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THE LONE STAR CURRENT

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RECAP OF THE REGULAR SESSION OF THE 89TH TEXAS LEGISLATURE

by Ty H. Embrey and Audrey Cooper

The 89th Regular Session of the Texas Legislature came to an end last month on June 2nd. While the state legislators were busy this year, filing a total of 9,000 bills and joint resolutions and passing over 1,300 of those bills and joint resolutions over the course of this session, their work appears to be far from over. Governor Abbott issued a proclamation on July 9th calling the Legislature back for a Special Session scheduled to begin on Monday, July 21st, to address issues ranging from property tax relief and THC regulation, to emergency warning systems and disaster relief following the recent tragic floods in the Texas Hill Country.

The Regular Session kicked off on January 14th with the election of State Representative Dustin Burrows of Lubbock as the new Speaker of the Texas House. Speaker Burrows has served in the Texas House since 2014, and has held key roles on committees focused on state elections, higher education, agriculture, trade, and financial services.

After the Texas Legislature adjourned Sine Die on June 2, Governor Abbott had twenty days to sign, veto, or allow bills to become law without his signature. The Governor ultimately vetoed 28 bills and signed 1,155 bills into Texas law.

This article summarizes the major legislation passed by the Texas Legislature that addressed issues relevant to Lloyd Gosselink's clients.

I. Open Government Legislation

HB 1522 (Gerdes/Kolkhorst) makes significant changes to the notice requirements for governmental entities under the Texas Open Meetings Act. Beginning on September 1st, governmental entities must post notice of their meetings at least three business days in advance, instead of the previous requirement of 72 hours. HB 1522 also imposes additional notice requirements for meetings to discuss or adopt a proposed budget, and requires certain local governments to develop and post a taxpayer impact statement. In addition to HB 1522, several other notable bills were passed related to open government that will affect many local governmental entities:

- **HB 3512 (Capriglione/Blanco)** requires certain local government employees and public officials to take an annual training course on artificial intelligence ("AI").
- **HB 762 (Leach/Bettencourt)** amends the Local Government Code to limit the instances when employees or independent contractors of political subdivisions may collect severance pay.
- **HB 3112 (Tepper/Perry)** allows governmental entities to hold a closed session to deliberate on certain cybersecurity matters connected to critical infrastructure, including water and wastewater facilities.

II. Investments in Water Supply and Infrastructure

The 89th Regular Session was an important session for water policy and state investment in water supply and infrastructure in Texas. During his annual State of the State Address on February 2nd, Governor Abbott pledged to make a "Texas-sized" generational investment in water this session, and the Governor made investments in new water supply strategies and critical water infrastructure one of his emergency items. Working in

89th Session continued on page 3

IN THIS ISSUE

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Lloyd Gosselink Rochelle & Townsend, P.C., provides legal services and specialized assistance in the areas of municipal, environmental, regulatory, administrative and utility law, litigation and transactions, and labor and employment law, as well as legislative and other state government relations services.

Based in Austin, the Firm's attorneys represent clients before major utility and environmental agencies, in arbitration proceedings, in all levels of state and federal courts, and before the Legislature. The Firm's clients include private businesses, individuals, associations, municipalities, and other political subdivisions.

The Lone Star Current reviews items of interest in the areas of environmental, utility, municipal, construction, and employment law. It should not be construed as legal advice or opinion and is not a substitute for the advice of counsel.

To receive an electronic version of The Lone Star Current *via e-mail, please contact Jeanne Rials at 512.322.5833 or jrials@lglawfirm.com. You can also access* The Lone Star Current *on the Firm's website at www.lglawfirm.com.*

FIRM NEWS

Nathan Vassar will be providing "An Update on the Dripping Springs Case" at the Texas Association of Clean Water Agencies Meeting on July 18 in Houston.

Sarah Glaser will discuss "Personnel" at the 2025 Texas Municipal Clerks Certification Program Legislative Update Seminar on August 21 in Georgetown.

Sarah Glaser and Laura Ingram will present "The Legal Corner" at the Correctional Management Institute of Texas 2025 CSCD HR Forum on September 11 in San Marcos.

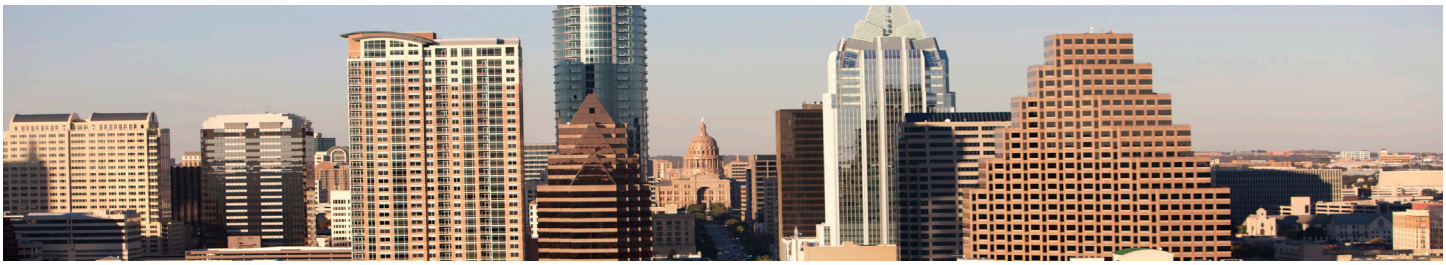
COMING SOON!!

