SB 2627, relating to funding mechanisms to support the construction, maintenance, modernization, and operation of electric generating facilities.

### **CHARGE II: SECURING THE BORDER**

Conduct a review of functions and operations of state agencies involved with carrying out Operation Lone Star as they relate to securing the border and preventing transnational criminal activity. Evaluate whether agencies have sufficient resources and authority to carry out their prescribed duties. Make recommendations to increase the safety and wellbeing of personnel and efficiency of agency operations as needed.

### **CHARGE III: ECONOMIC CHALLENGES IMPACTING INSURANCE PREMIUMS**

Examine the impact of current economic challenges on the escalating costs of insurance premiums, including factors contributing to the withdrawal of insurance providers from certain markets. Investigate solutions to help Texans more easily and affordably obtain property and casualty insurance coverage. Evaluate long-term strategies for shifting from state-funded insurance programs to sustainable private market alternatives.

### **CHARGE IV: REVIEW TWIA FUNDING**

Review current state policy as it relates to the operation and funding of the Texas Windstorm Insurance Association (TWIA), including state agency capacity to effectively oversee TWIA. Evaluate the ability of state agencies and instrumentalities to secure the seacoast region's ability to produce energy and advance science and

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technology, including the role of reinsurance in maintaining economic security and ways to reduce the burden of reinsurance purchases on energy production and scientific and technological advances, while maintaining adequate coverage for policyholders.

**CHARGE V:  
PANHANDLE  
WILDFIRES**

Evaluate the findings and recommendations of the Investigative Committee on the Panhandle Wildfires that are within the committee's jurisdiction and develop related legislative solutions and other actions for preventing future wildfires and improving wildfire disaster preparedness, response, and mitigation.

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## **CHARGE I: MONITORING**

*Monitor the agencies and programs under the Committee's jurisdiction and oversee the implementation of relevant legislation passed by the 88th Legislature. Conduct active oversight of all associated rulemaking and other governmental actions taken to ensure the intended legislature outcome of all legislation, including the following:*

*-HB 9, relating to the development and funding of broadband and telecommunications services;*

*-HB 2555, relating to transmission and distribution system resiliency planning by and cost recovery for electric utilities;*

*-HB 5174, relating to the establishment and administration of the Texas Semiconductor Innovation Consortium;*

*-SB 1699, relating to electricity service in the ERCOT power region, including the participation of aggregated distributed energy resources in the ERCOT market; and*

*-SB 2627, relating to funding mechanisms to support the construction, operation, maintenance, modernization, and operation of electric generating facilities.*

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# **MONITOR THE PUBLIC UTILITY COMMISSION OF TEXAS, THE ELECTRIC RELIABILITY COUNSEL OF TEXAS, AND THE OFFICE OF PUBLIC UTILITY COUNSEL**

## **BACKGROUND**

The State Affairs Committee convened on Monday, June 10, 2024, at 9:00 a.m. to hear invited testimony only concerning the oversight of agencies under the Committee's jurisdiction, with particular focus on the implementation of relevant legislation passed by the 88th Legislature. This section of the report focuses on three key agencies discussed at the hearing: the Electric Reliability Council of Texas (ERCOT), the Office of Public Utility Counsel (OPUC), and the Public Utility Commission of Texas (PUC). At the hearing on June 10, 2024, the Committee also received a weather update from the Office of the Texas State Climatologist to get a forecast on future weather impacts and how they could affect the power grid.

## **SUMMARY OF COMMITTEE ACTION**

The following individuals testified:

*Witnesses are listed in alphabetical order*

William Baule, Assistant State Climatologist, Office of the Texas State Climatologist

Walt Baum, Chief Executive Officer, Powering Texans

Mark Bell, President and Chief Executive Officer, The Association of Electric Companies of Texas, Inc.

Tony Bennett, President, Texas Association of Manufacturers

Thomas Brocato, General Counsel, Steering Committee of Cities Served by Oncor and Texas Coalition for Affordable Power

Thomas Gleeson, Chairman, Public Utility Commission of Texas

Jimmy Glotfelty, Commissioner, Public Utility Commission of Texas

Julia Harvey, Vice President, Government Relations and Regulatory Affairs, Texas Electric Cooperatives

Courtney Hjaltman, Former Chief Executive Director and Public Counsel, Office of Public Utility Counsel

Judd Messer, Vice President, Texas Advanced Power Alliance

Cyrus Reed, Conservation Director, Sierra Club Lone Star Chapter

Michele Richmond, Executive Director, Texas Competitive Power Advocates

Hector Rivero, President and Chief Executive Officer, Texas Chemistry Council

Todd Staples, President, Texas Oil and Gas Association

Pablo Vegas, President and Chief Executive Officer, Electric Reliability Council of Texas

## **FINDINGS**

### **Summary of Testimony**

**Thomas Gleeson, Chairman, Public Utility Commission of Texas**

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Chairman Gleeson, Chairman of the Public Utility Commission (PUC), highlighted recent organizational changes, including his move from Executive Director to Chairman, Connie Corona's appointment as the new Executive Director, and Barksdale English's appointment as the new Deputy Executive Director. Chairman Gleeson highlighted the PUC's focus on staffing improvements since Winter Storm Uri, noting that the PUC's full-time employees (FTE) cap had increased from 209 to 283, an increase of approximately 17% since the last legislative session. This, along with increased resources and competitive salaries, has helped to significantly reduce staff turnover.

Chairman Gleeson emphasized ongoing efforts to adopt a reliability standard for the Electric Reliability Council of Texas (ERCOT) region and discussed the importance of the Dispatchable Reliability Reserve Service (DRRS) and the cost-benefit analysis underway for the Performance Credit Mechanism (PCM) from H.B. 1500. Following Chairman Gleeson's testimony, the PUC adopted a reliability standard for ERCOT on August 29, 2024.

**Courtney Hjaltman, Chief Executive and Public Counsel, Office of Public Utility Counsel**

*Note: Ms. Hjaltman served as Chief Executive and Public Counsel of the agency when her testimony was offered. However, she is no longer in this role as she was appointed to serve as a PUC Commissioner on June 24, 2024.*

Courtney Hjaltman, Chief Executive and Public Counsel of the Office of Public Utility Counsel (OPUC), focused on OPUC's role as the designated advocate for residential and small consumers in public utility proceedings. Ms. Hjaltman emphasized the office's participation in over 60 contested cases in 2023, contributing to consumer bill savings of \$632 million. Ms. Hjaltman testified that OPUC has implemented and completed all of the recommendations from the Texas Sunset Advisory Commission from last session. Ms. Hjaltman mentioned ongoing improvements at OPUC, such as an updated website to better serve consumers, and emphasized the importance of continued advocacy for the reliability standard and other consumer-centered initiatives like phased-in rates for water utilities and demand-response programs.

**Pablo Vegas, President and Chief Executive Officer, Electric Reliability Council of Texas**

Pablo Vegas, President and Chief Executive Officer of the Electric Reliability Council of Texas (ERCOT), discussed ERCOT's approach to meeting growing electricity demand, which is driven by economic and population growth in Texas, including rapid increase in demand from data centers, artificial intelligence, industrial electrification, and the emerging hydrogen economy.

Mr. Vegas discussed ERCOT's efforts in the reliability standard, including looking at the frequency of potential outages, the duration of how long they could be, and the magnitude of how many people could be affected by them and how that will play in grid market design. Mr. Vegas described ERCOT's focus on real-time co-optimization to enhance market efficiency and discussed the planned implementation of DRRS to ensure a reliable grid. Mr. Vegas testified that ERCOT is currently focusing on dispatchable thermal generation resources and is not including batteries in the implementation of DRRS, unless the Legislature indicates that they should do so.

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Mr. Vegas noted that ERCOT has seen an almost 50% increase in the total ERCOT peak demand, or 40 gigawatts of additional load that is coming to Texas by 2030. Mr. Vegas also stressed the importance of working with the PUC to ensure large loads, such as crypto mining facilities, are registered in Texas to ensure they can track that load and how it affects the ERCOT grid, as well as focusing on transmission planning to support increased growth in Texas.

**Walt Baum, Chief Executive Officer, Powering Texans**

Walt Baum, Chief Executive Officer of Powering Texans, a trade association which includes Calpine, Constellation, NRG, and Vistra—offered testimony on behalf of the organization with a primary focus on preserving, protecting, and defending customer choice and the competitive market in the competitive wholesale market and ERCOT to ensure reliable and affordable power for Texas families and businesses. Mr. Baum noted the challenges posed by severe weather events and the high summer electricity demand. He discussed that his member companies are prepared to maintain reliability during peak times when solar production goes down and dispatchable generation must be used to meet the load.

Mr. Baum highlighted the success of the Texas Energy Fund in generating interest from private entities and underlined the importance of maintaining regulatory certainty to encourage further capital investment in dispatchable generation. Mr. Baum also noted that his four members have publicly announced their intent to add 5,000 megawatts of generation to the Texas grid. Mr. Baum emphasized that increased power and improved load management are necessary to meet the growing electricity demands coming to Texas.

**Mark Bell, President and Chief Executive Officer, Association of Electric Companies of Texas**

Mark Bell, President and Chief Executive Officer of the Association of Electric Companies of Texas (AECT) provided a perspective on the continuing growth of electricity demand, which has increased by 25% over the past decade, with estimates that it could rise another 51% in the coming decade. He testified that peak demand has grown 18% in the last five years, and estimates suggest it could increase by 77% in the next ten years. He highlighted that over the last two summers, Texas has set 21 new all-time peak demand records.

Mr. Bell emphasized the importance of strategic investments in electric infrastructure to support both reliability and affordability. He discussed House Bill 2555, the Texas Resiliency Act passed by the 88<sup>th</sup> Legislature, which provides utilities a better mechanism to plan for and invest in resiliency projects to help utilities better withstand extreme weather events and restore power more quickly to their consumers. Mr. Bell also noted that the Texas Energy Fund has been a positive development by encouraging further investment in dispatchable generation in Texas.

**Julia Harvey, Vice President of Government Relations and Regulatory Affairs, Texas Electric Cooperatives**

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Julia Harvey, Vice President of Government Relations and Regulatory Affairs at Texas Electric Cooperatives, expressed cautious support for recent market design changes while emphasizing the need for clarity in reliability standards and transparency in costs. She pointed out that electric cooperatives are directly impacted by increasing demand and require mechanisms to manage costs effectively. Ms. Harvey underscored the importance of clearly defined conservative operations and stressed that speculative loads, like those from data centers, need to be carefully managed in transmission planning to avoid placing undue pressure and costs on grid infrastructure.

**Michele Richmond, Executive Director, Texas Competitive Power Advocates**

Michele Richmond, Executive Director of Texas Competitive Power Advocates (TCPA), highlighted the optimism surrounding the market's direction and noted that TCPA members have publicly indicated an interest in building 10,000 megawatts of new gas generation in ERCOT. Ms. Richmond emphasized the importance of adopting a reliability standard and ensuring that the competitive market is used to meet this standard. Ms. Richmond discussed TCPA's view on the reliability standard and testified that TCPA members do not believe that a mandatory reliability standard in any way provides any type of regulatory entity license to go out and procure capacity in order to meet the reliability standard. She also mentioned the need for regulatory stability to support ongoing investment and maintain consumer confidence.

**Jimmy Glotfelty, Commissioner, Public Utility Commission**

Jimmy Glotfelty, Commissioner of the PUC, provided an overview of the progress made in the area of nuclear power in Texas. He highlighted the work of the Texas Advanced Nuclear Reactor Working Group, formed at the direction of Governor Abbott in August 2023, to evaluate the potential challenges that may impede new nuclear plants or small modular reactors from siting and operating in Texas.

Since naming the 18 members of the Texas Advanced Nuclear Reactor Working Group in October 2023, the group has held 100s of meetings, formally and informally. Commissioner Glotfelty touched on achievements of the group thus far, including polling industrial facilities to gauge their interest in new nuclear plants to provide power and steam; polled data centers, semiconductors, and other high-tech businesses as to their interest in this technology going forward in Texas; and hired the University of Texas's at Austin's Bureau of Business Research to determine the economic impact of building five new reactors in Texas.

Commissioner Glotfelty also provided an overview of the assets Texas currently has, which includes two operating nuclear plants in Texas, Comanche Peak and South Texas Project Electric Generating Station, totaling four units, with an opportunity for expansion at these sites. Commissioner Glotfelty emphasized the importance of nuclear power as a clean and reliable energy source, detailing efforts to assess potential sites for new reactors, including former coal sites. He stressed the need for policy support and state investments to make new nuclear reactors a viable option for Texas. Commissioner Glotfelty stated that he believes Texas can surpass other state leaders after this upcoming session so Texas can become the world leader in the nuclear power supply chain. Commissioner Glotfelty mentioned that a comprehensive report will



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be provided to Governor Abbott by December 1, 2024, with recommendations for legislative action.

**Judd Messer, Vice President, Texas Advanced Power Alliance**

Judd Messer, Vice President of Texas Advanced Power Alliance (APA), a group of operators and developers of wind, solar, battery and energy storage, and other generation projects in Texas, testified on the importance of renewable energy in Texas. Mr. Messer highlighted his members' collective investments in renewable energy sources in Texas, totaling approximately \$110 billion. He stated that Texas ranks first in installed capacity of wind and solar, and Texas is rapidly approaching the lead in battery energy storage as well, with almost 7,000 megawatts.

Mr. Messer emphasized customer demand and load growth as the key drivers of continued investment from APA members in Texas. He testified that on average, wind and solar are providing more than 1/3 of the power needs in the ERCOT market, with batteries continuing to break records. Mr. Messer also discussed the importance of transmission infrastructure in mitigating congestion costs and ensuring reliability in Texas. He encouraged a system-level approach to grid planning that incorporates renewable and traditional generation sources to enhance overall reliability while managing costs effectively.

**Tony Bennett, President and Chief Executive Officer, Texas Association of Manufacturers**

Tony Bennett, President and Chief Executive Officer of the Texas Association of Manufacturers (TAM), explained that TAM represents over 600 manufacturers, including many of the state's largest employers. Texas has 20,000 Texas manufacturing companies and employs 924,000 Texans, who earn an average compensation of \$105,000 per year. Mr. Bennett testified that manufacturers are by far the largest consumers of electricity in Texas, and therefore, electricity is one of TAM's top policy priorities.

Mr. Bennett emphasized that reliable and affordable electricity is vital for Texas industries to safely and efficiently operate their facilities. He noted that electricity is among the top three production costs for most manufacturers and that disruptions can be highly costly, as they can suspend production and delay recovery for days or weeks, costing millions of dollars each day.

Mr. Bennett advocated for continued, competitive market-based solutions, opposing government intervention, such as capacity mandates, that could lead to increased costs without improving reliability. He expressed support for policies that will directly compensate dispatchable resources, including generators and demand response providers, for supplying energy, ancillary services, or reserves when the grid needs them the most, such as the Operating Reserve Demand Curve. TAM also strongly supports most market design changes adopted last session, such as the DRRS and the Texas Energy Fund, while cautioning against the adoption of the capacity mandate elements of the PCM.

**Hector Rivero, President and Chief Executive Officer, Texas Chemistry Council**

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Hector Rivero, President and Chief Executive Officer of Texas Chemistry Council, noted that Texas Chemistry Council represents 67 member companies who own and operate over 200 manufacturing and research facilities across the state, with over \$250 billion in investments across Texas. Mr. Rivero highlighted the importance of competitive electricity costs and reliability for maintaining safety and operational efficiency in the chemical industry, a crucial industry to the state of Texas. He commended the legislature's efforts to weatherize the supply chain and enhance communication with critical infrastructure sectors, which has improved grid reliability since Winter Storm Uri. However, Mr. Rivero expressed concerns about electricity prices remaining much higher than pre-Uri levels, urging lawmakers to focus on maintaining competitive costs for consumers.

### **Todd Staples, President, Texas Oil and Gas Association**

Todd Staples, President of the Texas Oil and Gas Association (TxOGA), noted that TxOGA's member companies produce about 90% of Texas's crude oil and natural gas and operate a vast majority of the state's pipelines, refineries, and liquified natural gas facilities. Mr. Staples highlighted the need for reliable electricity in oil and gas operations which will continue to grow over the next few years, especially in terms of needed generation and needed transmission capacity.

He expressed support for market stabilization efforts by ERCOT and the PUC in carrying out legislation from last session, emphasizing the importance of avoiding overreliance on capacity market models, such as the PCM, which have led to higher costs without improved reliability in other states. Mr. Staples encouraged the legislature to focus on implementing existing policies effectively, such as the Texas Energy Fund, rather than introducing new market designs that could destabilize the electricity market and increase costs to consumers.

Representative Geren asked Mr. Staples for an update on the implementation of H.B. 5066, relating to the Permian Basin Reliability Plan. Mr. Staples responded that the Permian Basin is continuing to grow. He complimented ERCOT, the PUC, Commissioner Cobos, and stakeholders for all of their continued involvement and emphasized that reliability in the Permian Basin is necessary to continue the economic success of Texas.

Following Mr. Staples' testimony at the State Affairs hearing on July 31, 2024, the PUC approved a reliability plan for the Permian Basin on October 5, 2024. More information regarding this plan can be found on the PUC's Interchange under Project No. 55718, *Reliability Plan for the Permian Basin Region under PURA § 39.167*.

### **Thomas Brocato, General Counsel, Steering Committee of Cities Served by Oncor and Texas Coalition for Affordable Power**

Thomas Brocato is the General Counsel for the Steering Committee of Cities Served by Oncor and Texas Coalition for Affordable Power, two organizations which collectively consist of over 200 cities within ERCOT. Mr. Brocato discussed the importance of balancing affordability and reliability for electricity consumers.

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Mr. Brocato discussed a fundamental set of market principles for his member cities, including:

- (1) The fundamental objective of the ERCOT market should be to reliably deliver power at the lowest cost;
- (2) Where competitive market solutions are possible, they are most likely to achieve this goal;
- (3) Cities understand that achieving both reliable and economically efficient markets will not necessarily involve tradeoffs;
- (4) A fundamental principle of competitive electric markets is to shift the financial risks from customers to capital markets and capital market participants; and
- (5) Market and regulatory certainty, combined with transparency of market design and operation will enable a robust market participation.

Mr. Brocato expressed concerns about the impact of recent market design changes on consumer rates and emphasized the need for transparency and stability in market policies to attract investment without unduly burdening consumers.

#### **Cyrus Reed, Conservation Director, Sierra Club Lone Star Chapter**

Cyrus Reed, Conservation Director of the Sierra Club Lone Star Chapter, emphasized the importance of considering consumer impacts in energy policy. He noted that rising electricity bills are partly due to increased extreme weather events, peak demand, and the need to improve energy efficiency in Texas. Mr. Reed supports the establishment of a reliability standard but advocated for incorporating renewable energy and battery storage in reliability planning to reduce costs. He highlighted the need for more significant investments in energy efficiency programs and criticized the current design of certain ancillary services, notably DRRS, for excluding non-thermal energy sources like battery storage, which will decrease costs for consumers.

#### **William Baule, Assistant State Climatologist, Office of the Texas State Climatologist**

William Baule, Assistant State Climatologist, Office of the Texas State Climatologist, provided an in-depth weather outlook for the upcoming months, highlighting types of extreme weather events that could potentially impact the power grid over the next several months, including hurricanes and extreme cold.

Mr. Baule emphasized that this year has been a more aggressive forecast for hurricane activity than previous years, driven by warm ocean temperatures and a shift into a La Niña phase, which increases the likelihood of hurricane formation. He explained that Texans should be prepared for the possibility of hurricanes until the end of November.

Mr. Baule also cautioned that Texans may experience enhanced risk of extreme cold this upcoming winter, particularly since it is a La Niña year, which typically results in drier and milder overall conditions but with increased cold outbreaks. Mr. Baule referenced the extreme

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cold from the February 2021 Winter Storm Uri event as an example of how a La Niña year can produce significant cold conditions. He estimated that the likelihood of such an event recurring in winter 2024 is between a 1 in 30 to a 1 in 50 chance, while the risk of a power grid crisis similar to 2021 stands at about 1 in 15 chance.

Representative Raymond asked Mr. Baule about gaps in Doppler radar coverage in certain areas such as Laredo. Mr. Baule pointed out that Texas faces substantial gaps in Doppler radar coverage, which hinder the ability to accurately forecast weather conditions in certain areas, such as College Station. Mr. Baule mentioned an ongoing effort by a private entity to address these gaps.

## RECOMMENDATIONS

Based on the testimonies and discussions at the hearing, the following recommendations are proposed:

- 1. Evaluate Continued Spending for the Texas Energy Fund:** SB 2627 contemplates a total of \$10 billion for the Texas Energy Fund: \$7.2 billion for inside ERCOT loans and grants, \$1 billion for outside ERCOT grants, and \$1.8 billion for the Backup Power Package. The 88<sup>th</sup> Legislature appropriated \$5 billion for the Fund, the balance of which was spend exclusively on inside ERCOT loans. As the Legislature considers additional money for the fund in the 89<sup>th</sup> Session, it should do so within the existing framework.
- 2. Enhance Oversight of Crypto Mining Load:** Implement stricter registration and control requirements for large load users, such as crypto miners, to improve grid management. Visibility and control over these loads would help ERCOT manage supply more effectively during peak demand periods.
- 3. Clarify Conservative Operations Rules:** Define the parameters for conservative operations to ensure predictability for market participants. Establishing clear guidelines will help mitigate unexpected costs for electric cooperatives and improve market transparency.
- 4. Expand Nuclear Energy Initiatives:** The state should prioritize the expansion of nuclear energy projects, particularly small modular reactors, as a reliable and clean energy source. Legislative support is needed to address regulatory and market design challenges and to facilitate investment in nuclear energy.
- 5. Improve Transmission Infrastructure:** The Legislature should work with transmission providers to determine needs that help meet load growth, increase efficiency, and reduce congestion.
- 6. Maintain Competitive Market-Based Solutions:** The Legislature should continue to support market-based solutions for grid reliability and consider whether capacity mandates that have proven to be costly in other states should be avoided.

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**7. Enhance Energy Efficiency Programs:** More investment is needed in energy efficiency programs to reduce overall demand and lower electricity costs for consumers. Expanding funding for energy efficiency, particularly for low-income households, would provide long-term benefits in grid stability and cost savings.

**8. Include Renewable Energy in Reliability Planning:** Incorporating renewable energy and battery storage into reliability and ancillary service planning, such as DRRS, would help reduce costs and improve grid stability. Ensuring that policies do not exclude these resources from participating in market services is essential for an inclusive energy strategy.

### **Recommendations Based on Future Weather Forecast**

**1. Community Preparedness:** State and local agencies should undertake public information campaigns to inform Texas residents about the increased risks of extreme weather, focusing on safety and preparedness measures.

**2. Grid Preparedness:** The Committee stressed the importance of preparing the Texas power grid for the potential impacts of extreme weather, especially hurricanes and extreme cold. The Legislature recommends that the PUC, ERCOT, OPUC, and all stakeholders remain vigilant and take proactive measures to ensure grid stability, including continued rulemaking on relevant bills passed during the 87<sup>th</sup> and 88<sup>th</sup> legislative sessions,

**3. Radar Coverage Gaps:** The Legislature recommends that the ongoing efforts in addressing gaps in Doppler radar coverage in areas like Laredo and College Station continue so more accurate weather forecasts can be accomplished in these areas.

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# **MONITOR THE TEXAS DEPARTMENT OF INFORMATION RESOURCES**

## **BACKGROUND**

The State Affairs Committee convened on Monday, June 10, 2024, at 9:00 a.m. to discuss the implementation and progress of legislation passed by the 88th Legislature. This section of the report focuses on the oversight of the Texas Department of Information Resources (DIR). The testimony was limited to invited testimony only.

## **SUMMARY OF COMMITTEE ACTION**

The following individual testified:

Steve Pier, Deputy Executive Director, Texas Department of Information Resources

## **FINDINGS**

### **Summary of Testimony**

#### **Steve Pier, Deputy Executive Director, Texas Department of Insurance**

Steve Pier, Deputy Executive Director of the Texas Department of Information Resources (DIR), provided an overview of DIR's operations, its achievements, and the status of recent legislation impacting the agency. He emphasized that DIR operates through an outsourced model, generating approximately \$6 billion in annual sales, with \$1.4 billion directed towards historically underutilized businesses. The agency functions with around 250 full-time employees and between 500 and 1,200 program vendor staff.

Mr. Pier mentioned that DIR is under Sunset Commission review, and DIR looks forward to collaborating with the Committee to advance the related bill in the next legislative session. He also highlighted several key pieces of legislation from last session affecting DIR that went through the State Affairs Committee:

1. Senate Bill 271: This bill requires local governments to report cybersecurity incidents, including ransomware attacks, to DIR within 48 hours, similar to requirements for state agencies since 2009. Since the bill's implementation, as of June 6, 2024, DIR has received 118 incident reports from local entities, with a majority (90) accepting DIR's offer for consultation.
2. House Bill 4553: This bill expands eligible customer access to DIR's technology, security, and telecommunications services. The bill has simplified the process for DIR customers to determine their eligibility, helping vendors and customers better understand the services they qualify for.

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3. House Bill 584: This bill allows DIR to partner with a public junior college district or a public technical institute to offer a program leading to a state IT credential to address shortages in the IT workforce. DIR has entered into an agreement with Austin Community College.

4. House Bill 2060: This bill created the Artificial Intelligence Advisory Council to assess AI in State Government. The Council is responsible for assessing the need for a state code of ethics for artificial intelligence systems in state government and evaluating the impact of AI on the legal rights and duties of Texas residents. The Council is also responsible for assessing potential benefits, liabilities, or risks that Texas could incur with these systems. The Council will be submitting a report to the Legislature by December 1, 2024.

5. Senate Bill 475: This bill was passed in the 87th Legislative Session and created regional security operations centers. The program began with Angelo State University, and funding was allocated last session to establish two additional regional security operations centers at the University of Texas Rio Grande Valley and at the University of Texas at Austin.

Mr. Pier also highlighted different types of cyber threats that have received a great deal of attention recently, including those relating to water districts and water utilities.

Representative Raymond inquired about the state's efforts in tracking and prosecuting cybercriminals, particularly in response to ransomware attacks. Mr. Pier acknowledged that while there had been successful apprehensions of cybercriminals at the federal level, tracking and capturing these perpetrators remains a significant challenge. He noted that the state collaborates with federal agencies, such as the FBI, to provide information necessary for federal charges.

Representative Raymond expressed concern over the impact of cyber attacks, particularly on schools and small businesses, which lead to significant disruption and financial loss. Representative Raymond recommended that the Legislature explore whether additional state-level measures, including penalties, should be introduced to deter cybercriminals and provide more robust protections for local entities.

## RECOMMENDATIONS

1. **Establish State-Level Cybercrime Penalties:** The Legislature should consider introducing state-level penalties for cybercrimes, including ransomware attacks, to strengthen deterrence and complement federal efforts.

2. **Expand Cybersecurity Support to Local Entities:** DIR should continue its efforts to provide cybersecurity guidance and support to local entities, including school districts and small municipalities.

3. **Public Awareness Campaigns:** DIR could initiate public awareness campaigns to educate local entities and the general public about cybersecurity best practices and the risks associated with ransomware. This could help mitigate the impact of cyberattacks by promoting proactive measures.

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**4. Strengthen Collaboration with Federal Agencies:** Enhanced collaboration with federal law enforcement agencies should be pursued to improve the identification and prosecution of cybercriminals. This includes formalizing communication channels and ensuring timely data sharing.



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# MONITOR THE TEXAS SUNSET ADVISORY COMMISSION

## BACKGROUND

The State Affairs Committee convened on Monday, June 10, 2024, at 9:00 a.m. to monitor and oversee the agencies and programs under its jurisdiction, ensuring the implementation of relevant legislation passed by the 88th Legislature. The Committee heard invited testimony only. This section of the report focuses on monitoring the Texas Sunset Advisory Committee, highlighting key areas of focus and their recommendations for the upcoming legislative session.

## SUMMARY OF COMMITTEE ACTION

The following individuals testified:

*Witnesses are listed in alphabetical order*

Eric Beverly, Executive Director, Texas Sunset Advisory Commission

Emily Johnson, Deputy Director for Reviews, Texas Sunset Advisory Commission

## FINDINGS

### Summary of Testimony

Eric Beverly, Executive Director of the Texas Sunset Advisory Commission (Sunset Commission), testified about three key areas of focus for the Sunset Commission:

- 1. Improving Agency Collaboration and Accountability:** Mr. Beverly expressed a commitment to fostering productive relationships with agencies undergoing sunset review. He noted that the process can be intimidating for some agencies and clarified the Sunset Commission's intent to frame the reviews as opportunities for partnership. The Sunset Commission aims to enhance agency accountability, efficiency, effectiveness, and transparency through operational improvements.
- 2. Data Governance Emphasis:** Mr. Beverly stressed the importance of improving agency data governance, which involves the use of data and information to inform agency decision-making. He pointed out that issues related to data governance have been identified across agencies of all sizes.
- 3. Preparation for the Next Review Cycle:** Mr. Beverly highlighted the Sunset Commission's current work and preparations for the next major review cycle, which includes the Texas Health and Human Services Commission. He described it as a significant challenge that requires the Sunset Commission to plan and staff appropriately to handle the complexity of the review.

Mr. Beverly also provided the committee with two documents—an overview of the Sunset process and a review schedule—to illustrate upcoming reviews through 2035. He shared key metrics of the Sunset Commission's achievements, including a return of \$16 for every dollar appropriated since 1985, resulting in billions in savings.

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Mr. Beverly stated that the Sunset Commission has already completed its reviews for the Department of Information Resources, the Texas Lottery Commission, and the Sabine River Authority. Additionally, Mr. Beverly discussed the ongoing reviews of various agencies, such as the Texas Department of Criminal Justice, the Texas Ethics Commission, and several river authorities, emphasizing the opportunity for committee members to provide input, noting that all input the Sunset Commission receives prior to the publication of their staff report is confidential.

Mr. Beverly concluded by explaining the two types of meetings held for each agency under review: public hearings and decision meetings. He noted that public hearings provide an opportunity for testimony from the public and agency leadership, while decision meetings involve the adoption or modification of recommendations. Some recommendations require a statutory change and will be rolled into a bill, while others are management actions that can be implemented using an agency's existing authority. Once management actions that do not require statutory change are approved by the Sunset Commission, agencies can implement management actions immediately or as specifically directed.

Mr. Beverly stated that the compliance report, which will be provided to the Sunset Commission in January 2025, will detail the implementation of Sunset legislation and management actions resulting from the last legislative session.

## **RECOMMENDATIONS**

- 1. Strengthen Communication with Agencies:** To reduce anxiety and improve the transparency of the Sunset review process, the Sunset Commission should continue enhancing communication efforts with agencies. This could involve workshops or informational sessions aimed at preparing agencies for the review process and setting clear expectations.
- 2. Facilitate Stakeholder Engagement:** The Sunset Commission should continue seeking input from the Legislature and stakeholders throughout the review process of state agencies. This engagement could help identify potential areas of concern earlier in the review and ensure that the final recommendations are well-informed and balanced.

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# **UPDATE ON THE IMPLEMENTATION OF H.B. 9, RELATING TO THE DEVELOPMENT AND FUNDING OF BROADBAND AND TELECOMMUNICATION SERVICES**

## **BACKGROUND**

The State Affairs Committee convened on Wednesday, July 31, 2024, at 9:00 a.m. to monitor the agencies and programs under the Committee’s jurisdiction and to conduct active oversight of all associated rulemaking and other governmental actions taken to ensure the intended legislative outcome of all legislation. This section of the report focuses on monitoring the implementation of H.B. 9, relating to the development and funding of broadband and telecommunications services throughout Texas. The Committee heard invited testimony only.

## **SUMMARY OF COMMITTEE ACTION**

The following individuals testified:

*Witnesses are listed in alphabetical order*

Greg Conte, Director, Broadband Development Office, Texas Comptroller of Public Accounts  
Glenn Hamer, President and Chief Executive Officer, Texas Association of Business  
Glenn Hager, Comptroller, Texas Comptroller of Public Accounts

## **FINDINGS**

### **Summary of Testimony**

#### **Glenn Hager, Comptroller, Comptroller of Public Accounts, and Greg Conte, Director of Broadband Development Office, Comptroller of Public Accounts**

The testimony of Glenn Hager, Comptroller of Texas Comptroller of Public Accounts, emphasized the progress made with the broadband infrastructure funding initiatives. He detailed the three buckets of funding: \$1.5 billion through the Broadband Infrastructure Fund (BIF), \$500 million in federal funds expiring by December 31, 2025, and \$3.3 billion in federal allocations through the BEAD program.

Comptroller Hager testified that the first \$12.3 million of the Texas BOOT program has been released, targeting critical counties for broadband expansion. For the second round of funding for BOOT, which includes part of the BIF funding, the Comptroller’s office is focusing on the 24 most highly critical counties in the state of Texas, although all 254 counties in Texas have broadband infrastructure needs. Comptroller Hager highlighted the bureaucratic challenges faced, including the need for alignment between federal and state requirements, the short timeline the Broadband Development Office (BDO) has to disburse these funds, and staffing challenges, while underscoring Texas’s commitment to rapid deployment to serve underserved areas.

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Gregory Conte, Director of the BDO, outlined the implementation of the BIF. H.B. 9 provided \$1.5 billion to the BIF and requires the Comptroller's BDO to complete two transfers for the BIF. Mr. Conte explained that the first transfer was made in January 2024 for \$155 million to the Texas NextGen 9-1-1 System. The second transfer was \$75 million to the broadband pole replacement fund and is still pending to best coincide with the launch of the pole replacement program. The broadband pole replacement program aims to reimburse providers and pole owners for eligible costs in connection with replacing utility poles to support broadband. After these required transfers, the BIF will have a remaining balance of approximately \$1.3 billion.

The BDO formulated proposed uses of the remaining balance, taking into account stakeholder feedback, industry research, and prior program experience. Mr. Conte described the proposed uses of these funds as follows:

- The BDO will create a match program with state revenue to enable greater participation in the federal BEAD program.
- The BDO will support a second round of the BOOT program using state and federal revenue. This \$730 million investment could potentially connect up to 20% of the state's unserved addresses with broadband by the end of 2026.
- The BDO will establish a competitive middle mile grant program that will ensure rural markets lacking adequate infrastructure are not overlooked while also facilitating last-mile connections.
- The BDO will ensure any pockets of underserved locations, including community anchor institutions, will be targeted for further grant funding following the BOOT and BEAD program.
- Lastly, the BDO will invest in training opportunities that support a robust labor force to deliver generational infrastructure and avoid potential workforce challenges downstream.

Mr. Conte stated that the BDO will continue to work with stakeholders to ensure the uses of funds align with the necessities of industry and will appropriately address barriers to expanding broadband.

There was discussion at the hearing regarding the 24 Texas counties chosen to receive funds from the BDO. Mr. Conte explained that two counties from each of Texas's 12 economic development regions were chosen, and he stated that the 24 chosen counties include the following: Medina County, Karnes County, Bastrop County, Caldwell County, Burleson County, Falls County, Liberty County, Colorado County, Carson County, Roberts County, Navarro County, Fannin County, Coleman County, Throckmorton County, Edwards County, Kenedy County, Trinity County, Newton County, Marion County, Morris County, Jeff Davis County, Hudspeth County, Irion County, and Reagan County.

These counties were chosen based on a combination of factors, including the level of existing broadband access, the demonstrated need for improved services, and the socioeconomic challenges faced by residents. The focus on these 24 counties was intended to prioritize areas that were most in need of connectivity upgrades, ensuring that the initial funding would have the greatest impact on underserved populations. Testimony showed challenges in the allocation of funds to the most needy areas, with particular frustration from representatives about criteria potentially excluding certain counties that should qualify.

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Representative Spiller raised concerns about the inaccuracy of the maps the BDO is using and asked the Comptroller's office to provide clarification on whether they are using the Texas maps, the federal maps, or both. Mr. Conte explained that the inaccuracies in the federal versus state maps led to difficulties in identifying truly underserved regions and allocating resources effectively. Mr. Conte explained that the BDO is now using the federal maps to resolve some of these issues because the federal government requires providers to participate in submitting accurate mapping data to be used for the federal maps.

Representative Spiller also asked if the BDO had any protocols in place to prevent providers from applying to get Texas funds if they have already qualified for federal funds. Mr. Conte responded that the BDO has federal commitment data they use to ensure that broadband funding efforts are not duplicated at a single location. As the BDO continues to roll out the broadband funding programs from BOOT 1, BOOT 2, and the BEAD program, the BDO will monitor these programs to ensure that there is no duplication of effort.

### **Glenn Hamer, President and CEO, Texas Association of Business**

Glenn Hammer, President and CEO of Texas Association of Business, commended the progress of broadband expansion and noted that it is critical for economic growth and connectivity. He stated that broadband is essential to keep pace with the state's population growth and economic development. Mr. Hamer appreciated the flexibility granted by the \$1.5 billion fund, which aims to reduce the digital divide across Texas. Mr. Hammer discussed how important the BIF is to Texas, as it helps support crucial aspects of the state, such as 9-1-1 services.

## **RECOMMENDATIONS**

- 1. Ongoing Communication with the Legislature:** The BDO and stakeholders should continually update the Legislature on any legislative action that is required for ongoing broadband expansion.
- 2. Ongoing Communication with Stakeholders:** The BDO should continue communicating with stakeholders to provide for transparency in the allocation of broadband funding and ensure that the needs of the broadband industry are being met.
- 3. Communication and Coordination with Federal Agencies:** The BDO should continue communicating and coordinating with federal agencies on broadband deployment. Much of broadband funding in Texas comes from federal funds, and Texas must work with federal agencies to streamline funding allocation and address any discrepancies between state and federal broadband regulations.

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# UPDATE ON THE IMPLEMENTATION OF H.B. 2555, RELATING TO TRANSMISSION AND DISTRIBUTION SYSTEM RESILIENCY PLANNING BY AND COST RECOVERY FOR ELECTRIC UTILITIES

## BACKGROUND

The House Committee on State Affairs convened on Wednesday, July 31, 2024, at 9:00 a.m. to monitor the agencies and programs under the Committee’s jurisdiction and to conduct active oversight of all associated rulemaking and other governmental actions taken to ensure the intended legislative outcome of all legislation. This section of the report focuses on monitoring the implementation of H.B. 2555, relating to transmission and distribution system resiliency planning by and cost recovery for electric utilities. H.B. 2555 established procedures for electric utilities to submit resiliency plans that would strengthen the resiliency of their transmission and distribution systems, with the PUC reviewing and approving, modifying, or denying those plans. The Committee heard invited testimony only.

## SUMMARY OF COMMITTEE ACTION

The following individuals testified:

*Witnesses are listed in alphabetical order*

Mark Bell, President and Chief Executive Officer, the Association of Electric Companies of Texas, Inc.

Connie Corona, Executive Director, Public Utility Commission of Texas

Chris Ekoh, Deputy Public Counsel, Office of Public Utility Counsel

Woody Rickerson, Senior Vice President and Chief Operating Officer, Electric Reliability Council of Texas

## FINDINGS

### Summary of Testimony

#### **Connie Corona, Executive Director, Public Utility Commission of Texas**

Connie Corona, Executive Director of the Public Utility Commission (PUC) provided an update on the implementation of H.B. 2555. H.B. 2555 set a 180-day timeline for the PUC to review and approve, modify, or deny a utility’s resiliency plan. The PUC's rulemaking that developed out of H.B. 2555 took effect in February 2024. Ms. Corona explained that the rule was written so that each utility would have sufficient flexibility to meet its own unique regional needs.

Ms. Corona stated that the proposed resiliency measures in a utility’s resiliency plan are required to demonstrate a clear benefit to customers: they must strengthen the system to withstand, or to more promptly recover from, a resiliency event, such as a hurricane. The PUC received applications from CenterPoint Energy Houston Electric, Oncor Electric Delivery Company,

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LLC, Entergy Texas, Inc., Texas-New Mexico Power Company, and AEP Texas, Inc. CenterPoint's resiliency plan was later withdrawn so CenterPoint could reevaluate its plan to ensure it is sufficient to address issues that arose during Hurricane Beryl.

**Woody Rickerson, Senior Vice President and Chief Operating Officer, Electric Reliability Council of Texas**

Woody Rickerson, Senior Vice President and Chief Operating Officer of the Electric Reliability Council of Texas (ERCOT), testified that ERCOT's role in regard to resiliency plans is to review these plans after they are filed and determine if they will result in any transmission changes that require ERCOT's involvement.

**Chris Ekoh, Deputy Public Counsel of Office of Public Utility Counsel**

Chris Ekoh, Deputy Public Counsel for the Office of Public Utility Counsel (OPUC), testified that OPUC reviews resiliency plans and examines the effectiveness of the proposed measures in these plans to mitigate any anticipated weather or security-related events or emergencies. Mr. Ekoh cautioned that if a resiliency plan fails and does not mitigate against a certain event as intended, the consumer must still pay for the plan. His testimony highlighted the need for scrutiny when reviewing these plans.

Mr. Ekoh raised concerns about resiliency plans because they are not subject to a prudence review until the utility files its next comprehensive rate case, leaving doubt about whether costs included in these plans are justified and necessary. He stressed that utilities must be held accountable in the implementation of their approved resiliency plans to ensure consumers are protected.

**Mark Bell, President and Chief Executive Officer, Association of Electric Companies of Texas**

Mark Bell, President and Chief Executive Officer of the Association of Electric Companies of Texas (AECT), explained how utilities are experiencing unprecedented challenges in Texas because Texas is adding new residents and businesses at a nation-leading rate. While connecting these new consumers, Texas and utilities are facing unprecedented weather events. Mr. Bell testified that H.B. 2555 was landmark legislation that allows utilities to develop and implement a longer-term plan for investing in grid resiliency by providing utilities with a mechanism to plan for, and invest in, resiliency projects that will help utilities better withstand extreme weather events and restore power more quickly to the customers and communities they serve.

Mr. Bell provided several examples of what can be found in a resiliency plan: strengthening of electric distribution facilities, strategically undergrounding electric distribution lines, investing in lightning and flood mitigation measures, cybersecurity improvements, vegetation management, and wildlife mitigation and response. Mr. Bell stated that H.B. 2555 represents a smart investment in infrastructure for the future, as it helps to reduce costs and ultimately benefits the consumer in the long-term.

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Mr. Bell explained how H.B. 2555 provides utilities with a better mechanism to strengthen their networks and to potentially avoid some of the costs of repetitive storm recovery. It also allows utilities the flexibility to include certain resiliency measures that make the most sense for a utility's service territory since the geographic regions of Texas are so diverse.

## **RECOMMENDATIONS**

1. **Active Oversight:** The PUC and other stakeholders who intervene in resiliency plan contested cases should guarantee that the plans are thoroughly reviewed to ensure a balance between increased resiliency and increased costs to consumers.
2. **Increased Resilience:** The Legislature encourages utilities to update their resiliency plans so their systems can withstand increased demand and future severe weather events.



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## **UPDATE ON THE IMPLEMENTATION OF H.B. 5174, RELATING TO THE ESTABLISHMENT AND ADMINISTRATION OF THE TEXAS SEMICONDUCTOR INNOVATION CONSORTIUM**

### **BACKGROUND**

The House Committee on State Affairs convened on Wednesday, July 31, 2024, at 9:00 a.m. to monitor the agencies and programs under the Committee’s jurisdiction and to conduct active oversight of all associated rulemaking and other governmental actions taken to ensure the intended legislative outcome of all legislation. This section of the report focuses on monitoring the implementation of H.B. 5174, relating to the establishment and administration of the Texas Semiconductor Innovation Consortium. The Committee heard invited testimony only. H.B. 5174, or the Texas CHIPS Act, established the Texas Semiconductor Innovation Consortium, the executive committee, and the Texas Semiconductor Innovation Fund. These entities are supported by a new division - the Texas CHIPS office in the Economic and Tourism office. The Texas Semiconductor Innovation Consortium and the Texas Semiconductor Innovation Fund aim to advance semiconductor research, innovation, and local manufacturing capabilities. They are expected to encourage semiconductor-related companies to expand in the state, further develop the expertise and capacity of Texas institutions of higher education, and maintain Texas’s position as the nation’s leader in semiconductor manufacturing. The consortium is governed by a nine member executive committee appointed by the Governor, Lieutenant Governor, and Speaker of the House of Representatives, as well as designees by the UT System's Chancellor and the Texas A&M System's Chancellor. The consortium itself is made up of designees from nineteen Texas higher education institutions.