SEASON 7

Lloyd Gosselink Rochelle & Townsend, P.C. is looking forward to its seventh season of Listen In With Lloyd Gosselink: A Texas Law Firm, featuring various topics/attorneys throughout the Firm's practice groups. You can listen to the previous six seasons by visiting lg.buzzsprout.com or our website at lglawfirm.com. You can follow us on LinkedIn, X, and Facebook to be notified when the latest episodes are released.

Season 7 Upcoming Topics Include:

- Demystifying GCD Permitting and Texas Groundwater Law
- SUD Conversion
- A Wrap-Up of the 89th Legislative Session
- Antidegradation and State Deference after the Supreme Court Dripping Springs Decision
- The Data Centers
- Understanding Immigration Enforcement Actions and Compliance
- Noncompete Agreements
- Legislative Updates to the Texas Public Information Act and Open Meetings Act



The Attorney General addresses an individual's service as an administrative assistant for two different public officials. Tex. Att'y Gen. Op. KP-0486 (2025).

The Clay County Commissioners Court requested an opinion from the Texas Attorney General to resolve whether an individual could work in a "dual role" as an administrative assistant for both the county judge and the county attorney. The Clay County Attorney ("County Attorney") proposed to hire an additional office administrative assistant, paid for using certain grant funds. The County Attorney sought to hire the Clay County Judge's ("County Judge") administrative assistant to serve in a "dual role" as an administrative assistant for both the County Judge and County Attorney.

Because the Commissioners Court did not provide the job description for either administrative assistant position, the Attorney General presumed these positions refer to an individual who performs secretarial work. While Texas law authorizes both a county judge and a county attorney to employ a secretary, it does not define the term "secretary" or set out the specific duties of such position. The common meaning of "secretary" is "one employed to handle correspondence and manage routine and detail work for a superior." The Attorney General adopted this common meaning before turning to the permissibility of the proposed "dual role" at issue.

The Attorney General analyzed whether the Texas Constitution or the common law incompatibility doctrine prohibits someone from working in the "dual role" proposed here. Under the Texas Constitution, no person is permitted to hold or exercise more than one public office of emolument at the same time. Similarly, the common-law doctrine of incompatibility prohibits dual public service in cases of conflicting loyalties where both positions are public offices. The Attorney General concluded that neither the Texas Constitution nor common law incompatibility doctrine prevents individuals from working in a "dual role" as an administrative assistant for a county judge and a county attorney since employees who merely discharge clerical duties necessary to carry out the powers of other officers are not considered to be public officers themselves.

Finally, the Attorney General examined whether the Texas Rules of Professional Conduct, Texas Code of Judicial Conduct, due process, or any other local policy or regulation prevents someone from working in the "dual role" proposed by the County Attorney. The Attorney General concluded that while the dual administrative assistant role could implicate several rule, policy, or constitutional concerns, those concerns are ultimately fact questions that are beyond the scope of an Attorney General opinion.

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89th Session continued from page 1

conjunction, **SB 7** filed by State Senator Charles Perry and sponsored by State Rep. Cody Harris which amended Texas law and **HJR 7 (Harris / Perry)** which proposed a constitutional amendment to dedicate $1 billion in state sales and use tax revenue each fiscal year to the Texas Water Fund beginning in 2027 and ending in 2047. The Texas Water Fund, created by the Legislature in 2023, provides funding for loans and grants to implement water supply and wastewater projects through existing Texas Water Development Board programs, including the New Water Supply Fund for Texas and the State Water Implementation Fund for Texas. The funding proposed by HJR 7 must first be approved by Texas voters at the constitutional amendment election held in November 2025, but represents another significant step toward securing Texas' water supply for future generations.

III. Water-Related Legislation

The 89th Regular Session also saw the passage of legislation affecting the regulation of water utilities and groundwater. These significant bills include:

Water Utilities

- **HB 29 (Gerdes/Perry)** requires certain municipally owned utilities to develop water loss mitigation plans, including water loss reduction strategies, estimated water savings, and cost estimates. Such mitigation plans must be filed with the Texas Water Development Board.
- **HB 2712 (Darby/Perry)** amends the ratemaking process for Class A, B, C, and D utilities at the Public Utility Commission. The bill requires the test year used by a utility during the ratemaking

process to include historic, future, or combined historic and future data, begin on the first day of a calendar year or fiscal quarter, and run for a consecutive 12-month period.

Groundwater

- **HB 2078 (Gerdes/Perry)** amends the Texas Water Code regarding joint groundwater management planning and tracking progress toward achieving desired future conditions (DFCs). The bill requires groundwater conservation districts to include a plain-language explanation in their management plans detailing how they monitor and assess progress toward meeting DFCs, as well as a summary of the district's performance in meeting those DFCs over the previous five-year planning period. The bill also requires districts to adopt DFCs for each 50-year planning period used for state and regional water planning, and allows for the adoption of interim DFC values for periods up to 10 years to track interim progress toward achieving the 50-year DFCs.
- **HB 1633 (Gerdes/Kolkhorst)** requires groundwater conservation districts to consider potential unreasonable impacts to surrounding exempt wells when deciding whether to grant or deny a permit application.
- **HB 2080 (Gerdes/Perry)** clarifies several aspects of the petition for inquiry oversight process at the Texas Commission on Environmental Quality ("TCEQ") related to groundwater conservation districts. Specifically, HB 2080 clarifies the notice requirements for review panel hearings, and allows TCEQ to provide technical and legal assistance to review panels.
- **HB 5560 (Harris/Perry)** increases the maximum civil penalty groundwater conservation districts may seek for violations of their rules from $10,000 per day per violation to $25,000.