### **SUMMARY OF COMMITTEE ACTION**

The following individuals testified:

*Witnesses are listed in alphabetical order*

Adriana Cruz, Executive Director Economic Development and Tourism, Office of Governor Greg Abbott

Glenn Hamer, President and Chief Executive Officer, Texas Association of Business

Jeremy Martin, Chief Executive Officer, Austin Chamber

### **FINDINGS**

#### **Summary of Testimony**

#### **Adriana Cruz, Executive Director of Economic Development and Tourism, Office of the Governor**

Adriana Cruz, Executive Director of Economic Development and Tourism, Office of the Governor, provided an update on the implementation of H.B. 5174. On March 19, 2024, the nine members of the executive committee were officially announced. Since that time, they have met

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eight times and have established three subcommittees to (1) design the scoring methodology for the Texas Semiconductor Innovation Fund, (2) begin the strategic planning process, and (3) lead the search for an Executive Director. The Texas Semiconductor Innovation Fund is a new incentive program which provides matching funds to higher education institutions for semiconductor projects and awards grants to businesses for economic development.

Ms. Cruz testified that Texas ranks number one in semiconductor manufacturing capacity in the nation. Mr. Cruz stated that as of July 31, 2024, the Executive Committee has recommended five grant applications, totaling approximately \$115.4 million, with one project already approved by the Legislative Budget Board.

### **Jeremy Martin, Chief Executive Officer, Austin Chamber of Commerce**

Jeremy Martin, Chief Executive Officer, Austin Chamber of Commerce, emphasized the strategic importance of semiconductor manufacturing for Texas's economic landscape. Mr. Martin stated that the Austin Chamber of Commerce represents over 1,700 businesses in central Texas. Since 2020, Texas has added approximately 60 new or expanded semiconductor-related manufacturing projects. He noted that this growth has been led by Samsung, which has established one of the most advanced semiconductor manufacturing facilities in the world. Samsung's Austin and Taylor campuses represent tens of billions of dollars of recent investment supporting tens of thousands of new jobs and great wages for these workers.

Mr. Martin stated that more than \$60 billion has been invested in Texas since passage of the Federal CHIPS and Science Act, with six projects expected to create more than 8,000 jobs in the coming years. He explained that this growth is taking place at the most opportune time for the Texas CHIPS Act to take effect, as significant federal funding has already been announced in the spring and summer of 2024. Mr. Martin recommended focusing on areas overlooked by the Federal CHIPS and Science Act, such as intellectual property and semiconductor design. He stressed that the consortium should ensure Texas remains at the forefront of semiconductor innovation by considering all companies involved throughout the process, from design to production.

### **Glenn Hamer, President and Chief Executive Officer, Texas Association of Business**

Glenn Hamer, President and Chief Executive Officer of the Texas Association of Business, testified that H.B. 5174 was a good supplement to cover gaps in the Federal CHIPS and Science Act. He stated that no state acted as aggressively as Texas in passing legislation to further the semiconductor industry. He explained that it is critical for Texas to maintain its leadership position in semiconductor manufacturing and semiconductor exports in order for Texas to remain the top place in the world for semiconductor investment. Mr. Hamer stated that Texas can continue to be the global powerhouse in the semiconductor industry if Texas maintains its leadership as the number one semiconductor exporter in the world. He noted that collaboration with universities is vital for ongoing development.

## **RECOMMENDATIONS**

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1. **Reduce Gaps between Federal and State Law:** The Legislature recommends that the consortium continues to identify gaps in the Federal CHIPS and Science Act and use the Texas CHIPS Act to fill in those gaps.

2. **Ongoing Communication:** The Legislature recommends that the consortium continues to collaborate with stakeholders to ensure appropriate funds are directed toward educational programs, research institutions, and industry partners to bolster talent and capabilities in Texas.

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# **UPDATE ON THE IMPLEMENTATION OF S.B. 1699, RELATING TO ELECTRICITY SERVICE IN THE ERCOT POWER REGION, INCLUDING THE PARTICIPATION OF AGGREGATED ENERGY RESOURCES IN THE ERCOT MARKET**

## **BACKGROUND**

The House Committee on State Affairs convened on Wednesday, July 31, 2024, at 9:00 a.m. to monitor the agencies and programs under the Committee’s jurisdiction and to conduct active oversight of all associated rulemaking and other governmental actions taken to ensure the intended legislative outcome of all legislation. This section of the report focuses on monitoring the implementation of S.B. 1699, relating to electricity service in the ERCOT power region, including the participation of aggregated energy resources in the ERCOT market. The Committee heard invited testimony only.

S.B. 1699 is a significant legislative effort aimed at advancing customer protections and promoting participation of Aggregated Distributed Energy Resources (ADER) in the ERCOT power region. The bill includes several key components, including establishing customer protections for aggregated distributed energy resources, implementing energy efficiency measures to reduce average residential loads, and supporting the participation of ADERs in the ERCOT market through pilot programs. The bill is focused on integrating distributed energy resources into the ERCOT market, thus enhancing energy efficiency, lowering customer bills, and improving grid reliability.

## **SUMMARY OF COMMITTEE ACTION**

The following individuals testified:

*Witnesses are listed in alphabetical order*

Sam Chang, Director and Associate General Council, CenterPoint Energy

Connie Corona, Executive Director, Public Utility Commission of Texas

Chris Ekoh, Deputy Public Counsel, Office of Public Utility Counsel

Cyrus Reed, Conservation Director, Sierra Club Lonestar Chapter

Woody Rickerson, Senior Vice President and Chief Operating Officer, Electric Reliability Council of Texas

## **FINDINGS**

### **Summary of Testimony**

#### **Connie Corona, Executive Director, Public Utility Commission**

Connie Corona, Executive Director of the PUC, highlighted the PUC's ongoing efforts to implement energy efficiency measures and customer protections under S.B. 1699. She reported that the PUC’s new energy efficiency division had been established with three positions funded

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by the legislature, two of which have already been filled. The new division is focused on implementing the requirements of S.B. 1699, including a rulemaking to reduce average residential loads through demand response programs. Ms. Corona stated that the PUC has received significant stakeholder feedback, which will be considered while finalizing this rule. The final adoption of this rule is expected by December 2024. The rulemaking, including PUC Staff's Proposal for Publication, can be found on the PUC's interchange under Project No. 56966, *Goal for Reducing Average Total Residential Load in the ERCOT Region*.<sup>1</sup>

Ms. Corona also mentioned the launch of a smart thermostat program by Oncor in partnership with four retail electric providers. This initiative aims to incentivize retail electric providers to install smart thermostats in customers' homes and to study how to encourage widespread deployment of smart thermostats. Implementation of S.B. 1699 will greatly benefit residential consumers by reducing energy usage and lowering bills.

**Woody Rickerson, Senior Vice President and Chief Operating Officer, Electric Reliability Council of Texas**

Woody Rickerson, Senior Vice President and Chief Operating Officer for ERCOT, provided testimony on the implementation of aggregate distributed energy resources (ADERs) in the ERCOT wholesale market. He explained that the ERCOT ADER pilot program began in July 2022 and involves aggregating many small individual sites into a virtual unit that can be dispatched like a single large site.

Mr. Rickerson provided details on the phased approach of the pilot program, which aims to minimize changes to ERCOT and distribution service provider systems while allowing for gradual integration of ADERs. Currently, the pilot has around 13 megawatts of total resources, with an additional 5 megawatts nearing participation. He noted that the phased approach has allowed ERCOT to gather valuable information to ensure smooth participation of ADERs in the market.

**Chris Ekoh, Deputy Public Counsel, Office of Public Utility Counsel**

Chris Ekoh, Deputy Public Counsel at OPUC, expressed support for S.B. 1699's focus on customer engagement and benefits. He applauded the legislature for adopting the bill and highlighted its potential to lower customer bills and improve grid reliability if properly implemented. Mr. Ekoh mentioned that OPUC supports practical and cost-effective strategies for customer participation in energy efficiency programs. He emphasized the importance of ensuring that energy efficiency programs address the needs of vulnerable populations, such as low-income individuals and individuals with medical conditions.

**Sam Chang, Director and Associate General Counsel, CenterPoint Energy**

Sam Chang, Director and Associate General Counsel at CenterPoint Energy (CenterPoint), described CenterPoint's efforts in the ADER pilot program, including their role as the chair of the PUC's ADER task force. Mr. Chang explained that CenterPoint worked with other

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stakeholders to design and implement a pilot program allowing ADERs to participate in the ERCOT energy-only market.

Mr. Chang described how there are currently two ADERs participating in the ERCOT market. There are approximately 13 megawatts participating on the energy side and an additional 12 megawatts participating on non-responsive reserve and ERCOT's contingency reserve. Mr. Chang also noted that there are eight ADERs in the queue, representing approximately 4.8 megawatts, which are expected to join the ERCOT wholesale market. He emphasized CenterPoint's ongoing efforts to allocate research and development funding to facilitate greater participation in distributed energy resources.

Mr. Chang was asked about the potential impact of ADERs on the distribution system. He responded by highlighting the significant growth in distributed energy resources since 2016, with approximately 46,000 new resources added, representing 700 megawatts. He emphasized the importance of studying the operational effectiveness of these resources to ensure grid stability.

### **Cyrus Reed, Legislative and Conservation Director, Sierra Club Lone Star Chapter**

Cyrus Reed, Legislative and Conservation Director of the Sierra Club Lone Star Chapter, discussed the PUC's rulemaking related to S.B. 1699. He emphasized the importance of allowing small consumers to participate in the energy market without the burden of registering to be a power generation companies. Mr. Reed also highlighted the need to allocate a portion of demand response budgets to support smart thermostat programs, which could help reduce weather-sensitive load during peak times.

Mr. Reed emphasized that widespread adoption of smart thermostats could significantly reduce customer bills. Mr. Reed expressed optimism that the upcoming PUC rulemaking would establish clear goals for customer participation in energy efficiency programs.

## **RECOMMENDATIONS**

- 1. Encourage Expansion of Smart Thermostat Programs:** Utilities should be encouraged to further develop demand response programs, including smart thermostat programs, as these initiatives can significantly reduce energy consumption and customer bills.
- 2. Focus on Vulnerable Populations:** Energy efficiency programs should prioritize vulnerable populations, such as low-income households and individuals with medical conditions. Ensuring equitable access to these programs will maximize the benefits of S.B. 1699 for all customers.
- 3. Stakeholder Collaboration:** The PUC, ERCOT, OPUC, and other stakeholders should continue collaborating to refine the ADER pilot program. This includes addressing technical challenges and ensuring that distributed energy resources are effectively integrated into the ERCOT market.

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# **UPDATE ON THE IMPLEMENTATION OF S.B. 2627, RELATING TO FUNDING MECHANISMS TO SUPPORT THE CONSTRUCTION, MAINTENANCE, MODERNIZATION, AND OPERATION OF ELECTRIC GENERATING FACILITIES**

## **BACKGROUND**

The House Committee on State Affairs convened on Wednesday, July 31, 2024, at 9:00 a.m. to monitor the agencies and programs under the Committee’s jurisdiction and to conduct active oversight of all associated rulemaking and other governmental actions taken to ensure the intended legislative outcome of all legislation. This section of the report focuses on monitoring the implementation of S.B. 2627, relating to funding mechanisms to support the construction, maintenance, modernization, and operation of electric generating facilities. The Committee heard invited testimony only.

S.B. 2627 established the Powering Texas Forward Act, which created the Texas Energy Fund (TEF), to quickly address the growing energy needs of the State of Texas. The TEF is a program that provides grants and loans to fund the construction, maintenance, and operation of electric facilities in Texas. The purpose of the TEF is to improve grid reliability by increasing Texas’s power supply by incentivizing new investment in dispatchable generation. The TEF consists of four programs:

- 1) In-ERCOT loans: Low-interest loans for qualifying companies to build new electric generation facilities or expand existing generation facilities in the ERCOT region;
- 2) In-ERCOT Completion Bonus Grants: Grants for qualifying generation facilities that complete construction and are connected to the ERCOT grid before a certain date;
- 3) Outside ERCOT Grants: Grants for modernization, weatherization, and reliability improvements for transmission and distribution infrastructure and electric generating facilities outside of the ERCOT power region; and
- 4) Texas Backup Power Package Loans and Grants: Loans and grants for qualified applicants to install backup power sources at facilities that support community health, safety, and well-being.

Last session, S.B. 2627 set aside \$5 billion in public funds to support construction of new power plants or the expansion of existing power plants in the ERCOT market, as well as in-ERCOT completion bonus grants.

## **SUMMARY OF COMMITTEE ACTION**

The following individuals testified:

*Witnesses are listed in alphabetical order*

Walt Baum, Chief Executive Officer, Powering Texans

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Mark Bell, President and Chief Executive Officer, the Association of Electric Companies of Texas, Inc.

Tony Bennett, President, Texas Association of Manufacturers

Connie Corona, Executive Director, Public Utility Commission of Texas

Chris Ekoh, Deputy Public Counsel, Office of Public Utility Counsel

Dean Foreman, Chief Economist, Texas Oil and Gas Association

Julia Harvey, Vice President, Government Relations & Regulatory Affairs, Texas Electric Cooperatives

Cyrus Reed, Conservation Director, Sierra Club Lonestar Chapter

Michele Richmond, Executive Director, Texas Competitive Power Advocates

Woody Rickerson, Senior Vice President and Chief Operating Officer, Electric Reliability Council of Texas

Hector Rivero, President and Chief Executive Officer, Texas Chemistry Council

## **FINDINGS**

### **Summary of Testimony and Update Post-Hearing**

PUC executive director, Connie Corona, testified that the in-ERCOT loan application period for the Texas Energy Fund opened on June 1, 2024 and closed eight weeks later on July 27, 2024. The PUC received 72 applications, representing about \$24.5 billion of requested funding for approximately 38,000 megawatts of dispatchable generation. The PUC Staff, together with their contracted consultant, Deloitte, reviewed the applications and presented a portfolio of recommended projects to the PUC Commissioners at the August 29, 2024 PUC open meeting.<sup>2</sup> The recommendations were based on the statute, the PUC's rule, and program priorities that the PUC Commissioners have individually shared with PUC Staff.

At the August 29, 2024 PUC open meeting, the Commissioners selected 17 projects to move on to the due diligence review phase. Subsequently, on September 3, 2024, Mitchell Ross, Vice President and General Counsel of NextEra Energy Resources, one of the companies named in a TEF application chosen to move on to the due diligence stage, filed a letter with the PUC stating: "NextEra's name was submitted in the Aegle application without NextEra's knowledge or consent. NextEra is not seeking funding as part of the TEF Program, is not participating in the project for which NextEra was named, and hereby requests that NextEra be immediately removed from PUCT records as a sponsor for the Eagle Power project."<sup>3</sup> On September 4, 2024, the PUC filed an order Denying NextEra and Aegle Power's TEF loan application.<sup>4</sup>

After NextEra and Aegle Power's TEF loan application was denied, the PUC has 16 projects remaining in the due diligence review phase for the in-ERCOT loan and in-ERCOT bonus completion program. The 16 proposed projects represent \$4.5 billion of requested funding and a combined 8,489 megawatts of dispatchable generation. Applicants who successfully complete the due diligence phase will then execute a loan application with the PUC. Ms. Corona testified that the due diligence process should take approximately four months, and loan disbursements will begin in late 2025 before the December 31, 2025 statutory deadline.



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After discussions that occurred during the Joint Advisory Committee on the Texas Energy Fund hearing on October 8, 2024, regarding errors made in the application review process that enabled NextEra and Aegle Power's application to be selected for due diligence, Deloitte has agreed to credit the PUC with 10% of its TEF contract value, totaling \$7,300,000.00.

The next program in TEF is the Backup Power Package Program, which has the potential to fund up to \$1.8 billion. The funds involved in this program will enable entities to install backup power sources at facilities that support community health, safety, and well-being. The statute enacted with S.B. 2627 (PURA § 34.0203) required the PUC to contract with a research entity to develop specifications for these backup power packages. Ms. Corona stated that the PUC had just finalized that contract prior to testifying at the July 31, 2024 State Affairs hearing. PURA § 34.0203 also created an advisory committee that has been meeting since early 2024. The PUC will use reports from the contractor and from the advisory committee to help design this program.

The next component of the TEF program is the Outside-ERCOT Grants. This program has the potential to fund up to \$1 billion and is used for transmission and distribution infrastructure or electric generating facilities in Texas outside of the ERCOT power region. Grants can be used for modernization of infrastructure; weatherization; reliability and resiliency enhancements; and vegetation management.

On September 26, 2024, the PUC filed a Proposal for Publication for Outside-ERCOT Grants. The Proposal for Publication can be found on the PUC Interchange under Project No. 57004, *Texas Energy Fund Grants for Facilities outside of the ERCOT Region*.<sup>5</sup> The deadline to file public comment on the proposal for publication was November 7, 2024. Ms. Corona testified that public comment will aide in designing the program, shedding light on which types of projects the program should fund. The PUC expects this rule to be adopted in Summer 2025.

The final TEF program is the Completion Bonus Grant Program. Qualifying entities must build new dispatchable electric generation facilities that add a minimum of 100 MW of new capacity to the grid. Grants are tiered, with a \$120,000 per megawatt bonus for facilities completed prior to June 1, 2026 and an \$80,000 per megawatt bonus for facilities completed prior to June 1, 2029. This program has a maximum of 10,000 MW in combination with the In-ERCOT Loan Program, and it has the potential to fund up to \$7.2 billion in combination with the In-ERCOT Loan Program. Under this program, bonuses will be paid out in installments over 10 years to newly constructed generation facilities that meet certain performance standards.

ERCOT's Senior Vice President and Chief Operating Officer, Woody Rickerson, testified that ERCOT's engagement with TEF projects begins when an applicant for a TEF loan enters into the ERCOT generation interconnection queue. As the applications enter into the queue, ERCOT will facilitate a tracking system for TEF awarded projects so ERCOT can track where the projects are, how many there are, and whether they will be able to interconnect to the ERCOT grid.

The Joint Advisory Committee on the Texas Energy Fund convened on October 8, 2024 where additional information and updates regarding S.B. 2627 and the TEF were discussed.

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## RECOMMENDATIONS

1. **Evaluate Continued Spending for the Texas Energy Fund:** S.B. 2627 contemplates a total of \$10 billion for the Texas Energy Fund: \$7.2 billion for inside ERCOT loans and grants, \$1 billion for outside ERCOT grants, and \$1.8 billion for the Backup Power Package. The 88<sup>th</sup> Legislature appropriated \$5 billion for the Fund, the balance of which was spend exclusively on inside ERCOT loans. As the Legislature considers additional money for the fund in the 89<sup>th</sup> Session, it should do so within the existing framework.

2. **Continuous Monitoring:** The PUC should ensure that the due diligence process for applicants is thorough yet efficient, with established timelines and performance benchmarks. This will help minimize delays in loan execution and project initiation while safeguarding the state from potential defaults.

3. **Public Transparency:** The PUC should maintain public transparency regarding the status of TEF applications, allowing the public to understand which projects are receiving funding and how taxpayer funds are being allocated.

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**UPDATE ON THE IMPLEMENTATION OF H.B. 1500, RELATING TO  
THE CONTINUATION AND FUNCTIONS OF THE PUBLIC UTILITY  
COMMISSION OF TEXAS AND THE OFFICE OF PUBLIC UTILITY  
COUNSEL, AND THE FUNCTIONS OF INDEPENDENT  
ORGANIZATIONS CERTIFIED FOR THE ERCOT POWER REGION,  
INCREASING AN ADMINISTRATIVE PENALTY**

**BACKGROUND**

The House Committee on State Affairs convened on Wednesday, July 31, 2024, at 9:00 a.m. to monitor the agencies and programs under the Committee’s jurisdiction and to conduct active oversight of all associated rulemaking and other governmental actions taken to ensure the intended legislative outcome of all legislation. This section of the report focuses on monitoring the implementation of H.B. 1500. The Committee heard invited testimony only.

H.B. 1500 is a Sunset bill for the Public Utility Commission of Texas (PUC), the Electric Reliability Council of Texas (ERCOT), and the Office of Public Utility Counsel (OPUC). It encompasses the Legislature’s statutory direction on these agencies’ most recent Sunset review and other issues about the regulation of electric, water, and telecommunication services in the state of Texas.

**SUMMARY OF COMMITTEE ACTION**

The following individuals testified:

*Witnesses are listed in alphabetical order*

Walt Baum, Chief Executive Officer, Powering Texans

Mark Bell, President and Chief Executive Officer, the Association of Electric Companies of Texas, Inc.

Tony Bennett, President, Texas Association of Manufacturers

Connie Corona, Executive Director, Public Utility Commission of Texas

Chris Ekoh, Deputy Public Counsel, Office of Public Utility Counsel

Dean Foreman, Chief Economist, Texas Oil and Gas Association

Julia Harvey, Vice President, Government Relations & Regulatory Affairs, Texas Electric Cooperatives

Cyrus Reed, Conservation Director, Sierra Club Lone Star Chapter

Michele Richmond, Executive Director, Texas Competitive Power Advocates

Woody Rickerson, Senior Vice President and Chief Operating Officer, Electric Reliability Council of Texas

Hector Rivero, President and Chief Executive Officer, Texas Chemistry Council

Jean Ryall, Consultant, Advanced Power Alliance

**FINDINGS**

**Summary of Testimony**

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**Connie Corona, Executive Director, Public Utility Commission of Texas**

Connie Corona, Executive Director of the PUC, describes steps the PUC has taken since the implementation of H.B. 1500. Ms. Corona stated that the PUC has more than a dozen projects currently opened to implement various sections of H.B. 1500. Ms. Corona outlined key implementation efforts that the PUC has already taken or have underway.

**Operational and Governance Improvements:** The PUC has implemented a new Commissioner orientation program and adopted a process for Commission-approval of the ERCOT protocols before those take effect, as required by H.B. 1500.

**Performance Credit Mechanism (PCM):** Ms. Corona explained that the PUC is nearing the end of the scoping process for the cost-benefit studies that ERCOT and the independent market monitor (IMM) will each conduct this fall. Stakeholder input has been gathered, and the PUC expects to receive these studies from ERCOT and the IMM by December 2024. Ms. Corona stated that the PUC will have this information available for the Legislature to discuss next session.

Subsequent to Ms. Corona's testimony at the State Affairs hearing on July 31, 2024, the PUC approved the final recommendations on the 37 PCM parameters on August 29, 2024.<sup>6</sup> ERCOT and the IMM will deliver their analyses to the PUC by the first week in November and will file their final analysis with the PUC prior to the week of November 25, 2024. This information can be found on the PUC Interchange under Project No. 55000, *Performance Credit Mechanism (PCM) Cost-Benefit Analysis Policy Parameters*.

**Rulemakings and Studies:** The PUC has completed two key rulemakings arising from the H.B. 1500. One of those rules is the transmission interconnection allowance rule, which became effective in March 2024. In that rule, the PUC adopted a two-tiered allowance based on voltage levels. The allowance begins in 2026 and will be adjusted each year. The rule requires that the allowance be reviewed every five years, but it could be reviewed earlier as well.

Ms. Corona stated that the PUC has also finalized changes to three rules that revise the standards, processes, and penalties around voluntary mitigation plans for wholesale market participants.

Ms. Corona highlighted that PUC Staff is working on numerous studies and reports that were required by H.B. 1500 and is partnering with ERCOT on many of these. Additionally, the PUC is preparing several reports, including the biennial agency report, which will include PUC's legislative recommendations. These recommendations will be provided to the Legislature in January 2025.

**Woody Rickerson, Senior Vice President and Chief Operating Officer, Electric Reliability Council of Texas**

Woody Rickerson, Senior Vice President and Chief Operating Officer for ERCOT, described key provisions of H.B. 1500 that ERCOT has been involved in. Mr. Rickerson testified that ERCOT is providing support to the PUC regarding the PCM. H.B. 1500 also speaks to dispatchable

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reliability reserve service (DRRS), which is designed to ensure sufficient dispatchable power is available during times of high demand. He noted that DRRS protocol revisions only focus on generation resources and do not include batteries or controllable load resources. Some stakeholders expressed concern with batteries being excluded from DRRS.

Mr. Rickerson testified that ERCOT is helping and supporting the PUC in several of its reports, including the biennial agency report, dispatchable and non-dispatchable generation report, and consolidated electric industry report. Mr. Rickerson also stated that ERCOT has complied with all provisions from H.B. 1500 requiring the posting of reasons for generation outages and is participating in a PUC project to determine what constitutes a significant power outage.

### **Chris Ekoh, Deputy Public Counsel, Office of Public Utility Counsel**

Chris Ekoh, Deputy Public Counsel of the Office of Public Utility Counsel (OPUC), highlighted the successful implementation of four of the main Sunset Commission recommendations, including completing a formal analysis for outsourcing legal consultants, widening qualification requests for consultants, requiring outside consultants and experts to sign conflict of interest statements, and documenting expert witness performance. Mr. Ekoh stressed that OPUC is actively involved in all PUC and ERCOT rulemakings, filing comments and reply comments when needed.

### **Cyrus Reed, Legislative and Conservation Director, Sierra Club Lone Star Chapter**

Cyrus Reed, Legislative and Conservation Director of the Sierra Club Lone Star Chapter, described how H.B. 1500 has improved public access to PUC meetings and better transparency in the regulatory process, including permitting the public to give public comment at PUC open meetings on any open meeting item other than a contested case. He also noted that the PUC's website has improved, making it easier to find information, such as the deadlines for filing public comment. Mr. Reed expressed disagreement with ERCOT's exclusion of battery storage from DRRS and called for its future inclusion. He also highlighted the need for a full analysis of ancillary services as mandated by H.B. 1500.

### **Walt Baum, Chief Executive Officer, Powering Texas**

Walt Baum, Chief Executive Officer of Powering Texas, emphasized the importance of the reliability standard rulemaking, as it sets the foundation for subsequent market structure changes to meet that reliability standard. After Mr. Baum provided testimony at the State Affairs hearing on July 31, 2024, the PUC adopted the reliability standard in Project No. 54584, *Reliability Standard for the ERCOT Region*, on September 9, 2024. This new rule can be found in 16 TAC § 25.508. Mr. Baum's testimony also stressed the need for regulatory certainty to encourage investment in generation and maintain Texas's reputation as being open for business.

### **Michele Richmond, Executive Director, Texas Competitive Power Advocates**

Michele Richmond, Executive Director of Texas Competitive Power Advocates, echoed Mr. Baum's emphasis on the reliability standard rulemaking and regulatory certainty. She

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emphasized the need for a defined reliability standard as a foundation for market stability and expressed optimism about the direction of implementation. Subsequent to Ms. Richmond's testimony, the PUC adopted the reliability standard on September 9, 2024 in Project No. 54584.

Ms. Richmond noted how ERCOT has been operating in a conservative manner since Winter Storm Uri. She stressed the need to factor these conservative operations into all of the market outcomes that are underway so that what happens in the ERCOT control room is reflected in the competitive market. This allows the industry to avoid out-of-market interventions and achieve the reliability standard through the competitive market. Ms. Richmond also highlighted that the recent drop in forward markets illustrated the influence of PUC decisions, indicating investor concerns over market certainty.

### **Julia Harvey, Vice President of Governmental Relations, Texas Electric Cooperatives**

Julia Harvey, Vice President of Governmental Relations, Texas Electric Cooperatives, noted several key areas of implementation of H.B. 1500, such as generation interconnection cost allocation, DRRS, and generation reliability requirements. In regard to generation interconnection cost allocation, Ms. Harvey expressed support for the provision that assign a portion of transmission costs associated with new generation directly to the generator, noting that it puts some controls around potentially excessive costs that would otherwise entirely be borne by the consumer. The PUC has adopted this change, and it will apply beginning in 2026. Ms. Harvey noted that this rulemaking will ensure that transmission costs are managed fairly and efficiently.

In regard to DRRS, Ms. Harvey explained that DRRS will assist ERCOT in managing uncertainty on the system through a market based product rather than an out-of-market action, such as a reliability unit commitment. Ms. Harvey emphasized that market based solutions will always be superior to out-of-market solutions.

Ms. Harvey expressed a favorable view of H.B. 1500, noting that significant progress had been made in implementing the provisions of the bill, though it remains a work in progress.

### **Mark Bell, President and Chief Executive Officer, Association of Electric Companies of Texas**

Mark Bell, President and Chief Executive Officer of the Association of Electric Companies of Texas, highlighting the provisions of H.B. 1500 that implicate policy changes among all segments of the electric industry, including transmission cost allocation to promote more efficient generation siting provisions. H.B. 1500 also includes multiple changes to the competitive wholesale market operations, including the creation of DRRS, to incentivize new thermal build and to keep existing thermal plants online. H.B. 1500 also includes firming requirements for new generation and an annual report to the PUC on the competitive retail market.

Mr. Bell emphasized that investment in Texas's electrical infrastructure depends on regulatory certainty and responding to clear rules. He stated that over the last two sessions, the Legislature

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has provided market participants with the tools needed to meet the state's ongoing and future growth.

### **Tony Bennett, President, Texas Association of Manufacturers**

Tony Bennett, President of Texas Association of Manufacturers (TAM), which represents over 600 manufacturers around the State of Texas, with many of them being Texas's largest employers. Mr. Bennett testified that TAM believes the ERCOT grid should be designed to serve the needs of all Texas consumers, providing them with reliable and affordable electricity. Mr. Bennett advocated for a reliability standard without creating a capacity market construct in order to protect consumers from increased costs.

He emphasized the need for a reasonable reliability target to evaluate the health of the ERCOT market while avoiding burdensome government-run programs like the PCM. Mr. Bennett stressed that Texas could rely on other tools like the Texas Energy Fund, together with enhanced funding for transmission and distribution systems, to make the grid more resilient and further enhance consumer trust in ERCOT.

### **Hector Rivero, President, Texas Chemistry Counsel**

Hector Rivero, President of Texas Chemistry Counsel (TCC), which represents the business of chemistry in Texas. Texas is home to the largest production of commodity chemicals that are utilized worldwide. The members of TCC own and operate about 200 manufacturing facilities across the state and are responsible for nearly 500,000 jobs in Texas. Mr. Rivero emphasized that reliability of the grid and affordable electricity are key to the viability of Texas's chemical industry.

Mr. Rivero explained that TCC supports the inclusion of ancillary services, such as dispatchable reliability reserve services on a day-ahead basis, which can adequately meet Texas's grid demands without the need for customers to pay for generation that goes unused. Mr. Rivero opposed the PCM, arguing that it was unnecessary and costly. Mr. Rivero also commended ERCOT's performance since Winter Storm Uri, stating that the grid has remained reliable without any capacity issues.

### **Jean Ryall, Consultant, Advanced Power Alliance**

Jean Ryall, Consultant, for Advanced Power Alliance (APA), highlighted concerns about ERCOT's exclusion of battery storage from participating in DRRS. She argued that it was important to allow battery resources to contribute to reliability and asked for a timeline for their inclusion. Ryall also expressed concerns about the PCM, specifically regarding its unrealistic presumptions that artificially increase scarcity and its projected annual cost to the market of about \$21 billion. APA members support the \$1 billion annual net cost cap established by the legislature.

Ms. Ryall requested that the Legislature always place emphasis on non-discriminatory policies, as these will allow the complementary strengths of low-cost, renewable resources, battery energy

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storage, and thermal power to operate collectively to increase reliability of the electric system. This approach, coupled with forward looking investment in transmission, will lead to maximum reliability at an affordable cost.

### **Dean Foreman, Chief Economist, Texas Oil and Gas Association**

Dean Foreman, Chief Economist of Texas Oil and Gas Association, whose members produce 90% of the crude oil and natural gas in Texas, expressed appreciation for H.B. 1500's inclusion of an ancillary services program for DRRS on both the day-ahead and real-time market. He noted that this should help mitigate market uncertainty and ensure grid stability and reliability.

Mr. Foreman also supported the PUC's recent decision to eliminate the price floor on the ERCOT contingency reserve service. Mr. Foreman emphasized the need to keep ancillary services cost-effective and avoid redundancy with the PCM, which he views as unnecessary.

Mr. Foreman also noted that transmission owners should be able to recover interconnection costs so long as those costs are reasonable and do not inhibit the growth of any new generation capacity.

## **RECOMMENDATIONS**

- 1. Inclusion of Battery Storage in DRRS:** The Legislature should examine whether additional legislation is needed to include battery storage in the implementation of Dispatchable Reliability Reserve Service.
- 2. Enhanced Transparency in Regulatory Processes:** The PUC should continue efforts to increase public engagement and provide clear timelines and progress updates on rulemaking initiatives.
- 3. Balance Between Reliability and Costs:** The PUC should ensure that the reliability standard does not unduly burden consumers with high costs by considering specific market-based solutions, such as demand response programs, dynamic pricing, and competitive procurement of ancillary services.
- 4. Continued Implementation and Communication:** The Legislature recommends that the PUC and ERCOT continue to implement the rules and protocols required by H.B. 1500 and continue to communicate any updates or issues to the Legislature. The Legislature encourages stakeholders to continue communicating progress, as well as setbacks and concerns, that result from the implementation of H.B. 1500.



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# UPDATE ON ASSESSING UTILITY PREPAREDNESS, RESPONSE, AND RECOVERY PROTOCOLS, AS WELL AS REVIEWING RECENT UTILITY PERFORMANCE IN ADDRESSING SEVERE WEATHER EVENTS

## BACKGROUND

The House Committee on State Affairs convened on Wednesday, July 31, 2024, at 9:00 a.m. to monitor the agencies and programs under the Committee’s jurisdiction and to conduct active oversight of all associated rulemaking and other governmental actions taken to ensure the intended legislative outcome of all legislation. This section of the report focuses on monitoring utility preparedness, response, and recovery protocols, as well as reviewing recent utility performance in addressing severe weather events, including Hurricane Beryl. The Committee heard invited testimony only.

## SUMMARY OF COMMITTEE ACTION

The following individuals testified:

*Witnesses are listed in alphabetical order*

Chris Ekoh, Deputy Public Counsel, Office of Public Utility Counsel  
Huey German Wilson, Super Neighborhood #48-Trinity / Houston Gardens  
Thomas Gleeson, Chairman, Public Utility Commission of Texas  
Nick Hadjigeorge, Director of Public Utility Regulation, City of Houston  
Scott Harper, President, Conroe / Lake Conroe Chamber of Commerce  
Kerry Kelton, General Manager, MidSouth Electric Cooperative  
Mark Keough, Montgomery County Judge  
Nim Kidd, Chief, Texas Division of Emergency Management and Vice Chancellor for Disaster and Emergency Services for the Texas A&M University System  
John Nielsen-Gammon, Director, Southern Regional Climate Center, Texas State Climatologist  
Joseph Allen Provost, Community Servant, North of 610 East of 59  
Lon Squyres, City Manager and Emergency Management Coordinator, Jacinto City  
Pablo Vegas, President and Chief Executive Officer, Electric Reliability Council of Texas  
Eli Viamontes, President and Chief Executive Officer, Entergy Texas, Inc.  
Jason Wells, Chief Executive Officer, CenterPoint Energy

## FINDINGS

### Summary of Testimony from Utilities

#### Jason Wells, Chief Executive Officer, CenterPoint Energy

Jason Wells, Chief Executive Officer of CenterPoint Energy (CenterPoint), acknowledged the shortcomings of the utility's response to Hurricane Beryl, expressing regret for not meeting customer expectations. Mr. Wells noted that the storm inflicted widespread damage across the

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greater Houston area, leaving 2.265 million customers without power. CenterPoint restored power to one million customers within 48 hours and to 98% of customers within nine days after the storm. This restoration involved replacing over 3,000 electric poles, inspecting over 8,500 circuit miles to repair damage to power lines, and removing or trimming over 35,000 trees and other vegetation. Mr. Wells expressed appreciation for the efforts of the crews, contractors, and first responders who helped CenterPoint restore power to its customers.

Mr. Wells discussed three pillars of improvement that CenterPoint would be implementing to ensure CenterPoint is better prepared for future weather events: resilience, communication, and community partnerships. In regard to resiliency, CenterPoint plans to enhance its vegetation management program by doubling its workforce and using advanced technology to identify high-risk areas. Mr. Wells stated that 100% of the remaining pole replacements in 2024 will use composite poles instead of wooden poles to increase resiliency.

To improve communication, CenterPoint launched a cloud-based outage tracker and overhauled its emergency communications to include daily public briefings in the days following Hurricane Beryl. To strengthen CenterPoint's local partnerships and coordination, Mr. Wells mentioned hiring a new emergency operations leader and fostering closer coordination with local partners and communities. Subsequent to Mr. Wells' testimony, on October 28, 2024, CenterPoint announced the hiring of Don Daigler as the Senior Vice President of CenterPoint's Emergency Preparedness and Response team.<sup>7</sup>

### **Kerry Kelton, Chief Executive Officer, MidSouth Electric Cooperative**

Kerry Kelton, Chief Executive Officer of MidSouth Electric Cooperative (MidSouth Electric), testified that Hurricane Beryl significantly impacted the MidSouth Electric service area, leaving over 75% of its customers without power. However, the utility was able to fully restore power to 100% of its customers by July 11, 2024, four days after the storm passed. Mr. Kelton attributed this success to MidSouth Electric's proactive approach, including high construction standards implemented after previous hurricanes and a robust vegetation management program based on technology. He also highlighted MidSouth Electric's year-round maintenance efforts and investments in reliability technology as crucial to their restoration efforts.

Mr. Kelton emphasized the importance of MidSouth Electric's network within Texas, which allowed other cooperatives to assist MidSouth Electric during restoration. The utility's strong partnership with business contractors and proactive material stockpiling also contributed to the prompt restoration. Mr. Kelton also discussed workforce readiness, stating that annual drills and pre-contracted business partnerships were essential to MidSouth Electric's ability to respond quickly to emergencies.

### **Elicer Viamontes, President and Chief Executive Officer, Entergy Texas**

Elicer Viamontes, President and Chief Executive Officer of Entergy Texas (Entergy) stated that storm preparedness is a year-round effort. Mr. Viamontes provided an overview of the impact Hurricane Beryl had on Entergy's service area, with Montgomery County being the most affected. Mr. Viamontes stated that at the peak of Beryl's impact, 250,000 customers were

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without power. Two days after landfall, 57% of affected customers had their power restored, and by July 14, 2024, 94% of customers' power was restored. He described Entergy's efforts in restoring power, which included deploying 2,500 personnel and maintaining direct communication with local officials and customers. Mr. Viamontes noted that Entergy's outage tracker kept customers informed throughout the restoration process.

Mr. Viamontes explained that the primary cause of power outages in Entergy's service territory was caused by falling trees, including over 800 damaged poles and approximately 158 miles of downed wires. Mr. Viamontes stated that 87% of the outages were caused by trees outside of Entergy's right of way. He stressed the importance of preventive vegetation management and noted that facilities that Entergy hardened in accordance with their latest resiliency standards fared well during Hurricane Beryl.

### **Summary of Testimony from State Agencies**

#### **Thomas Gleeson, Chairman. Public Utility Commission of Texas**

Thomas Gleeson, Chairman of the PUC, provided an overview of the PUC's ongoing efforts to investigate and respond to the Hurricane Beryl incident. He testified that in response to Governor Abbott's July 14, 2024 directive, the PUC opened an investigation to study all of the events related to Hurricane Beryl, including preparation, activities during the storm, and activities post-storm involving restoration. Mr. Gleeson stated that the PUC will present a report outlining findings and recommendations to the Governor by December 1, 2024. Mr. Gleeson explained that the report will include issues such as communication, vegetation management plans, use of mobile generation resources, and infrastructure and storm hardening of the grid.

Mr. Gleeson described the issuance of requests for information to all the utilities in the Greater Houston Area involved in Hurricane Beryl and emphasized that all findings will be made public to ensure transparency. Information regarding the investigation, along with the requests for information and responses, can be found on the PUC Interchange under Project No. 56822, *Investigation of Emergency Preparedness and Response by Utilities in Houston and Surrounding Communities*. Mr. Gleeson spoke of the need to enhance the rights of utilities to trim trees beyond their existing easement areas to prevent damage to power lines during storms.

#### **Pablo Vegas, President and Chief Executive Officer, Electric Reliability Council of Texas**

Pablo Vegas, President and Chief Executive Officer of ERCOT detailed ERCOT's coordination with market participants before, during, and after Hurricane Beryl. He described the annual training exercises ERCOT conducts, including alternating between hurricane and ice storm drills. Mr. Vegas outlined ERCOT's proactive measures, including issuing an Operating Condition Notice ahead of Hurricane Beryl's landfall; coordinating with market participants, including transmission operations, qualified scheduling entities, and generation facilities; and managing fuel supplies.

After Hurricane Beryl made landfall, ERCOT continually tracked and monitored the generation resources and transmission to ensure the grid would remain stable. He responded to questions

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from the committee about grid scarcity and emphasized the importance of dispatchable generation to maintain balance.

### **Chris Ekoh, Deputy Public Counsel, Office of Public Utility Counsel**

Chris Ekoh, Deputy Public Counsel of the Office of Public Utility Counsel (OPUC), stated that OPUC's role during Hurricane Beryl was to be a resource for consumers regarding their utility needs. He testified that one of OPUC's most important roles is helping connect consumers to resources and information in times of emergencies. Regarding Hurricane Beryl, OPUC compiled a comprehensive list of resources informing affected residents of where to report outages and downed power lines. OPUC also provided information regarding where to check for road closures, local TDEM contacts, and locations of cooling centers across the Beryl-impacted areas.

OPUC was engaged in all of the daily TDEM calls so OPUC could provide updated information on its website and social media to keep the public informed in regard to things such as boil water notices, information on reporting damages to TDEM, and applying for assistance through FEMA. Mr. Ekoh highlighted that vegetation management is an issue that needs to be addressed and suggested that educating consumers who live in high-risk areas is a good starting point.

### **Nim Kidd, Chief, Texas Department of Emergency Management, Vice Chancellor for Disaster and Emergency Services for the Texas A&M University System**

Nim Kidd, Chief of Texas Division of Emergency Management and Vice Chancellor for Disaster and Emergency Services for the Texas A&M University System, described the state's response during Hurricane Beryl, which included deploying more than 2,500 outside-of-area local first responders to support the state's local officials in affected areas. He stated that the most important action TDEM took following Hurricane Beryl was setting up a resource staging area to help deliver food, water, and ice. Chief Kidd also discussed the difficulties of coordinating emergency communications across multiple jurisdictions and highlighted the importance of improving local alert systems to prevent misinformation during emergencies.

## **Summary of Testimony from Local Officials and the Public**

### **Local Officials**

Mark Keough, Montgomery County Judge, expressed strong criticism of CenterPoint, emphasizing what he considered a lack of transparency and poor communication during Hurricane Beryl. He stressed that the public has lost trust in CenterPoint due to misleading information and failure to properly coordinate restoration efforts following Hurricane Beryl. Mr. Keough called for leadership changes at CenterPoint and urged for more accountability within utility companies.

Scott Harper, President of Conroe / Lake Conroe Chamber of Commerce, highlighted the impact of prolonged power outages on local businesses, healthcare facilities, and educational institutions. He described how the loss of power affected critical infrastructure, leading to overburdened hospitals and closed preschools. Mr. Harper also discussed the economic impact

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on local businesses, noting that outages interrupted commerce because ATM withdrawals and credit card payments could not be made without power.