IV. Solid Waste Legislation

HB 3071 (Geren/Hancock) requires TCEQ to cancel certain permits issued to municipal solid waste landfills that have not accepted waste for 25 consecutive years. However, this bill only applies to facilities in counties with a population greater than 2.1 million that are located in the extraterritorial jurisdiction of the county's principal municipality with a population of more than 900,000.

HB 5057 (Landgraf/Nichols) would require public agencies, including municipalities, that enter into, renew, or amend an exclusive contract for certain solid waste management services to: 1) publish notice in a newspaper of general circulation in the jurisdiction of the public agency; 2) publish notice on the agency's website; and 3) give notice to each current provider in the jurisdiction of the public agency (only if the public agency requires providers to register or obtain approval). Such notice must include a summary of the purpose of the contract or amendment, a description of the change made by the contract or amendment, and a summary of the effect of the contract or amendment on the operations of privately owned solid waste management services providers operating in the public agency's jurisdiction. Under HB 5057, a privately owned solid waste management service provider that has an existing contract may continue to provide services until the earlier of the date the existing contract expires, or one year after the notice was published. A privately owned solid waste management service provider that is providing services but does not have an existing contract may continue to provide services for 60 days.

SB 2078 (Kolkhorst/Gerdes) prohibits the disposal of composting waste in certain areas that do not have a commercial food waste ordinance.

Ty Embrey is Chair of the Firm's Governmental Relations Practice Group and a member of the Firm's Water, Districts, and Air and Waste Practice Groups. Audrey Cooper is a Paralegal in the Firm's Districts Practice Group. If you have any questions concerning Legislative tracking and monitoring services or legislative consulting services, please contact Ty at 512.322.5829 or tembrey@lglawfirm.com, or Audrey at 512.322.5843 or acooper@lglawfirm.com.

RECAP OF UTILITY LAW IMPLICATIONS FROM THE 89TH LEGISLATIVE SESSION

by Rosyln Warner, Rick Arnett, and Jake Dyer

Utility-related legislation remained an area of focus for many lawmakers in the pink dome during this year's session, but much of the Winter Storm Uri fallout present in the prior two sessions has lessened. During the 140-day session concluding on June 1, a few specific utility issues stood out in the approximately 300 electric and gas bills filed: growing concern over projected energy demand surges across Texas due to crypto-mining, data center, and Permian Basin operations; utilities' ability to recover infrastructure costs more expeditiously; and reactions to CenterPoint Energy's unsatisfactory Hurricane Beryl response in 2024, culminating in new laws designed to enhance the reliability and resiliency of electric service.

Passed Bills

The following bills of note passed during the 89th session:

SB 6 by Sen. Phil King and Sen. Charles Schwertner – SB 6 focuses on integrating large loads (energy consumers that consume at least 75 megawatts of energy) into the Electric Reliability Council of Texas (ERCOT) grid. The legislation requires the Public Utility Commission of Texas (PUCT) to establish uniform standards for

large load interconnections. The goal is to address concerns such as eliminating excessive costs and removing duplicative loads that may be impacting the load forecast. Notably, the Legislature has granted the PUCT authority to require certain large loads to deploy back-up or co-located capacity and to curtail large load power consumption during emergency grid conditions. With these measures, SB 6 provides the PUCT with valuable reliability tools that should help mitigate load shed events.

SB 6 additionally requires the PUCT to revisit the four coincident peak (4CP) methodology for allocating transmission usage costs within ERCOT. Currently, the grid operator examines peak electricity demand during four 15-minute intervals in June, July, August, and September. ERCOT then calculates and assigns transmission costs associated with these time intervals to each transmission utility. The utilities ultimately recover the costs from distribution service providers and large loads in accordance with the energy consumers' consumption during the 4CP intervals. The goal is to evaluate whether the 4CP approach is outdated and potentially inequitable.

HB 5247 by Rep. Charlie Geren – This bill creates an alternative and expedited capital cost recovery process for electric utilities serving the fast-growing Permian Basin. The legislation is of limited duration and excludes projects outside the Permian Basin.

SB 231 by Sen. Phil King – In light of CenterPoint Energy's failure to deploy certain mobile generation units during Hurricane Beryl, this legislation imposes additional guardrails for transmission and distribution utilities leasing and deploying temporary emergency electric energy facilities, known as "TEEEF." The units must be mobile and capable of generating electric energy within three hours after connecting to a demand source. The bill also adds new requirements for what must be reviewed and approved by the PUCT before a utility can enter into a lease for TEEEF, such as establishing the specific functions for which the utility may lease the facilities.