Lon Squyres, City Manager and Emergency Management Coordinator, Jacinto City, provided insight into the operational challenges faced by Jacinto City, including inadequate communication from CenterPoint and the reliance on Jacinto City to clear tree debris left behind by utility crews who cut down those trees. He emphasized the need for better coordination between local governments and utility companies to avoid placing additional financial burdens on cities for post-storm clean-up.

Nick Hadjigeorge, Director of Utility Regulation, City of Houston, raised concerns regarding mobile generation units. He argued for greater regulatory oversight of TDUs, requiring them to obtain approval from the PUC before entering into, renewing, or extending a lease involving temporary emergency electric energy facilities, such as mobile generation units. He argued that this would ensure TDUs do not enter into leases that are too expensive or that do not meet the City of Houston's load-shedding needs.

Mr. Hadjigeorge called for transparency in the deployment and use of temporary generation units, suggesting that some proposed expenses do not align with residents' actual needs. He also emphasized that any investments aimed at resiliency should directly benefit consumers, and he urged the PUC to only approve resiliency plans that fund measures which are proven to enhance electric service and infrastructure resilience.

### **Summary of Testimony from Public Representatives**

Allen Provost, Community Servant, North of 610 East of 59, described the community-level impacts of Hurricane Beryl, particularly the challenges residents faced regarding lack of communication and accessing food, medical care, and fuel during prolonged outages. He emphasized the importance of having accurate, real-time information during a disaster, as misinformation compounded the difficulties faced by residents.

Huey German Wilson, Resident and President of Super Neighborhood 48 Trinity / Houston Gardens, testified about the traumatic experience faced by her community due to the prolonged lack of power, with her community being out of power for over seven days. She described the hardship experienced by elderly residents, lack of adequate communication from CenterPoint, and the ongoing challenges with fallen trees and destroyed infrastructure. She called for accountability and an enhanced focus on improving community resilience. She also noted that communities that endured such extreme power outages following Hurricane Beryl should not be subject to rate increases.

## **KEY ISSUES AND CHALLENGES IDENTIFIED**

### **1. Vegetation Management Challenges, Including Easement Issues**

Vegetation management, both within and beyond utility easement areas emerged as a significant factor in utility performance during the Hurricane Beryl event. Representatives cited numerous

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instances where overgrown vegetation caused damage to power lines, delaying restoration efforts. Representatives criticized CenterPoint's vegetation management strategy, citing the apparent underinvestment compared to other utilities.

Mr. Wells testified that almost all the problems CenterPoint experienced during and after Hurricane Beryl was attributed to vegetation management issues. Mr. Wells explained that 60% of the damage caused by downed power lines and poles was caused by vegetation outside of CenterPoint's right of way, and CenterPoint does not have access to clear vegetation outside of its right of way without the landowner's consent. He stated that vegetation outside of CenterPoint's right of way was the primary source of power outages following Hurricane Beryl. Representative Spiller questioned some of Mr. Wells' explanations regarding CenterPoint's authority with its current easement agreements and suggested that CenterPoint revisit these agreements.

Representative Spiller also inquired why CenterPoint was unable to adequately manage vegetation within its right of way and pointed out that nearly 40% of the damage was due to issues within CenterPoint's own easements. Mr. Wells committed to improving vegetation management and increasing in-house staff and training to reduce CenterPoint's reliance on outside contractors. Mr. Wells stated that as of July 16, 2024, CenterPoint has doubled its vegetation workforce to attack the 2,000 riskiest miles of vegetation before the remainder of the year. Mr. Wells explained that in 2023, nearly 5,400 miles of vegetation were being managed annually, as part of a five-year cycle, which proved insufficient given the scale of recent weather events. CenterPoint is increasing the number of miles managed annually and is using advanced analytics to better target vegetation that poses a risk to infrastructure.

## **2. Increased Resiliency**

Increasing resiliency and hardening electric infrastructure was also discussed, with a particular focus on replacing wooden poles with more resilient poles, such as composite poles. Mr. Wells emphasized that, while wooden poles were used for immediate restoration following Hurricane Beryl, composite poles will be prioritized for future resiliency. Mr. Wells stated that while 1,000 wooden poles are set to be replaced by composite poles by the end of 2024, full-scale replacement efforts are being reassessed based on cost and priority areas. CenterPoint is also exploring raising pole heights and increasing pole strength as part of its increased resiliency efforts.

## **3. Communication Gaps**

Inconsistent information and lack of direct contact with customers led to frustration and hindered planning during outages. CenterPoint was criticized for insufficient communication regarding power restoration timelines. Legislators expressed frustration over inconsistent and unclear information about the duration of outages, preventing effective planning by residents. Representatives noted that the failure of CenterPoint's outage tracker to accurately depict outages and restorations was unacceptable and must be prioritized for future weather events.

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Mr. Wells acknowledged the communication failures and stated that only 42% of customers had opted in for direct notifications, significantly limiting outreach. He explained that CenterPoint maintains a service relationship with its customers, meaning CenterPoint knows where every meter is and knows every address they provide service to. However, CenterPoint does not maintain a commercial relationship with its customers—these are handled by retail electric providers. Consequently, CenterPoint lacked comprehensive customer contact information, making direct communication challenging. To address this, Mr. Wells suggested a policy change requiring retail energy providers to share customer contact information during emergencies.

Representatives also raised concerns about first responders lacking adequate contact information for priority individuals, such as those who rely on life saving medical equipment that require electricity. Representative Turner asked Chief Kidd if TDEM has a system that aids first responders in assisting priority individuals during severe weather events. Chief Kidd responded that Texas uses a system called STEAR, State of Texas Emergency Assistance Registry, which allows an individual or a family member of the individual to register with their local government to indicate that they may need special needs or additional assistance during an evacuation or a long-term power outage.

Chief Kidd stated that the STEAR list is out of date, and that in his experience of dealing with local partners, a utility company may have the most up to date information containing addresses and names to give to first responders who perform welfare checks during long-term power outages. Chief Kidd stated that TDEM will work with the PUC to try and formulate a solution for providing reliable contact information to first responders during severe weather events.

#### **4. Mobile Generation Deployment**

Mobile generation deployment, including the high costs of leasing this equipment, as well as mobile generation policies, was a key topic at the hearing.

In 2021, the Legislature passed House Bill 2483, providing that under certain circumstances transmission and distribution utilities (“TDU’s”) have the ability to lease and operate mobile generators during widespread power outages and to enter into cooperative agreements with TDUs for procurement, ownership, and operation of mobile generation. As a predicate to either of these options, the TDU must file a detailed usage plan with the Commission. HB 2483 authorized cost recovery for mobile generation during the ratemaking process.

In 2023, the legislature passed House Bill 1500, colloquially known as the PUC Sunset bill. HB 1500 included provisions intended to clarify certain parts of HB 2483. Specifically, HB 1500 provided that mobile generators could be used in response to significant storms in areas covered by an emergency declaration issued by the Governor.

There was discussion at the July 31 hearing regarding the \$800 million contract CenterPoint entered into with Life Cycle Power to lease 20 mobile backup generation units for extreme weather events. The lease is for 20 mobile backup generator units, including five medium 5-MW generators and 15 large 32-MW generators. Representatives questioned why CenterPoint did not

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utilize the 15 large mobile generation units it had contracted for to help with restoration efforts following Hurricane Beryl.

Mr. Wells explained that CenterPoint entered into this lease as a result of Winter Storm Uri. CenterPoint is required to prevent certain priority and industrial customers from experiencing power outages that exceed 12 hours during extreme weather load-shedding events. Mr. Wells noted the unique challenges CenterPoint faces due to the density of its electric system and CenterPoint's need to manage both residential and industrial power demands. Mr. Wells stated that CenterPoint has some of the highest industrial demand that is ineligible for load shed, which hinders CenterPoint's ability to use mobile generation units for restoration efforts.

The 15 larger generation units could not be used because they were too big for CenterPoint's needs. He stated that these large generation units are intended to power thousands of homes during load events, and CenterPoint did not have a community of homes this size that was waiting on power because of a lack of generation. Instead, the outage problems during Beryl were primarily transmission related, with high winds and vegetation falling into transmission lines. He acknowledged the necessity for increased investment in infrastructure and better planning. Mr. Wells also noted that CenterPoint utilized 30 small and medium generation units in its restoration efforts following Beryl, including 18 of CenterPoint's small and medium units, as well as 12 small units CenterPoint borrowed from its peers.

Representatives also questioned why CenterPoint leased these mobile generation units as opposed to purchasing them outright. Specifically, Representative Geren asked Mr. Wells what the cost would have been had CenterPoint purchased these units as opposed to leasing them.

Mr. Wells responded that it would have cost CenterPoint approximately \$325 million to purchase these mobile generation units as opposed to the \$800 million CenterPoint spent on leasing them. Mr. Wells also noted that current Texas law does not permit CenterPoint, a transmission and distribution utility (TDU) to purchase mobile generation units.

Representative Dean asked Mr. Gleeson to explain why CenterPoint was not permitted to purchase mobile generation units and was only able to lease them at more than double the cost. Mr. Gleeson responded that H.B. 2483 was a compromise between deregulation of electric utilities in 2002 and increasing reliability after Winter Storm Uri. He explained that there needed to be a separation between generation and transmission distribution, and requiring TDUs to lease mobile generation units as opposed to outright purchasing them, demonstrated this compromise and separation.

Representative Dean suggested that the Legislature revisit H.B. 2483 and evaluate whether TDUs should be permitted to purchase mobile generation units outright. He noted that these expensive leases can affect a TDU's bond rating and in turn have negative impacts on customers, such as increased rates. Mr. Gleeson responded that he believes it would be prudent to revisit mobile generation policies, highlighting that the large mobile generation units CenterPoint leased may not be necessary anymore, given the work utilities have been doing since Winter Storm Uri, such as weatherizing facilities.



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## 5. Restoration Prioritization

Representatives raised concerns with the prioritization strategy CenterPoint used to restore power. Mr. Wells explained that the restoration process begins with critical facilities, such as senior assisted living centers and hospitals, followed by circuits with the highest customer counts. However, residents in rural areas were often left waiting the longest, as they were located at the end of these circuits. Representatives noted that the prioritization model needed refinement to ensure more equitable restoration times.

Several Representatives also raised concerns about the difficulty of vulnerable populations, such as those who rely on lifesaving medical devices powered by electricity, to register for priority service during severe weather events. Mr. Wells explained that critical facilities, such as assisted living facilities, hospitals, and water treatment facilities are on CenterPoint's priority list perpetually. On the other hand, individuals who are on oxygen or using a medical device requiring electricity must sign up every year to remain registered as critical.

Many facilities and individual customers on life-sustaining equipment were unaware that registration was required annually to maintain their priority status, and as a result, did not receive the support they needed. Representatives proposed reevaluating the registration process to ensure critical facilities stay prioritized without requiring repeated registration. Representatives emphasized the importance of utilities communicating any registration requirements with customers to ensure these customers are prioritized during future weather events. Representatives also noted the need to simplify the application process for priority registration.

## 6. Delays in Mobilizing External Crew Members

CenterPoint was criticized for delays in mobilizing external crews to assist in restoration efforts. Mr. Wells clarified that crews from partner organizations could be deployed within three hours, contradicting earlier claims of longer delays. He explained that CenterPoint is working to improve coordination and reduce the time required to mobilize assistance in emergencies.

## RECOMMENDATIONS

**1. Improved Vegetation Management:** Testimony at the hearing revealed that the primary cause of outages following Hurricane Beryl was falling trees and branches. The Legislature recommends that utilities increase their annual budget for vegetation management and increase investments in proactive vegetation management, including identifying high-risk areas, obtaining property owner consent where necessary, and ensuring regular, more frequent inspection cycles. Improved vegetation management could also include increasing pole height and strength. The Legislature should examine whether mandates should be implemented that require utilities to spend a certain percentage of their revenue on vegetation management. The Legislature should also examine whether utility companies should be granted statutory rights to manage vegetation beyond existing easement zones to allow for preventative trimming and help minimize outages caused by falling trees during severe weather events.

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**2. Enhanced Customer Communication and Communication Protocols:** Utilities must increase communication and transparency with the public, especially during extreme weather events. It is essential that utilities maintain properly working outage trackers. Utility companies must invest in reliable communication systems to keep customers informed during outages. These systems should provide real-time updates, estimated restoration times, and alternative resources for customers in need. The Legislature should consider a policy that requires retail energy providers to share customer contact information for emergency purposes, ensuring direct communication with all customers during outages. Public awareness campaigns should be conducted to ensure all customers are aware of how to opt into emergency notifications.

**3. Upgrading Infrastructure:** Utility companies should prioritize upgrading infrastructure to enhance resiliency. The Legislature should consider implementing economic incentives for utility companies to invest in storm-resilient infrastructure, including underground power lines in high-risk areas and hardened poles in vulnerable zones. For example, transitioning from wooden poles to composite poles can significantly reduce the impact of severe weather events. Utility companies should accelerate the replacement of wooden poles with composite poles, particularly in high-risk areas, to enhance resiliency of the power grid.

**4. Balanced Investment in Resiliency:** Utilities must balance profitability with reinvestment in system reliability. Given the increased frequency of severe weather events, the Legislature should consider whether a minimum percentage of revenue be mandated for reinvestment in infrastructure improvements, specifically targeting resilience to weather impacts.

**5. Streamline Critical Facility Registration and Restoration:** The Legislature recommends that utilities simplify the registration process for critical facilities and critical customers. Customers who rely on power-operated life-sustaining equipment should be automatically re-enrolled in the critical care priority list to avoid disruptions in service due to registration issues. This could be coupled with an outreach campaign to inform customers about the importance of keeping information current.

**6. State-Run Critical Care Registry:** The Legislature should consider developing a state-run critical care registry to ensure updated information is available to first responders who conduct welfare checks, particularly during extended outages. This could be coupled with partnerships with healthcare providers to maintain accurate records.

**7. Increase Transparency in Mobile Generation Deployment:** The Legislature should consider whether TDUs should be required to file after-action reports and obtain regulatory approval for leasing or renewing mobile generation units. This would ensure funds are spent effectively and provide accountability.

**8. Revisit Mobile Generation Deployment Policies:** The Legislature should re-examine H.B. 2483 from the 87th Legislative Session and determine whether it is more equitable for TDUs, such as CenterPoint, to purchase mobile generation units outright instead of being limited to leasing these units. These expensive leases can affect TDUs' bond ratings and have negative impacts on consumers, such as increased rates.

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**9. Strengthen Community and Contractor Partnerships:** Develop protocols to further reduce mobilization times for external crews and improve coordination between partner utilities.

Developing strong relationships with contractors and neighboring utilities is crucial for ensuring sufficient resources during emergencies. Pre-contracted agreements and stockpiling of essential materials should be prioritized.

**10. Enhance Restoration Strategies:** Reevaluate restoration prioritization to reduce inequities between urban and rural areas, ensuring a fairer distribution of restoration resources.

**11. Emergency Training and Drills:** Regular emergency drills and training should be conducted to keep personnel prepared. These drills should include various emergency scenarios to ensure readiness across a range of potential challenges.

**12. Accountability Measures for Utilities:** The Legislature should ensure that utilities are held accountable for inadequate preparations and responses during severe weather events. Regulatory bodies should have the authority to conduct thorough reviews and enforce penalties where necessary.

**13. Increased Penalties for Offenses Against Utility Linemen:** Linemen responding to Hurricane Beryl received multiple threats from individuals within the Houston area during their restoration efforts. The Legislature recommends passing legislation that increases the penalties for assaults against linemen. The Legislature should also create an offense for interfering with certain utility work, to ensure that power is restored as quickly as possible following an extreme weather event.

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## **UPDATE ON KEY BARRIERS RELATED TO BROADBAND DEPLOYMENT IN RURAL AREAS**

### **BACKGROUND**

The State Affairs Committee convened on Tuesday, September 17, 2024, at 9:00 a.m. to discuss the Panhandle Wildfires interim charge. The Committee also heard testimony to get an update on key barriers related to broadband deployment in rural areas. Broadband access is critical for economic growth, education, and healthcare in rural areas in Texas. The Committee heard invited testimony only from individuals who emphasized the economic, regulatory, and infrastructure-related obstacles to broadband deployment.

### **SUMMARY OF COMMITTEE ACTION**

The following individuals testified:

*Witnesses are listed in alphabetical order*

Todd Baxter, Group Vice President, Charter Communications and Chairman, Texas Cable Association

Julia Harvey, Vice President, Government Relations and Regulatory Affairs, Texas Electric Cooperatives

Patricia Kravtin, Principal and Owner, Patricia D. Kravtin Economic Consulting

### **FINDINGS**

#### **Summary of Testimony:**

Todd Baxter, Group Vice President for Charter Communications and Chairman of the Texas Cable Association, testified that the primary barrier of broadband deployment in rural areas in Texas is the economics of building in low-density rural areas, where the cost per customer is significantly higher. He also discussed two additional factors that deter investment: (1) the right of way relocation reimbursement policy; and (2) increasing vandalism and theft of broadband infrastructure due to the rise in copper prices. Mr. Baxter testified that these unfunded mandates and security issues divert necessary capital away from investment in broadband expansion. Mr. Baxter emphasized the need to align the cost of right-of-way relocation with the entity requiring the road work.

Representative Raymond asked Mr. Baxter what the expected timeline is for utilizing the \$5 billion funding allocated for broadband deployment in Texas. Mr. Baxter stated that the projects funded under the BEAD program should be completed by 2028, with ongoing requirements for an additional 15 years. He also stressed that despite these efforts, achieving universal service might require alternative technologies for the most remote areas.

Julia Harvey, Vice President of Government Relations and Regulatory Affairs for Texas Electric Cooperatives, testified that electric cooperatives want to support broadband expansion but must

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also ensure the safety and reliability of their electric infrastructure. She explained that the primary barriers to broadband deployment in rural areas are the persistent high cost of fiber deployment combined with a low customer density in rural areas. Ms. Harvey testified that the billions of dollars in state and federal funding programs being administered by the Broadband Development Office are intended to address the economic barriers to broadband deployment but have also led to broadband providers seeking to attach their facilities to the poles owned by the electric cooperatives. She pointed out that accommodating pole attachments has imposed significant logistical and safety challenges, particularly with increased wind and ice loading. She explained that these attachments also make restoration after an extreme weather event much more complicated, and they increase the susceptibility of the pole to failure in certain conditions.

Ms. Harvey also argued against any form of centralized rate regulation for pole attachments, asserting that local cooperatives are best positioned to determine rates that reflect their unique costs. She explained that centralized regulation could overlook the specific operational challenges and cost structures faced by individual cooperatives, potentially leading to inefficiencies or inadequate cost recovery.

Chairman Metcalf asked Ms. Harvey if electric cooperatives allow third parties to construct, operate, and maintain broadband infrastructure on their rights-of-way. Ms. Harvey explained that electric cooperatives do allow this, provided the third-party broadband provider complies with easement requirements.

Patricia Kravtin, Principal and Owner of Patricia D. Keratin Economic Consulting, highlighted pole attachment rates as a significant barrier to broadband deployment in rural Texas, noting that utilizing excess space on utility poles is generally the most economic way to encourage new broadband and ensure capital flows to infrastructure. She explained that due to monopoly pole ownership and disparate bargaining power, formulas are often used to set just and reasonable rates. However, electric cooperatives are exempt from these formulas and can set their own pole attachment rates, which Ms. Kravtin noted are often higher than the formula rates.

Ms. Kravtin argued that inconsistent and unpredictable pole attachment rates charged by electric cooperatives create economic challenges that impede broadband expansion. She recommended that the Legislature adopt a statutory rate-setting mechanism based on the FCC cable formula, which has been used successfully across the country to create consistent, fair rates for pole attachments. Alternatively, Ms. Kravtin suggested that the Legislature delegate authority to a state agency to set pole attachment rates.

Representative Turner asked Ms. Kravtin to explain how the cable formula ensures fair pole attachment rates and asked why cooperatives should be included under this regulation. Ms. Kravtin explained that the cable formula determines rates based on the pole owner's reported costs, allocating costs proportionally based on attachment occupancy. She argued that this formula should be applied to cooperatives because it provides predictability and fairness for broadband providers while allowing pole owners to recover costs.

Representative Turner asked Ms. Harvey how electric cooperatives justify the cost difference for pole attachments between themselves and other utility providers. Ms. Harvey argued that the

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costs for cooperatives reflect their unique operational needs and safety requirements. She noted that the rates determined by cooperatives are intended to fully recover the costs without generating additional revenue since cooperatives are not-for-profit entities. Ms. Harvey also argued against the use of a statutory rate-setting formula mechanism based on the FCC cable formula for cooperatives, noting that Congress rejected setting such a formula for cooperatives.

## RECOMMENDATIONS

- 1. Right-of-Way Relocation Reimbursement Reform:** The Legislature recommends that the current policy on right-of-way relocation costs be re-examined. Including these costs in the overall cost of road projects would help align financial responsibilities and encourage private sector investment in rural broadband.
- 2. Consistent Pole Attachment Regulation:** The Legislature should study whether a standardized pole attachment rate formula can be applied to electric cooperatives to provide consistency and predictability for broadband providers. If the Legislature does so, it should take into account the unique nature of cooperatives and their not-for-profit status and the fact that Congress has rejected a similar structure for cooperatives at the federal level.
- 3. Increased Protection for Broadband Infrastructure:** The Legislature should explore whether enhanced penalties for vandalism and theft targeting broadband infrastructure should be implemented. Enhanced security would help reduce costs and ensure that investment capital is directed toward broadband expansion rather than damage repair.
- 4. Public-Private Collaboration:** Continued collaboration between utilities, including electric cooperatives, broadband providers, and state agencies is crucial. A coordinated approach will help address infrastructure challenges while balancing the needs of electric consumers and broadband users.
- 5. More Resilient Utility Poles:** The Legislature should examine whether utility poles need to be subject to increased standards to increase their resiliency. This would help the poles to better withstand pole attachments as well as weather events.

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## CHARGE II: SECURING THE BORDER

*Conduct a review of functions and operations of state agencies involved with carrying out Operation Lone Star as they relate to securing the border and preventing transnational criminal activity. Evaluate whether agencies have sufficient resources and authority to carry out their prescribed duties. Make recommendations to increase the safety and wellbeing of personnel and efficiency of agency operations as needed.*

### BACKGROUND

The House Committee on State Affairs convened on September 30, 2024, at 9:00 a.m. to conduct a review of Operation Lone Star (OLS). The Committee heard invited testimony only.

OLS was launched by the state of Texas in March 2021 in response to rising concerns about border security and the perceived inadequacy of federal efforts to secure the U.S.-Mexico border. With the goal of curbing illegal immigration and combating transnational criminal activity, OLS involves multiple state agencies, including the Texas Department of Public Safety (DPS), the Texas Military Department (TMD), and the Office of Court Administration (OCA). This operation seeks to apprehend undocumented migrants, prevent human trafficking, disrupt drug smuggling, and address other forms of cross-border crime. Additionally, OLS has aimed to enhance the safety and security of Texas communities, mitigate the adverse effects of illegal activity on local populations, and build a coordinated response to emerging threats.

### SUMMARY OF COMMITTEE ACTION

The following individuals testified:

*Witnesses are listed in alphabetical order*

Michael Banks, Special Advisor to the Governor on Border Matters, Office of the Governor

Brad Coe, Sheriff, Kinney County

Erin Earp, Senior Policy Attorney, GIFFORDS Law Center

Scott Ehlers, Executive Director, Texas Indigent Defense Commission

Iliana Holguin, El Paso County Commissioner, Precinct 3

Nim Kidd, Chief, Texas Division of Emergency Management and Vice Chancellor for Disaster and Emergency Services for the Texas A&M University System

Megan LaVoie, Administrative Director, Office of Court Administration

Steven McCraw, Director and Colonel, Texas Department of Public Safety

Sarah Saldaña, Former Director of US Immigration and Customs Enforcement

Brent Smith, County Attorney, Kinney County, Texas

Tonya Spaeth Ahlschwede, Chair, Border Prosecution Unit

Tanya Trout, Bridadier General, Texas Military Department

Ryan Walters, Division Chief of Special Litigation, Office of Attorney General

Justin West, Galveston County Precinct 4 Constable

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## **FINDINGS**

### **Summary of Witness Testimonies from State Agencies**

#### **Steven McCraw, Director, Texas Department of Public Safety**

Steven McCraw, Director of the Texas Department of Public Safety (DPS) provided an operational update on OLS, highlighting that it has led to approximately 4 million apprehensions since March 2021 and a 49% reduction in apprehensions compared to the previous year. Out of those 4 million apprehensions, half a million were executed by DPS and the TMD, with the remaining 3.5 million apprehensions done by the U.S. Customs and Border Control. Director McCraw testified that the number of apprehensions under the current federal administration are higher than they were prior to March 2021, with apprehensions totaling approximately 6,500 per week, compared to 1,500-4,000 apprehensions per week prior to March 2021. He testified that these increased numbers are due to the absence of the federal government securing the international border with Mexico. Director McCraw explained that a reduction in apprehensions allow Border Patrol to focus more effectively on enforcement rather than processing, improving DPS's capacity to target smuggling and other criminal activities.

Director McCraw provided other metrics from OLS that indicate substantial illegal activity from the area of OLS operation, including over 42,000 criminal arrests, the removal of over 120 million lethal doses of fentanyl, and the removal of over 42,000 pounds of methamphetamine. Director McCraw explained that true success should be measured not only by the numbers but by the absence of numbers—the absence of crime and disorder. Director McCraw emphasized the importance of coordination between federal, state, and local entities in maintaining border security. He noted remaining challenges, including overwhelmed Border Patrol agents and a need for increased federal support.

Representative Turner asked Director McCraw how much DPS spent on OLS in fiscal year 2023, and Director McCraw responded that DPS spent \$194 million on OLS in fiscal year 2023.

#### **Megan LaVoie, Administrative Director, Office of Court Administration**

Megan LaVoie, Administrative Director, Office of Court Administration (OCA), described that OCA's role in supporting OLS is through central magistration and assisting local courts in the trial phase of OLS cases. Since July 2021, OCA has facilitated the judicial process for defendants arrested under OLS by assigning visiting judges, which reduces the burden on local magistrates and local justices of the peace, while also ensuring timely proceedings.

Data collection indicates that 70% of OLS cases involve misdemeanors, while 26% are felonies, mostly related to smuggling. Indigent defense has played a significant role, with 92% of defendants requiring appointed counsel, and OCA has provided necessary technical assistance and training to local courts.

Ms. LaVoie highlighted the importance of efficient case processing to prevent backlogs in the judicial system, which could otherwise result in prolonged detentions and put a strain on local



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resources. She noted that OCA's efforts have been instrumental in maintaining judicial efficiency and ensuring that defendants receive fair treatment under the law. Additionally, OCA has collaborated with local stakeholders to provide specialized assistance for judges and court personnel, which has improved the overall capacity of the judicial system to handle OLS-related cases.

### **Tanya Trout, Brigadier General, Texas Military Department**

Tanya Trout, Brigadier General of the Texas Military Department (TMD) detailed TMD's operational support in OLS, including over 518,000 illegal immigrant apprehensions and an 85% reduction in illegal crossings into the state of Texas since the start of OLS in March 2021. This reduction was achieved through a combination of the contributions of TMD's both current and past members, cooperation from local communities, the implementation of innovative OLS operations and continuous process improvements, and the roll out of Border Operating Base Eagle.

General Trout noted that the establishment of Border Operating Base Eagle significantly boosted morale and quality of life for service members through improvements such as better living conditions, Starlink internet access, a fitness center, recreational facilities, and high-quality meals. She explained that these improvements have contributed to TMD's 99% volunteer rate and increased retention among personnel. These efforts have ensured that service members remain motivated and prepared to perform their duties effectively.

Additionally, General Trout discussed TMD's engineering enhancements, such as the development of anti-climb barriers and modified chain-link fencing, which have made it more difficult for illegal crossings to occur. The deployment of non-lethal deterrents, such as pepperball launchers, has significantly reduced mass breaches of 100 or more migrants.

Representative Turner asked General Trout how much TMD has spent on OLS in fiscal years 2023 and 2024. General Trout stated that in fiscal year 2023, TMD spent approximately \$1 billion on OLS, and in 2024, TMD has spent approximately \$1.1 billion to date.

### **Scott Ehlers, Executive Director, Texas Indigent Defense Commission**

Scott Ehlers, Executive Director of Texas Indigent Defense Commission (TIDC), testified about the need for adequate court-appointed defense for individuals arrested under OLS. TIDC funds, oversees, and improves indigent defense in Texas. Indigent defense is the constitutionally required court appointed representation of criminal defendants and juveniles who cannot afford a lawyer, as well as parents and children in Child Protective Services cases.

Mr. Ehlers testified that since 2021, the TIDC has been appropriated \$70.8 million to fund representation of indigent defendants arrested under OLS. TIDC has spent \$41.3 million thus far, with \$26 million in outstanding grant obligations. He noted that TIDC's primary OLS grantee is the Lone Star Defender's Office.

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Mr. Ehlers noted that since the beginning of OLS, approximately 15,715 individuals have been appointed counsel, with 76% of those being misdemeanor cases and 24% being felonies. Mr. Ehlers stated that Lone Star Defender's Office also pays private counsel. He testified that this year, the average attorney payment for a misdemeanor case was about \$662 and \$1,400 for a felony case, not including travel expenses. Mr. Ehlers emphasized the need for stable funding and suggested that legislative action could provide a more secure foundation for indigent defense beyond reliance on emergency orders.

**Michael Banks, Special Advisor to the Governor, Office of the Governor**

Michael Banks, Special Advisor to the Governor on Border Matters, Office of the Governor, testified that in December 2022, Texas saw 130,000 illegal entries from Mexico, or a daily average of 4,200 illegal entries per day. In August 2024, Texas saw under 18,000 illegal entries, or a daily average of 577. He highlighted that the decrease in illegal entries has been achieved through the operations of OLS.

Mr. Banks explained that one of the goals of OLS is to address unlawful activities by conducting arrests for violations of Texas law to deter future unlawful activity in Texas. Mr. Banks commended the Legislature for their work in increasing penalties for operating stash houses and smuggling. Mr. Banks testified on the effectiveness of OLS activity, stating that in December 2022, Texas accounted for approximately 60% for all daily illegal entries across the entire Southwest border. By August 2024, Texas has reduced that number to 28%.

Mr. Banks also explained that the goal of the Governor's office in regard to OLS is to have zero illegal immigration crossings across the border and zero deaths due to illegal crossings. The goal is to have migrants enter lawfully through ports of entry. However, Mr. Banks noted that the actions of the federal government have hindered some of Texas's success under OLS.

Representative Turner asked Mr. Banks several questions regarding the construction of the Texas border wall. Mr. Banks responded that 44.2 miles of the Texas border wall have been constructed, with 16.8 miles currently under construction. Mr. Banks stated that it takes about one mile per week to construct the border wall, and there is currently enough funding to build 110 miles of the border wall. Mr. Banks explained that it cost approximately \$23 million to build one mile of the border wall. He further stated that there are many areas along the Texas border where a border wall is not needed because the terrain acts as a natural barrier.

**Tanya Spaeth Ahlschwede, Chair, Border Prosecution Unit**

Tanya Spaeth Ahlschwede, Chair of the Border Prosecution Unit, provided an overview of the Border Prosecution Unit's role in OLS, which is to target and investigate the prosecution of transnational organizations. The Border Prosecution Unit generally focuses on felony prosecutions, but during OLS, the Border Prosecution Unit was asked to provide assistance to smaller offices that did not have the infrastructure to deal with criminal trespass initiatives.

Ms. Ahlschwede testified that in regard to smuggling cases, in fiscal year 2023, there were over 28,000 cases that were filed by the members of the Border Prosecution Unit, compared to the

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8,500 cases they filed in fiscal year 2021. She explained that many of these cases do not go through resources associated with the Texas Indigent Defense Commission. Rather, many of them are locally handled, and these local governments do not receive reimbursements for indigent defense costs or these cases. Ms. Ahlschwede also discussed how OLS has increased communication and allocation of resources between state agencies, resulting in safer communities surrounding the border.

However, she also testified that there is a high volume of case backlog in the Border Prosecution Unit's area and that increased resources and personnel are needed to carry on OLS, including additional magistrates, officers, translators, court reporters, judges, and district attorneys.

### **Ryan Walters, Division Chief of Special Litigation, Office of the Attorney General**

Ryan Walters, Division Chief of Special Litigation, Office of the Attorney General (OAG), testified that border security has been a top priority for Attorney General Ken Paxton. He discussed how litigation is the OAG's tool to enforce OLS and ensure that federal agencies are abiding by the laws Congress has passed regarding the border. For example, Mr. Walters testified that on day one of the Biden Administration, the OAG's office filed suit to get relief from the Administration's 100-day pause on deportations. The OAG's office received federal relief almost immediately.

Mr. Walters' testimony highlighted several other cases the OAG has been involved in, including the Remain in Mexico Program, the refusal to take into custody criminal aliens when they are released from serving their sentences in Texas Department of Criminal Justice facilities, and the refusal of building the border wall as Congress commanded.

The OAG also filed suit against the federal government when the US Border Patrol was cutting the concertina wire fencing put up by TMD. Mr. Walters testified that since the OAG filed that suit, the federal government has stopped cutting Texas's concertina wire fences.

The OAG defended suit against the federal government after they sued Texas for their placement of the buoy barriers in the Rio Grande River to deter illegal migration. This suit was filed over a year ago, and the buoys remain in the water. Mr. Walters explained that the concertina wire fencing and buoys are used to encourage migrants to legally enter through the ports of entry instead of making dangerous, illegal crossings across the border.

### **Summary of Testimonies from Local Officials**

Brent Smith, Kinney County Attorney, provided an overview of Kinney County's involvement with OLS. Kinney County is a county comprised of only 3,200 residents, and it shares 17 miles of the border with Mexico. Mr. Smith testified that during the year of 2020, there were 120 criminal charges reported within the County. However, this drastically changed under the Biden Administration in 2021, when the criminal cartels seized control, and their criminal enterprises began to thrive. In 2021, the number of reported criminal charges increased to 2,708. In 2022, this number rose to 6,800 reported criminal charges. In 2023, there were 5,826 criminal charges reported in Kinney County.

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Mr. Smith testified that most law enforcement along the border agree that nearly 60% of illegal entries into the US are never witnessed or never result in apprehensions. So far in 2024, Border Patrol teams in Kinney County have made 5,173 apprehensions, with 2,827 known gotaways. For the month of September alone, Border Patrol has apprehended over 200 illegal aliens on private property and documented at least 50 known gotaways. He testified that the DPS teams in Kinney County cannot currently meet this demand or even respond in most cases due to their limited number and large area of operations.

Mr. Smith stated that the current Border Patrol policies do not allow the Kinney County to transfer anyone apprehended back into state custody for prosecution without an existing warrant in place. Mr. Smith explained that in most cases, suspects are released prior to obtaining warrants for their arrest. From a prosecutor's perspective, Mr. Smith believes that Texas's law enforcement presence on the ground is inadequate to confront these numbers and effectively enforce state law. He noted that border security efforts have been reactive in nature and lack the necessary coordination and training to secure not only the border, but the entire state of Texas.

Mr. Smith explained that the border crisis can be broken down into three distinct areas of criminal behavior: illegal entry of persons or narcotics into Texas, smuggling of persons or narcotics to their destination, and engaging in criminal activity at that destination. He stated that each of these requires distinct training to successfully confront.

Sheriff Brad Coe, Sheriff of Kinney County, presented data showing a dramatic rise in illegal activities in Kinney County since the start of the Biden Administration, including an unprecedented increase in illegal alien foot traffic and human smuggling. According to Sheriff Coe, prior to 2021, the Kinney County sheriff's office would arrest 10-15 human smugglers per year. In 2021, they arrested a total of 168; in 2022, 783; and in 2023, 903 arrests were made for human smuggling. These arrests were accomplished by 6 part-time deputies and the assistance of Galveston County's Sheriff's Office and Galveston County's Constables Office Precincts 2 and 4.

He stated that so far for this year, numbers are down, with human smuggling apprehensions down to 124. Sheriff Coe testified that because of aggressive enforcement, prosecution, and the Governor's actions, illegal alien traffic has experienced a movement west into New Mexico, Arizona, and California. He highlighted how OLS funding is key to fight the immigration problem in Texas, as it provides jail space, overtime personnel, prosecution, and equipment.

Justin West, Constable of Galveston County Precinct 4, discussed Galveston County's participation in OLS. In July 2021, Galveston's County Judge and Commissioner's Court signed an emergency declaration as a result of an increase in crimes such as burglaries, drugs, and domestic violence, as well as drug overdoses and fentanyl poisoning due to the effects of the open door border policies of the federal government. Constable West testified that Galveston County's participation in OLS activities has made Galveston County and the state of Texas safer, specifically with OLS's success in disrupting cartel operations along the border. He further stated that major locations for cartel operations and sometimes extreme violence, such as Shelby Park,

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have been shut down due to the operations of OLS. Additionally, Constable West noted that millions of doses of deadly fentanyl worth millions of dollars have been taken off the streets.

Iliana Holguin, El Paso County Commissioner Precinct 3, detailed the financial strain caused by increasing apprehensions and detentions under OLS. Commissioner Holguin stated that El Paso County has not received any reimbursement from the state of Texas for its participation in OLS. As a result, for its 2025 budget, El Paso County has had to cut approximately \$40 million from its budget to compensate for the costs of housing detainees in order to prevent increasing taxes for El Paso County residents. Commissioner Holguin emphasized that the state needs to provide direct financial support for border communities such as El Paso to ensure that their involvement in OLS does not come at the cost of essential services or personnel.

## RECOMMENDATIONS

- 1. Resource Limitations and Increasing Resources:** Several testimonies and discussions highlighted the inadequacy of resources to meet escalating challenges related to OLS and securing the border. For example, several witnesses noted that personnel, equipment, and detention facilities were insufficient to address the rising numbers of illegal crossings and detentions. Several witnesses also called for cooperative training to ensure that limited resources are used effectively. The Legislature should examine whether increased funding and resource allocation are needed to ensure that Texas border counties have the tools they need to effectively support OLS and maintain public safety. The Legislature should also examine how specialized training can be increased to deal with issues specific to the border.
- 2. Increased Coordination and Intelligence Sharing:** Witnesses emphasized the need for improved interagency communication, coordination, and intelligence sharing among federal, state, and local partners. For example, Chief Nim Kidd discussed the improvements needed at the border, and across the state of Texas, in making sure that all of Texas's local partners can communicate with each other and can communicate with all of the state partners that are responding to the same incident. The Legislature should explore the creation of a centralized intelligence-sharing platform. This would enhance agency operational efficiency, reduce duplication of efforts, and improve agencies' ability to respond to emerging threats, all while efficiently spreading tax dollars and resources across the state in the execution of OLS.
- 3. Increase Federal Collaboration and Resources:** The federal government should increase Border Patrol staffing, enhance asylum processing capabilities, and provide more detention facilities to alleviate the strain on state resources. Increased federal resources would allow for more rapid processing of asylum seekers, allowing Border Patrol agents to focus on enforcement activities. Additionally, expanding detention facilities would prevent overcrowding and ensure detainees are housed in humane conditions, while enhancing the overall efficiency of OLS. Strengthening collaboration with federal agencies like U.S. Immigration and Customs Enforcement (ICE) would ensure that arrested individuals are processed promptly and that enforcement actions are coordinated across jurisdictions.
- 4. Bolster Mental Health and Trauma Support for Personnel:** The Legislature should examine whether additional trauma support services should be made available to address the

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ongoing psychological toll on officers and personnel involved in OLS. Counseling for officers and their families is crucial in maintaining their wellbeing in high-stress environments. Establishing peer support programs and providing regular mental health check-ins could further assist personnel in coping with the challenges of border enforcement duties.

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## **CHARGE III: ECONOMIC CHALLENGES IMPACTING INSURANCE PREMIUMS**

*Examine the impact of current economic challenges on the escalating costs of insurance premiums, including factors contributing to the withdrawal of insurance providers from certain markets. Investigate solutions to help Texans more easily and affordably obtain property and casualty insurance coverage. Evaluate long-term strategies for shifting from state-funded insurance programs to sustainable private market alternatives.*

### **BACKGROUND**

The House Committee on State Affairs convened on Tuesday, September 17, 2024 at 9:00 a.m. to discuss economic challenges impacting insurance premiums. The Committee heard invited testimony only.

The escalating costs of insurance premiums have become a pressing concern in Texas, especially in light of the numerous economic challenges impacting the insurance industry. These challenges not only increase the financial burden on property owners but have also led to several insurance providers withdrawing from certain markets. This report examines the key factors contributing to these challenges, their impact on the property and casualty insurance landscape in Texas, and explores potential solutions to ensure that Texans have access to affordable coverage. Finally, this report will evaluate strategies for transitioning from state-funded insurance programs to more sustainable private market alternatives.

The economic challenges impacting insurance premiums in Texas require a multifaceted approach that balances regulatory oversight, market stability, and consumer affordability. By enhancing transparency, promoting risk mitigation measures, and incentivizing market participation, Texas can create a more resilient insurance market that better serves its residents. The recommendations outlined in this report are intended to provide a path forward, ensuring that property and casualty insurance remains accessible and affordable for all Texans.

### **SUMMARY OF COMMITTEE ACTION**

The following individuals testified:

*Witnesses are listed in alphabetical order*

David Bolduc, Public Counsel, Office of Public Insurance Counsel

Cassie Brown, Commissioner, Texas Department of Insurance

Charles Cascio, Senior Associate State Director for Advocacy and Outreach, AARP

Beaman Floyd, Director, Texas Coalition for Affordable Insurance Solutions

Brian Lloyd, Vice President Regulatory Policy, Oncor Electric Delivery Company, LLC

Jon Schnautz, Vice President of State Affairs, National Association of Mutual Insurance Companies

Jay Thompson, Counsel, Insurance Council of Texas

Ware Wendell, Executive Director, Texas Watch

Mark Worman, Deputy Commissioner of Property and Casualty Lines, Texas Department of

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Insurance

Charles Zahn Jr., Chairman, Texas Coastal Windstorm Coalition

## **FINDINGS**

### **Summary of Hearing Discussions**

#### **Summary of Testimony from State Agencies**

Cassie Brown, Commissioner at the Texas Department of Insurance (TDI), provided an overview of the regulatory framework governing insurance rates in Texas. She explained the "file and use" system that is utilized in Texas. Under this system, insurers can file rate increases and implement them immediately, subject to review by TDI., under which insurers can file rate increases with TDI and begin using them immediately. Commissioner Brown explained that during the past year, TDI raised objections to about 75% of rate filings, with most resulting in either amendments or clarifications, but very few outright disapprovals. This raised concerns among legislators about whether the current regulatory framework is sufficient to protect consumers from unjustified rate hikes.

David Bulduc, Public Counsel at Office of Public Insurance Counsel (OPIC), highlighted OPIC's role in reviewing rate filings and advocating for consumers. He mentioned that OPIC often files objections to rate increases, particularly when they believe the rates are excessive or not justified. Mr. Bulduc noted that OPIC's focus is on ensuring that rates are fair and reasonable for consumers, especially in light of the complex and technical nature of rate filings.

#### **Concerns About Rising Premiums**

The insurance market in Texas has experienced significant pressure, leading to rising premiums across property and casualty lines. Several stakeholders testified that rising premiums are due to several factors such as increased losses, inflation, and the increased severity of catastrophic weather events. These factors have led to substantial losses for insurers, prompting many companies to reassess their market strategies in Texas. For example, Jay Thompson, Counsel for the Insurance Council of Texas, testified that about 60-70% of every dollar that is collected in insurance premiums is used to pay losses or loss adjustment expenses.

Charles Cascio, Senior Associate State Director for Advocacy and Outreach for AARP, highlighted how increased cost of homeowner's insurance premiums are putting a special strain on older Texans, especially those living on a fixed income.