HB 144 by Rep. Ken King – Electric utilities will now be required to file and seek PUCT approval of plans and processes for the management and inspection of distribution poles.

SB 1789 by Sen. Charles Schwertner – Under this bill, the PUCT will implement certain structural integrity standards for transmission and distribution poles. The PUCT then has the authority to reduce an electric utility's return on equity if the utility fails to comply with the set standards and the utility's system is damaged in a weather event or natural disaster as a result of such noncompliance.

HB 1584 by Rep. Lacey Hull – This bill seeks to improve electric service delivery and mitigate outages by establishing a system for utilities to designate and maintain a list of facilities that receive priority status during emergencies.

HB 1606 by Rep. Will Metcalf – This change requires customer notification of the procedures for requesting vegetation management near transmission and distribution lines.

HB 4384 by Rep. Drew Darby – Gas utilities will now have an additional means for seeking recovery of infrastructure costs that are not already included in rates. The Railroad Commission of Texas (RRC) will then review the costs in a later base rate proceeding.

SB 1664 by Sen. Charles Schwertner – This legislation will require specific disclosures when a transmission and distribution utility files a base rate application at the PUCT and again when rates are ultimately set. The goal is to enhance transparency and clarity in information like the revenue the utility is seeking and the specific impacts on customer rates.

Unsuccessful Bills

Certain other bills related to utility ratemaking structures and curbing renewable energy did not make it across the finish line:

HB 3157 by Rep. Drew Darby and its companion **SB 1837 by Sen. Bryan Hughes** would have allowed electric utilities to implement interim rates prior to the conclusion of a rate case.

HB 4302 by Rep. Will Metcalf and **SB 1022 by Sen. Lois Kolkhorst** were designed to create an additional ratemaking mechanism for electric utilities to recover vegetation management costs.

Some bills related to renewables and electric generation received Senate approval but did not clear House hurdles. For example, **SB 715 by Sen. Sparks** and companion **HB 3356 by Rep. Patterson** related to reliability requirements for electric generation facilities in ERCOT. And **SB 388 by Sen. Phil King** would have created a dispatchable generation credit program.

Next Steps

For many of the new laws that passed, the focus now shifts to regulators like the PUCT and the RRC to implement corresponding procedures and requirements through rulemakings. But the story doesn't stop there—we can expect legislators to continue evaluating these and additional utility issues in committee as state leadership formulates its interim priorities leading up to the 90th session.

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SUPREME COURT OF TEXAS ISSUES DECISION AFFIRMING CONTESTED DRIPPING SPRINGS TPDES PERMIT

by Nathan E. Vassar

Nearly a decade after the application for a TPDES permit was filed, the City of Dripping Springs' discharge permit received the approval of the Supreme Court of Texas in Spring 2025. The case has been followed by industry groups, municipal/other utility permittees, and various stakeholders over multiple years as it worked its way through the appellate process. As detailed below, in a unanimous decision, the high court determined that the TPDES permit satisfied the antidegradation standard as applied by TCEQ over the arguments of protestants, Save Our Springs Alliance, that water quality would be degraded by greater than a *de minimis* amount.

Following oral argument in Fall 2024, many anticipated this result based on the questions presented by the Justices. The Court's focus in both the oral argument as well as in the opinion was on whether impacts to a particular water quality parameter would amount to degradation of water quality as a whole under the TCEQ's antidegradation rules. Several critical takeaways are apparent from the decision, including analysis of antidegradation policy in Texas, as well as deference to the permitting decisions of TCEQ once a permit is issued.

Save Our Springs argued that because of potential impacts to dissolved oxygen due to the loadings of nutrients into the receiving waters under the permit, there would be impermissible degradation. By contrast, counsel for Dripping Springs and TCEQ had contended that the agency was perfectly within the confines of antidegradation review because, even though there may be individualized impact when looking at a particular parameter, such impact would not equate to wrongful harm to water quality in the receiving stream in the aggregate. The Court agreed, and declined to set a precedent where a certain threshold percentage impact would be considered degradation for a specific water quality parameter.

The Court also considered TCEQ's process in following its implementation procedures in reviewing the application. Although not precisely identical to the now-overruled federal "Chevron deference" framework, in Texas, if an agency takes action on a permit such as the City of Dripping Springs', the reviewing court is supposed to ask whether there is "substantial evidence" supporting the agency's decision – or basically some reasonable basis for the agency to reach that conclusion. As such, permittees can continue to rely upon a process where courts look to an agency's consistency with its own rules and procedures, as was the case here.

The earlier rounds of court review raised concerns for the wastewater permitting community, particularly as the district court initially deemed that the permit issuance effectively would turn the Clean Water Act upside down, focusing on the increased nutrient loadings over and above existing conditions. The El Paso Court of Appeals upheld the permit issuance, but in a split 2-1 decision.

Overall, permittees and their teams should continue the work that they typically perform in ensuring a sound technical basis for requested effluent sets and that TCEQ staff has the necessary information to defend agency permitting decisions. Other litigation tied to nutrients will be followed closely in the months and years to come, including TCEQ's recent permitting decision regarding a new restrictive nutrient limit in the City of Liberty Hill's permit, but the high court's decision for the City of Dripping Springs is widely seen as a victory for wastewater utilities across the state.