Chair Thompson also raised concerns about the impact of rising insurance premiums on low-income communities and older homeowners. Chair Thompson shared her personal experience of a significant premium increase despite having a good driving record and living in a low-income neighborhood. She expressed frustration with the perceived discriminatory practices of insurers, who appear to charge higher premiums based on factors like age and location.



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Chairman Hunter noted that rising insurance premiums have also affected churches who operate on fixed incomes.

There were discussions at the hearing detailing how older residents and those on fixed incomes have opted to forgo coverage altogether due to unaffordable premiums, increasing their risk of financial ruin in the event of property damage.

Brian Lloyd, Vice President of Regulatory Policy at Oncor Electric Delivery Company, LLC, testified that rising insurance premiums have also caused issues for electric companies in Texas. For example, Mr. Lloyd testified that Oncor typically carries \$300 million in liability insurance. He explained that from year-to-year, the cost of liability insurance has gone up six times, from \$10 million in 2023 to \$60 million in 2024. These increased costs will ultimately be passed on to consumers.

### **Impact of Reinsurance Costs and Market Withdrawal**

The hearing also addressed the issue of rising reinsurance costs, which have been a significant driver of premium increases. Insurers rely on reinsurance to manage their exposure to catastrophic events, but the rising cost of reinsurance has led to higher premiums for consumers. Additionally, insurers have been withdrawing from certain areas due to the perceived high risk, reducing competition and further driving up premiums.

### **Challenges with Non-Renewals and Selective Underwriting**

The hearing also covered the issue of non-renewals and selective underwriting practices. Several insurers have adopted strategies to limit their exposure in high-risk areas, such as reducing agent commissions, increasing deductibles, or restricting new business in specific regions. These market dynamics make it difficult for residents in affected areas to find or maintain adequate insurance coverage. Additionally, Commissioner Brown noted that four insurers have withdrawn from the Texas market, further reducing competition and contributing to rising costs.

Chairman Metcalf highlighted the recent withdrawal of insurers like Progressive from the homeowners' market, which has left many consumers struggling to find coverage. Commissioner Brown explained that while Progressive has not fully exited the market, they have restricted new business in certain areas, which has raised concerns about the availability of coverage in high-risk regions.

### **Concerns About Transparency and Public Input**

There was significant discussion about the transparency of the rate-setting process and the importance of public input. Chairman Hunter expressed frustration with the lack of transparency and the perception that public input is often ignored. He emphasized the need for a more transparent process that genuinely considers the concerns of consumers. Representative Turner also highlighted the importance of ensuring that insurance policies are clear and understandable to consumers, as many policyholders struggle to navigate the complex language used in insurance documents.

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## RECOMMENDATIONS

**1. Enhance Regulatory Oversight and Transparency:** The Legislature should explore avenues to strengthen the regulatory review process to ensure that rate filings undergo more thorough scrutiny and disapprovals occur when rates are found to be excessive or unjustified. The Legislature should look at rate filing forms and whether rate filing forms should be simplified to allow for greater transparency in the rate filing process. There is also a need for improved transparency in the rate approval process to foster public trust. Regular audits and reviews of insurer financial health could help identify issues early and prevent sudden market exits. Insurers should be required to provide greater transparency on the factors driving rate increases. This could include mandatory public disclosures of rate increase justifications to foster accountability. The Legislature should also examine whether they need to introduce a cap on the percentage by which premiums can increase annually, particularly for vulnerable groups, to ensure that insurance remains accessible.

**2. Promote Risk Mitigation Programs:** The Legislature should encourage insurers to provide more significant discounts for policyholders who undertake risk mitigation measures. The Legislature should also explore implementing state-funded resilience programs that encourage homeowners to adopt measures such as fortified roofs or storm shutters. These improvements could help reduce claims frequency and severity, ultimately lowering premiums. These incentives could be further expanded to include the adoption of smart technologies that can monitor and mitigate risks, such as fire prevention systems and water leak detectors.

**3. Incentivize Insurers to Remain in the Market:** The Legislature should discuss offering incentives to insurance companies that commit to serving high-risk or underserved areas. This could include tax credits or a reinsurance backstop funded by the state to limit their exposure to catastrophic losses. The Legislature should also examine developing a public-private partnership reinsurance pool to help stabilize the market and prevent insurers from withdrawing from the state.

**4. Transition to Sustainable Private Market Alternatives:** The Legislature should examine whether it should gradually phase out state-funded insurance programs by incentivizing private market solutions. This could involve offering state-backed guarantees for insurers willing to cover high-risk properties, thereby reducing their financial risk and encouraging market participation. By sharing the risks between public and private entities, the burden on individual insurers could be reduced, encouraging them to continue providing coverage in high-risk areas.

**5. Consumer Education and Transparency:** The Legislature should promote increased consumer education efforts to help policyholders better understand their coverage options, the factors influencing their premiums, and the steps they can take to lower their risks. Improved communication between insurers, regulators, and policyholders can contribute to greater transparency and trust. Workshops, public forums, and online resources could be employed to empower consumers with the knowledge needed to make informed decisions about their insurance coverage.

**6. Contingent Surcharge Mechanism:** The Legislature should evaluate whether it should

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introduce a contingent surcharge on all insurance policies in Texas to help fund catastrophic losses. This would act as a temporary financial safety net, reducing the financial burden on insurers and encouraging them to remain active in the Texas market. The surcharge could be designed to phase out once sufficient reserves are accumulated, ensuring that it does not become a permanent cost to policyholders.

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## CHARGE IV: REVIEW TWIA FUNDING

*Review current state policy as it relates to the operation and funding of the Texas Windstorm Insurance Association (TWIA), including state agency capacity to effectively oversee TWIA. Evaluate the ability of state agencies and instrumentalities to secure the seacoast region's ability to produce energy and advance science and technology, including the role of reinsurance in maintaining economic security and ways to reduce the burden of reinsurance purchases on energy production and scientific and technological advances, while maintaining adequate coverage for policyholders.*

### BACKGROUND

The House Committee on State Affairs convened on Friday, August 16, 2024 to hear invited testimony only regarding TWIA funding.

The Texas Windstorm Insurance Association (TWIA) plays a critical role in providing insurance coverage to coastal residents. TWIA was formed in 1971 as a residual market mechanism to ensure coastal property owners have access to insurance against wind and hail, which are common perils in the region. TWIA operates under Chapter 2210 of the Texas Insurance Code and serves as an insurer of last resort for residents in 14 coastal counties, including a small part of Harris County, which is included due to its vulnerability to windstorm damage despite being partially inland. TWIA has faced a number of challenges, particularly with regard to its funding structure and reliance on public securities and reinsurance.

TWIA is a vital component of the state of Texas's risk management for coastal regions, but its current funding structure is unsustainable. The Legislature and stakeholders have been working together to assess the sustainability of the current system and consider options to improve TWIA's funding, reduce costs, and enhance agency oversight. Addressing these issues is essential to maintaining economic stability in Texas's coastal regions, which is vital for energy production, scientific advancement, and overall economic growth. The Legislature must ensure TWIA remains solvent, while also providing more affordable and accessible coverage for coastal policyholders. Collaborative efforts between TWIA, state agencies, and the Legislature are crucial to ensure that TWIA continues to provide necessary coverage while supporting economic stability and growth in the seacoast region.

### SUMMARY OF COMMITTEE ACTION

The following individuals testified:

*Witnesses are listed in alphabetical order*

Sally Bakko, Director of Policy and Governmental Relations, City of Galveston

Tray Bates, Vice President of Government Affairs, Texas REALTORS

David Bolduc, Public Counsel, Office of Public Insurance Counsel

Cassie Brown, Commissioner, Texas Department of Insurance

David Durden, General Manager, Texas Windstorm Insurance Association

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Regan Ellmer, Director of Government Affairs, Independent Insurance Agents of Texas  
Celeste Embrey, General Counsel, Texas Bankers Association  
Beaman Floyd, Director, Texas Coalition for Affordable Insurance Solutions  
Ray Garza, Judge, Aransas County, Texas  
Arthur Granado, Chairman, Board of Directors, Corpus Christi Regional Transportation Authority  
Paul Martin, Vice President State Relations, Reinsurance Association of America  
Sharon McKinney, Director, Port Aransas Independent School District  
Wendy Moore, Mayor, City of Port Aransas, Texas  
Patrick Rios, Former Mayor, Rockport, Texas  
Greg Smith, Chief Executive Officer, Pioneer RV, Former City of Corpus Christi Council Member  
Jay Thompson, Counsel, Insurance Council of Texas  
Jim Wade, Coastal Citizen, Jefferson and Galveston County, Texas  
Ware Wendell, Executive Director, Texas Watch  
Mark Worman, Deputy Commissioner of Property and Casualty Lines, Texas Department of Insurance  
Charles Zahn Jr., Chairman, Texas Coastal Windstorm Coalition

## **FINDINGS**

### **State Policy and Oversight of TWIA**

TWIA operates under the oversight of several state regulations and is subject to multiple layers of compliance. It is governed by a nine-member board of directors appointed by the Commissioner of the Texas Department of Insurance (TDI). The TWIA board is currently comprised of three members from coastal areas, three from inland regions, or 100 miles or more from the Texas coast, and three representatives from the insurance industry. Oversight provisions also include the Open Meetings Act, the Public Information Act, and the Texas Sunset Advisory Commission's review. TWIA's operations are further scrutinized through audits by the state auditor, and financial statements are filed annually and quarterly to maintain transparency.

However, despite this oversight, Representatives noted significant concerns regarding the current composition of TWIA's board of directors. There is concern about inadequate representation of policyholders and the dominance of out-of-state and industry-affiliated members. Testimony at the hearing revealed that two TWIA board members are not residents of Texas and six have ties to the insurance industry. This raised questions regarding potential conflicts of interest, as these members are responsible for setting rates that directly impact coastal policyholders. The lack of public representation and advocacy within TWIA's decision-making processes has led to frustration among coastal residents, who feel their voices are largely ignored. Recommendations were made to revise the board's composition to better represent policyholders and ensure that decisions are more aligned with the needs of coastal residents.

### **State Agencies Role in Securing Economic Stability**

TDI plays a regulatory role, overseeing TWIA's rate filings, policy changes, and compliance.

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The Office of Public Insurance Counsel (OPIC) also has oversight over TWIA. OPIC reviews rates and forms for insurers, including TWIA, in an effort to keep the rates down for consumers and keep insurance forms reasonable for consumers to understand.

TWIA must submit an annual rate filing to TDI by August 15th each year, and TDI reviews these filings to ensure statutory compliance. TDI's oversight aims to balance TWIA's need for solvency with the goal of preventing excessive premium increases. However, discussions at the hearing highlighted ongoing concerns that TDI's review processes may not be fully equipped to represent the interests of coastal policyholders.

Representatives and stakeholders expressed concern that the public input process during rate hearings is often overlooked, resulting in rate increases despite public opposition. For example, during a recent TWIA board meeting on August 6, 2024, 1,000 emails were submitted opposing a proposed rate hike, while only four individuals supported it. Despite this overwhelming opposition, the board voted 6-3 in favor of a 10% rate hike, which has led to frustration among coastal residents and elected officials. Representatives and stakeholders criticized the public input process surrounding TWIA, TDI, and OPIC decision-making, and recommendations to improve this process have been included below.

### **Overview of TWIA Funding and Policy Concerns**

The TWIA funding mechanisms have been a point of contention among regulators and stakeholders, with particular concern regarding TWIA's reliance on public securities and reinsurance. Currently, TWIA finances its coverage through a combination of windstorm premiums, public securities, a Catastrophe Reserve Trust Fund (CRTF), and member assessments.

Public securities are debt instruments issued to provide funding after major weather events, such as hurricanes. However, their high costs make them unsustainable due to the significant interest payments that burden TWIA's budget and limit its financial flexibility. Stakeholders have noted that interest payments on these public securities and TWIA's reliance on debt burdens TWIA's budget, highlighting the need for legislative review. In the event of a major storm, TWIA has to issue bonds to pay claims, thereby increasing its financial burden and potentially affecting long-term solvency. Stakeholders expressed concerns that TWIA's funding mechanisms, including the reliance on debt and the need for reinsurance, place a significant economic strain on coastal residents, businesses, and public entities, such as schools.

Industry representatives also noted that the current bonding layer of TWIA's financing is inadequate and suggested a floor of \$1 billion for the Catastrophe Reserve Trust Fund (CRTF). They argued that this would provide adequate liquid capital for TWIA while reducing reliance on reinsurance, ultimately making reinsurance more affordable.

### **Role of Reinsurance and Economic Burden**

Reinsurance plays a critical role in ensuring TWIA can meet its obligations in the event of catastrophic weather events, such as hurricanes. However, the high cost of reinsurance has

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placed financial strain on TWIA and policyholders and has raised questions about its long-term sustainability. Since 2009, TWIA has not filed any reinsurance claims, yet policyholders have paid nearly \$1.87 billion in reinsurance premiums.

Chairman Spiller questioned why policyholders have paid so much in reinsurance premiums when TWIA has not filed any reinsurance claims since 2009. David Durden, General Manager of TWIA, responded that TWIA has to purchase reinsurance to meet its statutory requirement of maintaining coverage up to the "one-in-100" probable maximum loss, meaning TWIA must prepare for an event with a one percent chance of occurring each year. Mr. Durden explained that TWIA chooses reinsurance premiums using various models. These discussions raised issues of whether there are alternative mechanisms that could reduce TWIA's dependence on costly reinsurance while maintaining adequate coverage. Representative Spiller expressed concern with the models TWIA is using and suggested that the models should be re-examined, and premiums should be based, in general, on TWIA's actual costs and losses.

Currently, TWIA's reliance on reinsurance is a major driver of costs, largely due to rising premiums in the international reinsurance market, which have increased in response to the growing frequency and severity of natural disasters globally. In 2024, reinsurance costs represented over 50% of the premium income, a sharp increase from 25% in 2021. The reinsurance market, largely composed of international insurers, has seen rising premiums, making it challenging for TWIA to maintain affordability for coastal policyholders. These increased costs ultimately translate to higher premiums for policyholders, as TWIA must account for reinsurance expenses within its operational budget.

Paul Martin, Vice President of State Relations of the Reinsurance Association of America, testified about the pressures facing the global reinsurance market, citing increased losses due to more frequent and severe weather events, as well as rising construction and labor costs driven by inflation, as major contributors to rising costs. Mr. Martin testified that during the first six months of 2024, global insured losses totaled \$61 billion, with \$32 billion of that \$61 billion being attributed to severe convective storms in the state of Texas. According to Mr. Martin, reinsurance now accounts for 50 cents of every premium dollar TWIA spends, which he described as unsustainable.

One suggested approach is to explore a state-backed reinsurance program or catastrophe bonds. This would provide the needed support for TWIA while reducing the costs associated with private reinsurance, much of which currently goes to international companies. A state-supported reinsurance initiative could help keep reinsurance expenses within Texas, benefiting both policyholders and the local economy. Another approach could involve greater collaboration between TWIA and private insurers to share the burden of risks more effectively, thereby reducing the overall cost of reinsurance for policyholders.

### **Impacts on the Seacoast Region's Energy Production and Science and Technology Advancements**

The high cost of insurance, particularly reinsurance, also impacts the seacoast region's ability to sustain energy production and advance science and technology. The Texas Gulf Coast is home to

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vital infrastructure, including ports and energy facilities, which provide significant economic benefits to the state. The rising cost of windstorm insurance affects not only homeowners but also businesses. High insurance premiums can deter investments and developments in the coastal region and can also have a negative impact on the coastal job market. Testimonies from coastal stakeholders highlighted the challenges faced by these entities due to escalating insurance costs and the need for legislative reform.

### **Other key issues regarding TWIA coverage and funding:**

#### **TWIA's Automatic Adjusted Building Cost (ABC)**

Chairman Hunter and Chairman Spiller raised issues with TWIA's proposed 10% rate increase and TWIA's 13% automatic Adjusted Building Cost (ABC). Mr. Durden, on behalf of TWIA, testified that the ABC factor varies to reflect the changes in the costs of labor and materials. The ABC increases coverage to ensure that policyholders will have sufficient funds to replace their property in the event of loss. Chairman Hunter and Chairman Spiller noted that the 10% proposed rate increase could actually result in increases for policyholders of greater than 10% because of the 13% increase for automatic ABC for certain policyholders who do not adjust their ABC factor. They noted that some policyholders could be subject to a 23% rate increase. However, subsequent to the State Affairs hearing on August 16, 2024, Commissioner Brown denied TWIA's proposed 10% rate increase in an Order signed on October 14, 2024.<sup>8</sup>

#### **TWIA Coverage Inadequacies**

Stakeholders highlighted concerns with TWIA eligibility, specifically the inadequacy of the WPI-8 certificate process. Certain residential property owners can bypass certification by paying a 15% surcharge, whereas commercial property owners do not have this option, creating a risk of non-renewal close to hurricane season. Stakeholders emphasized the need for solutions that balance coverage affordability with TWIA's financial stability.

#### **Impact on Local Schools**

Stakeholders discussed the financial burden of increased insurance premiums on coastal school districts, many of which are already struggling due to state recapture policies. The rising premiums force schools to make difficult decisions, including cutting costs in essential areas, such as safety measures or reducing insurance coverage for buildings, which ultimately impacts educational quality and safety. For example, Sharon McKinney, Superintendent of Schools for the Port Aransas Independent School District, testified that rising insurance costs have resulted in some schools having to drop some of their outlying school buildings from their insurance policies because they cannot afford these policies. This poses significant dangers to our school systems and students.

## **RECOMMENDATIONS**

1. **Improve Board Representation:** The Legislature should modify the composition of TWIA's



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board of directors to ensure it adequately represents coastal residents and independent public advocates rather than being dominated by out-of-state or industry representatives. Specifically, require that all TWIA board members be Texas residents. This will help address concerns regarding potential conflicts of interest and improve public trust in the decision-making process. It will also improve the responsiveness of the board to the needs of coastal Texans.

**2. Enhance Public Engagement and the Public Input Process:** The Legislature should ensure that TWIA conducts multiple public hearings across the coastal region to ensure meaningful engagement with stakeholders. The Legislature should also examine how TWIA, TDI, and OPIC can strengthen the public input process during rate hearings to ensure that the voices of policyholders are heard before decisions are made. Improved transparency and accountability are needed to help restore confidence and public trust among policyholders and can lead to better policy outcomes. The Legislature should explore avenues to ensure that TDI, OPIC, and TWIA proactively engage with local governments and residents along the coast to ensure agencies understand the needs and concerns of coastal residents. Regular check-ins and support, rather than appearing only after disasters, could help build trust and lead to more effective policy solutions.

**3. Increase Transparency when TWIA rates change:** The Legislature should examine how TWIA, TDI, and OPIC can better inform policyholders when their rates are subject to change and when those rates do in fact change.

**4. Review Reinsurance Practices:** The Legislature should evaluate alternatives to costly reinsurance, such as catastrophe bonds or a state-backed reinsurance program to reduce reliance on costly private reinsurance and keep funds within Texas. The Legislature should examine whether the use of expensive public securities should be replaced with state funding from the Texas Rainy Day Fund, repaid through surcharges on property policies. This could help stabilize costs for TWIA, allowing it to better serve coastal residents, while reducing the burden of reinsurance on policyholders and allowing for more affordable coverage.

**5. Strengthen State Agency Oversight:** The Legislature should ensure that TDI and OPIC strengthen their oversight capabilities by conducting more frequent and rigorous reviews of TWIA's rate filings and funding practices. This will help ensure that TWIA's funding mechanisms are sustainable and that rate increases are justified.

**6. Educational Impact Assessment:** The Legislature should assess the impact of TWIA's rate increases on coastal schools and small businesses. The Legislature should explore developing targeted relief or subsidy programs to ensure that essential services are not adversely impacted by rising insurance costs.

**7. Funding Mechanisms for TWIA:** The Legislature should consider using surplus state funds or establishing statewide assessments to help fund TWIA. Alternatively, a mechanism such as a hotel tax could provide additional revenue to support TWIA, ensuring that tourists who benefit from the coast also contribute to its resilience.

**8. Increase the Catastrophe Reserve Trust Fund (CRTF) Floor:** The Legislature should

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examine moving away from the use of debt for covering insurance loss and examine setting a minimum funding floor of \$1 billion for the Catastrophe Reserve Trust Fund, which could be operated by the Texas Rainy Day Fund or statewide policy surcharges. These funds could be repaid over short-term loans to replace public securities. In the event of catastrophic losses, a one-time statewide assessment could be levied on all Texas policies. This could provide liquid capital in the event of a storm and help TWIA maintain coverage without resorting to expensive debt instruments. This could also help make reinsurance less expensive

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## CHARGE V: PANHANDLE WILDFIRES

*Evaluate the findings and recommendations of the Investigative Committee on the Panhandle Wildfires that are within the committee's jurisdiction and develop related legislative solutions and other actions for preventing future wildfires and improving wildfire disaster preparedness, response, and mitigation.*

### BACKGROUND

The House Committee on State Affairs convened on Tuesday, September 17, 2024 at 9:00 a.m. to evaluate the findings and recommendations of the Investigative Committee on the Panhandle Wildfires that are within the Committee's jurisdiction. The Committee heard testimony that provided an update since the Investigative Committee hearings in Pampa Texas on April 2, April 3, and April 4, 2024.

The 2024 Texas Panhandle wildfires were among the most devastating the region has experienced, revealing critical vulnerabilities in utility infrastructure, emergency response coordination, and resource allocation. The Investigative Committee's report provided a detailed account of the causes, impacts, and failures that exacerbated the fires and presents a set of recommendations aimed at preventing future wildfires while enhancing preparedness, response, and mitigation capabilities. This report evaluates the findings and recommendations of the Investigative Committee and proposes legislative solutions to address the key issues that led to the catastrophic wildfires.

### SUMMARY OF COMMITTEE ACTION

The following individuals testified:

*Witnesses are listed in alphabetical order*

Jason Abraham, Rancher, Roberts and Hemphill counties

Michael Adams, Chief Executive Officer, Osmose Utilities Services, Inc.

Randall Collins, Assistant Executive Director, Railroad Commission of Texas

Connie Corona, Executive Director, Public Utility Commission of Texas

Craig Cowden, General Manager, Breezy Point Ranch

Al Davis, Director, Texas A&M Forest Service

James Henderson, Rancher, Texas Southwestern Cattle Raisers Association

Bruce James, Assistant Chief of the Texas Highway Patrol, Texas Department of Public Safety

Nim Kidd, Chief, Texas Division of Emergency Management and Vice Chancellor for Disaster and Emergency Services for the Texas A&M University System

David Muckerheide, Assistant Director of Property and Casualty Lines, Texas Department of Insurance

Craig Pritzlaff, Director of the Office of Compliance and Enforcement, Texas Commission on Environmental Quality

Adrian Rodriguez, President, Xcel Energy, Inc., New Mexico and Texas and Texas Southwestern Public Service Company

## FINDINGS

The Investigate Committee on the Panhandle Wildfire's report<sup>9</sup> identifies several primary causes and contributory factors leading to the Panhandle wildfires. The largest wildfires—Smokehouse Creek, Reamer Creek, and Windy Deuce—were attributed to poorly maintained electric power lines and poles owned by utility providers and oil and gas operators. Specifically, power poles owned by Xcel Energy were implicated in both the Smokehouse Creek and Reamer Creek fires, while the Windy Deuce Fire was traced to deteriorated power lines at an oil and gas location. The lack of regulatory oversight regarding utility infrastructure maintenance was a key factor, as Texas does not enforce stringent standards for inspection and replacement schedules, resulting in unchecked degradation of electrical infrastructure. Utility providers are left to manage their own maintenance programs without substantial regulatory scrutiny, which ultimately led to infrastructure failures under high winds.

The lack of inter-agency communication and coordination further impeded response efforts. Issues with communication failures and equipment shortages affected different aspects of the response. Volunteer Fire Departments (VFDs), the primary response force in rural areas, were found to be underfunded and ill-equipped to handle wildfires of such magnitude. Antiquated communication systems, particularly radios, hindered effective coordination between local responders, state agencies, and aerial support—leading to delayed response times. Chief Nim Kidd testified that Texas is not at a point where every first responder in Texas can communicate with every other first responder in Texas without someone else getting involved in trying to connect them together, emphasizing that this is a failure.

Inadequate resource allocation also stemmed from shortages in funding and outdated equipment, which prevented effective response to fires of this scale. The Predictive Analysis Department of the Texas A&M Forest Service (TAMFS), responsible for fire prediction, was unable to foresee the unprecedented fire conditions, resulting in insufficient pre-positioning of resources.

Another contributing factor was inadequate oversight of oil and gas operators, particularly those with low-producing wells. Neglected electrical infrastructure linked to non-producing oil wells heightened fire risks. A lack of coordination between the Railroad Commission of Texas (RRC) and other regulatory bodies led to gaps in the management of these fire risks, leaving hazardous conditions unchecked.

The firefighting equipment used by VFDs was also significantly outdated. Many fire departments rely on decades-old vehicles that require frequent repairs, and the Texas Rural VFD Assistance Program, which provides funding for new equipment and training, is grossly underfunded. While grant requests totaled \$43.7 million annually for the last three fiscal years, the available funding was capped at \$30 million. Further, only \$21.7 million in grants have been distributed annually for the last three fiscal years, leaving a shortfall of \$22 million. Because funding is so limited, TAMFS must place limits on the amounts of individual grants that are awarded. For example, if a department needs to purchase a truck at a cost of \$400,000, it may

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receive a grant for only a fraction of the purchase price. This funding comes from (77)R H.B. 2604, and there is currently a \$200 million backlog in grants. There was discussion on reexamining this bill to make it more fair, particularly for rural and smaller VFDs.

Additionally, job protection for volunteer firefighters was identified as a significant challenge. Many volunteers risked or lost their jobs while risking their lives to fight the wildfires, further diminishing an already scarce workforce and showing a need for job protection for these volunteers.

### **Updates from Agencies, Utilities, and Stakeholders since the Investigative Committee Hearings in Pampa, Texas**

Since the Investigative Committee meeting in Pampa, several state agencies have taken concrete steps to address the issues identified regarding wildfire preparedness and response.

#### **Randall Collins, Assistant Executive Director, Railroad Commission of Texas**

Randall Collins, Assistant Executive Director of the RRC, testified about the RRC's role in wildfire prevention and the lessons learned from the Investigative Committee on the Panhandle Wildfires. Mr. Collins highlighted the need to enhance direct communication with landowners to facilitate early reporting of potential hazards. He emphasized the importance of retraining inspectors to better identify and mitigate risks in the field before they escalate. Further, Mr. Collins discussed the establishment of a Memorandum of Understanding (MOU) between the RRC and the PUC. Under the MOU, if inspectors see an immediate problem, they are able to reach out to the PUC or the State Fire Marshal to get the electricity at the problematic location shut off immediately. The RRC has also formed a public engagement group to improve outreach efforts, working with local organizations to create stronger connections and facilitate community awareness regarding wildfire prevention measures.

#### **Connie Corona, Executive Director, Public Utility Commission of Texas**

Connie Corona, Executive Director of the Public Utility Commission of Texas (PUC), testified that the PUC has been working to address issues related to privately-owned electric equipment at well sites—a significant cause of the recent wildfires. The PUC has proposed a rulemaking that will require each utility to develop a method to accept a report of hazardous conditions, either from the RRC the PUC, the State Fire Marshall, or local authorities. The PUC is also working on a process to improve utility inspection programs and is developing recommendations for stronger oversight of utility poles and related infrastructure. Ms. Corona stated that the PUC intends to bring the Legislature recommendations to strengthen oversight of pole standards and inspections.

#### **Nim Kidd, Chief, Texas Division of Emergency Management and Vice Chancellor for Disaster and Emergency Services, Texas A&M University System**

Nim Kidd, Chief of the Texas Division of Emergency Management (TDEM) and Vice Chancellor for Disaster and Emergency Services for the Texas A&M University System, testified that TDEM took seven key functions to work on from the Investigative Committee

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Report: 1) biased action; 2) to control the causes of fires; 3) aircrafts and contracts; 4) funds for volunteer fire departments and other fire departments; 5) inoperable communications; 6) command structure; and 7) public participation.

Chief Kidd stated that TDEM also did their own after-action report. TDEM spent three days in the Panhandle with the fire departments that responded to the wildfires, and there were seven take aways from that after-action report: 1) evacuation planning and the need to coordinate evacuations and the local level; 2) communications and notification of the public; 3) air assets, equipment, and hazardous materials response and training; 4) a regional focus on the state's wildfire response; 5) public education; 6) strategies and access to resources, including where Texas is staging resources across the state because we have no known resource staging areas; and 7) first responder training and command training.

### **Bruce James, Assistant Chief, Texas Highway Patrol, Texas Department of Public Safety**

Bruce James, Assistant Chief for the Texas Highway Patrol, Department of Public Safety (DPS), touched on DPS's efforts to lean on new technology to increase efficiency since the Panhandle wildfires. Specifically, DPS has been utilizing an application called the Team Awareness Kit, allowing DPS troopers to communicate and respond to emergencies more efficiently and effectively.

### **Al Davis, Director, Texas A&M Forest Service**

Al Davis, Director of the Texas A&M Forest Service (TAMFS), discussed several initiatives undertaken since the Panhandle fires to enhance readiness. TAMFS provided the Committee with a handout, which can be found on the State Affairs section of the House website,<sup>10</sup> detailing all of these initiatives, with several of them summarized below.

-TAMFS agency leadership has met and continues to meet with landowners and stakeholders to foster the development of relationships and communications and to discuss any issues, concerns, and ways to work together moving forward;

-TAMFS formed a collaborative group among private helicopter operators to leverage them in TAMFS's aviation assets;

-TAMFS purchased three road graders that they expect to receive in December 2024, to be placed in Amarillo, Childress, and Lubbock offices. TAMFS intends to host and facilitate a Motor Grader Academy in the Panhandle to work with the Texas Parks and Wildlife Division and the Texas A&M Engineering Extension Service to find property to operate and exercise equipment on during the academy;

-TAMFS's Predictive Services Department personnel continue to build relationships and work with the National Weather Service and the PUC to improve wildfire mitigation and response efforts, as well as improve public safety; and

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-TAMSF awarded \$27,519 to Panhandle landowners to reimburse costs associated with establishing fire breaks with cool season grasses, and TAMSF expects to award more money in the future.

Mr. Davis also testified that since the Panhandle wildfires, TAMSF has been working with the volunteer firefighters and the Texas A&M Engineering Extension Service to foster relationships and communication and enhance training techniques.

**David Muckerheide, Assistant Director of Property and Casualty Lines, Texas Department of Insurance**

David Muckerheide, Assistant Director of Property and Casualty Lines at the Texas Department of Insurance (TDI), provided an overview of the economic impact of the wildfires, estimating that insured losses amounted to \$64 million. He stated that total economic losses from the fire will be higher, and the losses will also include uninsured losses associated with livestock, grazing, fencing, cleanup, and overall community impact.

**Billy Tidwell, President, State Firefighters' & Fire Marshals' Association of Texas**

Billy Tidwell, President of the State Firefighters' & Fire Marshals' Association of Texas (SFFMA), testified that the SFFMA is an association made up of about 20,000 volunteer firefighters from around the state of Texas. SFFMA has seen a tremendous increase in the frequency, scope, and size of wildfires across the state. Mr. Tidwell stated that SFFMA could not battle many of the wildfires they see without the help they receive from state agencies.

**Updates from Utilities**

**Mike Adams, Chief Executive Officer, Osmose Utility Services, Inc.**

Mike Adams, Chief Executive Officer of Osmose Utility Services, Inc. highlighted the critical role of regular inspection and maintenance of power poles to prevent future wildfires. He explained that proper maintenance, including chipping away decayed wood and applying preservatives, can extend a pole's lifespan to 75-100 years. However, Adams acknowledged the inherent difficulty in fully mitigating risks, noting that while inspections and restoration efforts can enhance resilience, no infrastructure is entirely immune to extreme weather events.

**Adrian Rodriguez, President, Xcel Energy New Mexico and Texas and Southwestern Public Service Company:**

Adrian Rodriguez, President of Xcel Energy, Inc. New Mexico and Texas (Xcel) and Texas Southwestern Public Service Company, a wholly owned subsidiary of Xcel Energy. testified that as a result of the drought and high winds in February 2024, SPS's poles were involved in the Smokehouse Creek and Reamer Creek fires.

Mr. Rodriguez testified that SPS has taken steps since the fires to mitigate future risks. SPS is making improvements to existing infrastructure, while also implementing new technologies as

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wildfire management techniques have evolved. Since February 2024, SPS has sped up its pole replacement program by installing 5,440 new poles. SPS has implemented wildfire safety settings for high-risk days, including not automatically re-energizing lines that trip until the line has been inspected. SPS has created a detailed service territory map for wildfire planning and continues to meet with their local communities to discuss wildfire-related issues.

Mr. Rodriguez highlighted the challenges posed by Texas's diverse geography and weather conditions, which range from extreme heat and drought to high winds and tornadoes. These factors necessitate ongoing infrastructure upgrades and the implementation of new technologies to reduce wildfire risks.

Mr. Rodriguez stated that SPS will be submitting its system resiliency plan to the PUC later this year, and it will include, for example, camera technology to rapidly detect and locate wildfires, so first responders can reach fires before they have a chance to grow; enhanced power line safety setting studies and deployment; vegetation management that creates space around certain infrastructure; and additional resiliency measures.

### **Update from Landowners**

The Committee heard testimony from Jason Abraham, Craig Cowden, and James Henderson, three landowners who were affected by the Panhandle wildfires. Mr. Abraham and Mr. Henderson served on the Investigative Committee on the Panhandle Wildfires.

Jason Abraham, a rancher in Roberts and Hemphill counties and a helicopter firefighter, testified that the ranchers have been dealing with many hardships since the wildfires, and they have experienced millions of dollars in damages without much relief other than donations from groups such as churches. He stated that ranchers are rebuilding their fences that were destroyed in the wildfires, at a cost of \$25,000 per mile, with his ranch spanning over 100 miles. He also discussed how many ranchers lost their cattle during the wildfires, and they are struggling financially due to the loss.

Mr. Abraham noted that the TAMFS has made significant improvements since the wildfires. He discussed how communications have improved, and they are meeting every quarter. He also noted his disappointment with the PUC and RRC's response to the wildfires, noting that improvements need to be made within these agencies. Further, he emphasized the need for more stringent pole replacement regulations.

Craig Cowden, a landowner and general manager of Breezy Point Ranch, testified that neglected infrastructure on oil and gas stripper wells was a significant contributor to fire risks. Mr. Cowden reported submitting fifteen formal complaints to the RRC since the wildfires regarding deteriorating and neglected infrastructure, resulting in numerous violations being recorded. Despite these findings, Mr. Cowden expressed concern about the RRC's ability to enforce compliance effectively, noting that the RRC permits many oil and gas operators to continue operating in areas prone to fire risks, despite being in violation of RRC rules. Mr. Cowden also testified that he has been subject to a rate increase from Xcel Energy since the wildfires.



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James Henderson, a landowner and cattle raiser and Donley and Childress counties, testified that his biggest concern going forward is the local economy. He stated that he lives in a very rural area, and their economy depends on cattle and grass, which is gone for the next six or seven years. He discussed concerns for his community being able to survive with these challenges. Mr. Henderson also commended the TAMFS and the efforts they have undertaken to help with wildfire prevention and mitigation, but Mr. Henderson stressed the importance of the need for increased communication between state agencies.

## RECOMMENDATIONS

### Infrastructure Improvements

1. **Regulatory Oversight and Monitoring:** The Legislature recommends increased regulatory oversight for utility and oil and gas operators to enforce strict maintenance and replacement schedules for power poles and electrical infrastructure. The PUC should conduct studies on existing pole inspection programs and consider additional oversight measures, including mandatory third-party audits of inspection practices. The Legislature should consider mandating more frequent pole inspections and quicker pole replacement initiatives. Legislative action is necessary to establish clear accountability and impose penalties for non-compliance with maintenance standards.

2. **Fire Mitigation Strategies:** The Legislature recommends increased funding for fire mitigation methods, such as fire breaks, mob grazing, and pre-suppression lines should be considered. The Legislature should also consider incentivizing the underground installation of power lines in high-risk areas to minimize the risk of power pole fires during extreme weather events. Property owners should participate in fire mitigation programs in regions susceptible to wildfires, promoting community-wide engagement in fire prevention.

### Support for Firefighting Resources

1. **Aerial Firefighting Resources:** The Legislature must look at acquiring and controlling its own fleet of aerial firefighting resources, including fixed-wing and rotary-wing aircraft, either by outright ownership or by rental contract agreement. Relying solely on federal contracts for aerial firefighting assets proved ineffective, resulting in significant delays responding to the wildfires. Establishing state-owned aircraft or additional aircraft contracts will improve response times and provide immediate resources during a fire event. When looking at this recommendation, the Legislature should examine a cost-benefit analysis of owning versus contracting aircraft. Additional investments in water reloading facilities across the Panhandle should also be prioritized to support aerial operations.

2. **Increased Funding for VFDs:** The Texas Rural VFD Assistance Program should receive increased funding to more fully cover the \$43.7 million in grant requests received annually, addressing the \$22 million shortfall. Furthermore, a new grant program tailored specifically for smaller VFDs serving large geographical areas should be considered, ensuring these departments receive adequate support. The grant application process must be simplified, and the metrics used

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to award grants should prioritize rural VFDs with the most significant geographical risk. The Legislature should examine whether (77)R H.B 2604 grants should be modified with more funding. The Legislature should also determine how to deal with the \$200 million backlog of these grants.

**3. Job Protection for Volunteer Firefighters:** Legislation to protect volunteer firefighters from job loss due to their participation in emergency response activities is essential. Volunteer firefighters should not have to choose between protecting their communities and losing their jobs. The Legislature should look at amending section 201.012, Labor Code (the Texas Unemployment Compensation Act), to exclude from the definition of “misconduct” absence from or tardiness to work resulting from responding to a declared natural disaster for up to 14 days in any calendar year. This change would allow terminated firefighters to obtain immediate compensation to help alleviate the burdens of unexpected job loss.

**4. Utilizing technology:** The Legislature should promote the use of more advanced technology in the PUC and RRC’s wildfire prevention efforts. Since the PUC and RRC have limited resources, they should utilize technology to increase reporting and response times so that they can more quickly respond to hazardous conditions that pose wildfire threats in order to timely resolve those threats.

## **Communication and Coordination**

**1. Modernization of Communication Systems:** A statewide upgrade of communication equipment is essential to ensure interoperable communication among VFDs, first responders, and state agencies during wildfire events. This includes funding to replace outdated radios with broadband-enabled, digital systems that offer better interoperability and coverage and developing an inventory of firefighting equipment to improve response coordination. Upgraded communication equipment is essential to enable first responders in Texas to be able to communicate with one another during times of emergency. A state-managed communication system should be considered to ensure seamless connectivity between agencies and responders.

**2. Enhanced Coordination and Training:** Improved coordination between local responders and state agencies is crucial. TAMFS and VFDs should conduct annual joint training exercises to build familiarity and cooperation. Legislative action should establish a mandate for such training sessions, ensuring standardized protocols and fostering trust between agencies. A clear chain of command that prioritizes VFDs in local response management must also be established.

**3. Enhanced Predictive Analysis Capabilities:** TAMFS should adopt innovative technologies, such as drones, mobile devices, and real-time fire modeling, to improve fire prediction accuracy. The Legislature should consider whether funding should be allocated for the acquisition of new technology to strengthen predictive analysis capabilities and better prepare Texans from future wildfires.

## **Other Considerations**

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**1. Access to Right-of-Ways and Easement Regulations:** The Legislature should explore easement laws and easement agreements to look at ways to permit utilities to take proactive mitigation steps on private property. Easier access to perform mitigation activities will reduce risks posed by aging infrastructure.

**2. Prohibit Utility Rate Increases:** The Committee recommends that the Legislature, in conjunction with the PUC, explore any and all available measures to prohibit or mitigate increases in utility rates to recoup funds spent for wildfire-related losses and liabilities.

# APPENDIX



STATE OF TEXAS  
HOUSE OF REPRESENTATIVES  
DISTRICT 103

January 9, 2025

The Honorable Todd Hunter  
Chair, House Committee on State Affairs  
Room E2.108  
Austin, Texas 78768

Dear Chairman Hunter and Members:

I extend my gratitude to you, Chairman Hunter, and all my colleagues on the State Affairs Committee for your dedicated work during the interim. The 2024 Interim Report is a testament to your leadership and the Committee's collaborative efforts.

After reviewing the House Committee on State Affairs Interim Report for 2024, I respectfully submit the following comments regarding **Interim Charge II – Securing the Border**:

- Recommendation #1: The report states, "Several testimonies and discussions highlighted the inadequacy of resources to meet escalating challenges related to OLS and securing the border. For example, several witnesses noted that personnel, equipment, and detention facilities were insufficient to address the rising numbers of illegal crossings and detentions."
  - Clarification: Witnesses at the Interim Hearing on September 30, 2024, did not testify about "rising numbers of illegal crossings and detentions" or the adequacy of detention facilities. Instead, testimony from the Texas Department of Public Safety indicated a reduction in apprehensions and crossings. Similarly, the Texas Military Department reported an 85% decrease in unauthorized crossings, a data point also emphasized by Governor Abbott in a public statement. To ensure accuracy, I recommend striking the statement underlined above from the report.
- Recommendation #3: The report further states, "The federal government should increase Border Patrol staffing, enhance asylum processing capabilities, and provide more detention facilities to alleviate the strain on state resources. Expanding detention facilities would prevent overcrowding and ensure detainees are housed in humane conditions."
  - Clarification: Testimony during the Interim Hearing did not address overcrowding or the need for additional detention facilities. Further exploration of evidence supporting these assertions is necessary before issuing such a policy recommendation.

Thank you for considering these comments. I remain committed to working alongside the Committee to ensure accurate and effective policymaking for our state.

Respectfully,

A handwritten signature in black ink, appearing to read "Rafael Anchía".

Rafael Anchía  
State Representative, District 103

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## ENDNOTES

- <sup>1</sup> [https://interchange.puc.texas.gov/Documents/56966\\_5\\_1423974.PDF](https://interchange.puc.texas.gov/Documents/56966_5_1423974.PDF).
- <sup>2</sup> [https://interchange.puc.texas.gov/Documents/56896\\_49\\_1423702.PDF](https://interchange.puc.texas.gov/Documents/56896_49_1423702.PDF).
- <sup>3</sup> [https://interchange.puc.texas.gov/Documents/56896\\_52\\_1424857.PDF](https://interchange.puc.texas.gov/Documents/56896_52_1424857.PDF).
- <sup>4</sup> [https://interchange.puc.texas.gov/Documents/56896\\_53\\_1425453.PDF](https://interchange.puc.texas.gov/Documents/56896_53_1425453.PDF).
- <sup>5</sup> [https://interchange.puc.texas.gov/Documents/57004\\_4\\_1430775.PDF](https://interchange.puc.texas.gov/Documents/57004_4_1430775.PDF).
- <sup>6</sup> [https://interchange.puc.texas.gov/Documents/55000\\_43\\_1424253.PDF](https://interchange.puc.texas.gov/Documents/55000_43_1424253.PDF).
- <sup>7</sup> <https://investors.centerpointenergy.com/news-releases/news-release-details/centerpoint-energy-names-tested-industry-veteran-don-daigler>.
- <sup>8</sup> <https://www.tdi.texas.gov/orders/documents/20248911.pdf>.
- <sup>9</sup> <https://www.house.texas.gov/pdfs/committees/393/House-Interim-Committee-on-The-Panhandle-Wildfires-Report.pdf>.
- <sup>10</sup> <https://capitol.texas.gov/tlodocs/88R/handouts/C4502024091709001/bca3720e-aa1-4d6d-95e8-5ad23f250bc8.PDF>.