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RESPONSES AND SOLUTION TO CENTERPOINT'S FAILURE TO DEPLOY MOBILE GENERATION

by Samantha Miller, Rick Arnett, and Jake Dyer

It's been nearly a year since Hurricane Beryl tore through Houston, leaving millions of CenterPoint Energy Houston Electric, LLC ("CenterPoint") customers without power during some of the hottest days of summer. The electric utility came under blistering criticism afterwards— criticism for its troubled recovery efforts, for its faulty customer communications, and, most significantly, for its failure to deploy some of its extremely expensive backup generators.

The company's well-publicized failures after Beryl roiled Texas politics for months and prompted regulatory action. In this article we'll look back at the steps taken by the Public Utility Commission of Texas (PUC), Electric Reliability Council of Texas ("ERCOT"), and the Texas Legislature relating to CenterPoint's actions — and inactions — in response to Hurricane Beryl.

Public Utility Commission of Texas and ERCOT Response

Temporary Emergency Electric Energy Facilities, or "TEEEF," are mobile generation units that can provide temporary power to critical facilities and end-use customers during significant power outages. The Texas Legislature opened the door to utility TEEEF leases in 2021, through the adoption of House Bill 2483 (by then Rep. Phil King), and then CenterPoint quickly took steps to lease

its own TEEEF fleet — at a cost to ratepayers of approximately $800 million. The PUC approved those expensive leases in May 2023, making CenterPoint's TEEEF program by far the most expensive in Texas.

But CenterPoint failed to deploy seven of its largest TEEEF units seven months later, during the recovery efforts for Hurricane Beryl. CenterPoint said these large 32-megawatt ("MW") generators were not easily transported and so were unsuited to the task. In the meantime, millions of CenterPoint customers went without power for over a week during some of summer's hottest days.

Soon afterwards, Gov. Greg Abbott directed the PUC to open an investigation into emergency preparedness and response by utilities in the Houston area. On November 21, 2024, the final report of the investigation found that "CenterPoint's process for deploying mobile generation to customers was inefficient. In addition, the fleet was not right-sized for a Hurricane Beryl-type restoration event."

Meanwhile in San Antonio, the city's municipal utility, CPS Energy, had proposed retiring three of its natural gas generation units, designated Braunig 1, 2 and 3, by March 31 of this year. But ERCOT warned those retirements could result in significant reliability problems, such as transmission overloads and cascading outages, and so ERCOT staff proposed entering Reliability Must Run (RMR) agreements with CPS Energy. Under such agreements, ERCOT ensures the continued operations of generation resources that would otherwise retire due to economic reasons by providing those resources with additional revenue. The costs of these RMRs are ultimately borne by ERCOT consumers generally.

Before entering an RMR, ERCOT, under its protocols, must issue a Request for Proposals (RFPs) to identify more cost-effective alternatives. ERCOT issued an RFP and CenterPoint responded to it by offering its fifteen 32 MW mobile generation units free of charge for use by CPS. In theory, this would address ERCOT's reliability concerns, would be more cost effective than an RMR, and would allow Texans to benefit from the idled TEEEF facilities. The PUC expressed support for CenterPoint's proposal and an agreement to relocate CenterPoint's mobile generation units to CPS Energy's service area was finalized by ERCOT and Prime Power Solutions, LLC — the owners of the leased mobile generation units — on June 4, 2025. The mobile generation units will soon be relocated to San Antonio and will temporarily replace Braunig 1 and 2, and ERCOT will enter an RMR for Braunig 3, the youngest facility. CenterPoint will receive no revenue from the units for their time in the San Antonio area.

CenterPoint's Ongoing TEEEF Requests

In response to the release of the mobile generation units to CPS, CenterPoint filed two TEEEF related applications with the PUC — an Application to Reduce its TEEEF Capacity and Rates ("Reduction Application") and an Application for Authorization to Lease TEEEF ("Lease Authorization Application").

In the Reduction Application, CenterPoint seeks the approval of (1) a solution to make fifteen 32 MW TEEEF units available to ERCOT and CPS Energy beginning on or around May 1, 2025; (2) a corresponding reduction to the capacity of CenterPoint's TEEEF fleet; and (3) a TEEEF Rider rate reduction to reflect the removal of the fifteen 32 MW TEEEF units. CenterPoint seeks a decrease of $24,022,583 from its TEEEF revenue requirement. If this decrease is approved, CenterPoint's TEEEF revenue requirement will be $129,180,464. CenterPoint asserts that this reduction accounts for the removal "from rates the prepaid amount attributable to the time period after the units are no longer available to serve (its) customers, so that … (its) customers will not bear the cost of the fifteen 32 MW TEEEF units attributable to that period going forward." Varying stakeholders, including the Gulf Coast Coalition of Cities, have intervened and are evaluating the request to ensure customers are made whole for the removal of the fifteen units from CenterPoint's TEEEF fleet.

At the same time, many of these same stakeholders are also reviewing CenterPoint's Lease Authorization Application. In this application, CenterPoint seeks approval from the PUC to enter new TEEEF leases for smaller units (1.5 MW or less) and a finding that these leases are reasonable and necessary to aid in restoring power to the company's distribution customers during a significant power outage that qualifies for TEEEF energization. More specifically, the lease CenterPoint is seeking is for 36 relatively small units totaling 20 MW of new TEEEF capacity. At this time, CenterPoint does not request any dollar amount related to these units but will request these costs in the future.

Although it seems unusual that CenterPoint now requests to grow its TEEEF fleet after agreeing to release multiple TEEEF units, the smaller units should result in an actual benefit to customers during a significant power outage. That's because it's easier for CenterPoint to move these smaller units by truck. As such, the operation of these smaller units gives CenterPoint the opportunity to provide a more rapid response during emergencies. Stakeholders and PUC staff are currently evaluating CenterPoint's Lease Authorization Application.

Legislative Response

The 89th Regular Legislative Session began January 14, 2025, and within 18 days, on February 3, 2025, Senate Bill 231, written by Sen. Phil King, was introduced. SB 231 proposed changes to the TEEEF statute that King authored in 2021 by setting guardrails on utility TEEEF leases and deployment (as described in detail in the article *Recap of Utility Law Implications from the 89th*

Legislative Session). It also includes language directly in response to CenterPoint's failure to deploy its TEEEF units during Hurricane Beryl. To that end, SB 231 directs the PUC to initiate a proceeding to review the rates of transmission and distribution utilities that leased a TEEEF facility and did not deploy the facility during a significant power outage that occurred during a major disaster. If in its review the PUC determines a rate charged or cost incurred by a transmission and distribution utility to be unreasonable or not prudent, SB 231, as written, would have directed the PUC to revise the utility's rate of return and order the utility to refund to customers any amount improperly recovered.

However, after its introduction to the Senate, the legislation was revised and the version of SB 231 that was passed by both the Senate and the House of Representatives removed the section relating to the review and possible customer refund. The guardrails for a utility's TEEEF lease and deployment of TEEEF units remained. SB 231 was signed by Gov. Abbott on June 20, 2025, and became effective immediately. The changes to SB 231 will give the PUC more opportunity to review a utility's TEEEF facilities and hopefully will result in more reasonably priced TEEEF fleets going forward.

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ASK SARAH

Dear Sarah,

We're trying out "Summer Fridays" and letting people leave early. Can we adjust hours or pay for employees who don't work a full day? Does it make a difference if they're exempt or non-exempt?

Signed,
Hitting the Beach

Dear Hitting the Beach,

It definitely makes a difference, and there are several other considerations you must take into account. The rules for paying exempt and non-exempt employees under the Fair Labor Standards Act (FLSA) are not one-size-fits-all—and "Summer Fridays" can trip up well-meaning employers if you're not careful.

For exempt employees:

Exempt employees must receive their full salary for any workweek in which they perform work, regardless of hours worked. So, if someone on your leadership team logs off at 2:00 p.m. on a Friday, you still owe them their full salary—even if they didn't work a full day.

If they're voluntarily leaving early, you can require them to use accrued PTO for the missed time but you can't reduce their salary. And if they're out of PTO, you can't dock their pay for a partial-day absence. That would risk undermining their exempt status.

For non-exempt employees:

Non-exempt employees must be paid for all hours actually worked. If a non-exempt employee leaves early, you can pay them for the time they were on the clock, and that's it. There's no requirement to pay for the full day **unless** your policy or practice promises otherwise. Of course, this is the legal framework and you could have a policy which is more generous.

Just keep an eye on:

- Consistency—make sure you're applying your early release policy fairly.
- Overtime—if someone stays late to "catch up before Friday," that time still counts toward their 40-hour workweek.

For governmental employers:

If you're a public employer, there's one more layer. In Texas and many other states, governmental entities cannot give employees bonuses, time off, or other things of value unless authorized by policy, statute, or formal approval in advance. That means no early release just because you're in a generous mood.

Offering extra time off without legal authority—even with good intentions—can violate constitutional provisions that prohibit gifts of public funds. Therefore, if you want to implement early release days for government employees, you'll need to either tie the leave to an existing policy (such as flexible scheduling, comp time, or discretionary leave) or get formal approval from the appropriate governing body (such as a board or council).

Bottom line: Summer flexibility is a great perk, but make sure your approach complies with wage laws, and if you're a public employer, double-check that you're not giving away more than you're legally allowed to.

"Ask Sarah" *is prepared by Sarah Glaser, Chair of the Firm's Employment Law Practice Group. If you would like additional information or have questions related to this article or other employment matters, please contact Sarah at 512.322.5881 or sglaser@lglawfirm.com.*

Water Cases

Cactus Water Servs., LLC v. Cog Operating, LLC, No. 23-0676, 2025 Tex. LEXIS 591 (June 27, 2025).

The Supreme Court of Texas (the "*Court*") delivered an opinion in *Cactus Water Services, LLC v. Cog Operating, LLC*. The question before the Court was as follows: who owns produced water under an oil-and-gas conveyance that does not expressly address the matter? The Court held that absent an explicit reservation by the surface owner, the conveyance of oil-and-gas rights conveys with it the right to possession, custody, and control of produced water created as a result of oil-and-gas production.

The Court found that "despite its colloquial appellation, produced water is not water." Thus, produced water is not subject to the well-established law that water remains part of the surface estate unless expressly severed. Rather, the Court found that produced water "is an inevitable and unavoidable byproduct of oil-and-gas operations" and accordingly, the right to produce hydrocarbons "necessarily contemplates and encompasses the right to produce and manage the resulting waste." Nevertheless, the Court held that the parties are "free to strike a different deal," indicating that surface owners who wish to retain ownership of produced water must do so explicitly in the lease agreement.

Baumgardner v. Brazos River Auth., 2025 Tex. LEXIS 590 (June 27, 2025).

The Court also delivered an opinion in *Baumgardner v. Brazos River Authority*. The question before the Court was whether, for purposes of the statute defining the jurisdiction of the Fifteenth Court of Appeals, a river authority is an "agency in the executive branch of the state government." The Court held that a river authority does not qualify as an "agency in the executive branch," and thus, the Fifteenth Court of Appeals does not have exclusive intermediate appellate jurisdiction over civil matters brought by or against a river authority.

Following creation of the Fifteenth Court of Appeals in 2023, the Texas Government Code was amended to grant the Fifteenth Court of Appeals exclusive intermediate appellate jurisdiction over, among other things, "matters brought by or against the state or a board, commission, department, office, or other agency in the executive branch of the state government." In determining whether such language includes river authorities, the Court looked to the plain text of the statute, the source from which a river authority derives its authority, and the extent of a river authority's jurisdiction.

The Court determined that a river authority is not considered an "agency in the executive branch" for purposes of the 15th Court of Appeals' jurisdictional statute. To begin with, a river authority is created under Article XVI, Section 59 of the Texas Constitution and is governed by Title 6 of the Special District Local Laws Code. The Court distinguished this grant of authority from that of "core executive agencies", which are generally described in Article IV of the Texas Constitution and governed by Title 4 of the Texas Government Code. The Court also cited its previous decisions to conclude that river authorities are generally understood to be political subdivisions, rather than state agencies. Similarly, the Court identified several characteristics of river authorities that are more akin to that of a political subdivision than a state agency, such as limited jurisdiction, taxing powers, and the absence of any state appropriations. Accordingly, the Court reasoned that the Legislature would have made its intentions clear through express language in the statute if river authorities were to be treated as "agencies in the executive branch of state government" for purposes of the 15th Court of Appeals' jurisdiction.

Litigation Cases

Burns v. City of San Antonio, No. 15-24-00009-CV, 2025 Tex. App. LEXIS 2267, *1 (Tex. App.—15th Dist. Apr. 3, 2025, no pet. h.).

One of the most interesting aspects of this groundbreaking opinion is not *what* the Court says, but *how* the Court says it. The relatively new, statewide Fifteenth Court of Appeals has jurisdiction over (i) cases appealed from the newly created business court, (ii) challenges to a state statute or rule, and (iii) challenges from or by the State of Texas, its subdivisions, or employees acting in their official capacities. Since its creation, many jurists have wondered, opined, and even worried about what effect a statewide, intermediate appellate court may have on the state's jurisprudence and administrative functions. In *Burns*, the Court indicates that it may prefer to take a measured, methodical approach.

In the *Burns* case, a group of citizens challenged a declaratory judgment granted by a trial court pursuant to Chapter 1205 of the Government Code (the Expedited Declaratory Judgment Act),

validating public securities issued by the City of San Antonio. The challenge to the judgment was based on alleged insufficient notice of the filing of the case. In its filing for declaratory judgment under the Expedited Declaratory Judgment Act, the City provided notice by publication (rather than by personal service) of the suit and upcoming trial, as allowed by the statute. The Fifteenth Court of Appeals did not depart from precedent and upheld the notice by publication as constitutionally sufficient and affirmed the lower court's judgment in favor of the City.

Villarreal v. City of Laredo, 134 F.4th 273 (5th Cir. 2025).

In a recent *en banc* decision, the Fifth Circuit reaffirmed the dismissal of journalist Priscilla Villarreal's First Amendment retaliation claim, holding that the officers and prosecutors involved were entitled to qualified immunity. *Id*. at 276. Villarreal, a vocal critic of the Laredo Police Department, was arrested in 2017 after publishing nonpublic information obtained through informal channels, allegedly in violation of state law. *Id*. at 275. She claimed her arrest was in retaliation for her protected speech. *Id*. However, the Fifth Circuit ruled that at the time of her arrest, it was not clearly established under federal law that an arrest supported by probable cause could still violate the First Amendment. *Id*. at 276. The court relied on the U.S. Supreme Court's 2012 decision in *Reichle v. Howards*, which held there was no recognized right to be free from a retaliatory arrest if probable cause existed. *Id*. Because the recent exception recognized in the Supreme Court's *Nieves v. Bartlett* 2019 decision was not yet law in 2017 (when Villareal was arrested), the defendants' actions did not violate clearly established rights. *Id*. This decision underscores that qualified immunity continues to shield government actors from liability for conduct that was legally uncertain at the time it occurred. While the Supreme Court's evolving precedent may change the landscape going forward, the law as it currently stands protects officials from First Amendment retaliation claims in similar pre-*Nieves* contexts.

Elliott v. City of Coll. Station, No. 23-0767, 68 Tex. Sup. Ct. J. 830, 2025 Tex. LEXIS 380, at *14 (May 9, 2025).

In a recent decision, the Texas Supreme Court vacated lower court rulings and avoided deciding a constitutional challenge—thereby taking its preferred path of constitutional avoidance—to municipal regulation in extraterritorial jurisdictions (ETJs). *Id*. at 3. Instead, the Court emphasized and is giving the plaintiffs—property owners in the City of College Station's ETJ—an opportunity to unilaterally remove their lands from the City's ETJ pursuant to the "newly" passed SB 2038 statutory scheme. *Id*. at 9. The Court opined that the plaintiffs exercising this statutory remedy, which would legally require removal of the plaintiff's lands from the City's regulation pursuant to the terms of the statute, would moot the plaintiffs' claims, and, because of that, ruling on the constitutional question (effectively whether a City could regulate residents within an ETJ without electoral input from those residents) would be "imprudent to do so at this time." *Id*. at 17. The Court's decision directs litigants to exhaust the new statutory opt-out process before challenging ETJ regulations in court, highlighting the importance of tracking legislative developments that can significantly alter an entity's regulatory authority.

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AGENCY HIGHLIGHTS

United States Environmental Protection Agency ("EPA")

EPA Issues First Permits for Class VI Underground Injection Wells in Texas and Proposes to Approve Texas' Application to Administer Class VI Underground Injection Well Program. Class VI underground injection wells are a relatively new concept utilized for carbon sequestration projects to capture, inject, and sequester carbon dioxide ("CO2") into deep rock formations, ultimately removing greenhouse gases from the atmosphere. Currently, only four states have primacy over Class VI well permitting, with EPA issuing and enforcing permits in all other states. However, many states, including Texas, have applied for primacy, which allows a state to issue and enforce permits.

On June 9, 2025, EPA announced its proposed approval to allow the Texas Railroad Commission to permit Class VI wells. The proposed rule, once finalized, would give the Railroad Commission

enforcement primacy over Class VI wells, giving Texas primacy over all classes of underground injection wells. The proposed rule was published in the *Federal Register* on June 17, 2025, and EPA will accept comments until August 1, 2025.

Additionally, while there are various permit applications pending or planned to be submitted in Texas, EPA issued the first Class VI permits in Texas on April 7, 2025. The permitted wells will store approximately 722,000 metric tons of carbon per year.

EPA Issues Memorandum Clarifying Clean Water Act ("CWA") Implementation. On May 21, 2025, the EPA issued a memorandum clarifying the specific role that states and tribes play in federal licensing and permitting under Section 401 of the CWA. The memorandum is a clarification of how the scope of certification regulations are to be implemented. In 2023, EPA issued regulations allowing a certifying agency to consider and base certification on how federally licensed and permitted projects affected water quality as a whole instead of at the point source of discharges.

The memorandum clarifies that the 2023 regulation allows a certifying authority to only consider adverse impacts to water quality and only insofar as they prevent compliance with applicable water quality standards. They do not authorize a certification condition based on generalized concerns about water quality that are not connected to specific applicable water quality requirements. EPA also announced its intent to issue *Federal Register* notice and recommendations docket to identify areas of implementation challenges and uncertainty related to the 2023 rule.

EPA Announces Changes to Nationwide Limits on Per- and Polyfluoroalkyl Substances ("PFAS") in Drinking Water. On May 14, 2025, the EPA Administrator announced changes to nationwide limits for PFAS in drinking water. The announcement indicated the EPA's intent to extend compliance deadlines, establish a federal exemption network, and initiate enhanced outreach to water systems.

The EPA will keep its current drinking water standards for Perfluorooctanoic acid ("PFOA") and perfluoro-octane sulfonate ("PFOS") while announcing its intent to rescind and reconsider drinking water standards on five other PFAS-derivative chemicals.

EPA in the same announcement additionally announced its intention to initiate rulemaking to extend the deadline for public water systems to comply with Maximum Contaminant Levels ("MCLs") of the regulated PFAS. The current rule gives public water systems until 2029 to comply with MCL's while EPA intends to extend the compliance date to 2031. EPA announced its intent to issue a proposed rule to extend the compliance date to Fall 2025 and finalize the rule in Spring 2026. The EPA also intends to create a federal exemption network related to MCLs of PFAS. A spokesperson for the EPA specified that the plans to establish a federal exemption network would be to allow for additional time to find a compliance solution.

EPA will launch PFAS OUT to connect with public water utilities that need capital improvements to address PFAS in their systems. The program would be created to share resources, tools, funding, and technical assistance to help ensure utilities are compliant with the new PFAS regulations.

EPA Announces Updates Regarding Passive Receivers of Per- and Polyfluoroalkyl Substances ("PFAS"). On April 28, 2025, the EPA Administrator outlined upcoming agency action to address PFAS, including clarification on the issue of passive receivers' liability under the Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA," also known as Superfund). When EPA previously designated PFOA and PFOS as hazardous substances under CERCLA, many commenters requested an exception for passive receivers. While EPA did not include such an exception in the regulation language, it published guidance shortly after the final rule which stated that passive receivers would generally not be targets of enforcement actions. However, the guidance is non-binding and does not shield operators from third party suits under CERCLA. In the April 28th announcement, EPA indicated that it intends to continue the polluter pays model and focus enforcement on polluters or those emitting PFAS, not passive receivers. In furtherance of this intention, EPA indicated a desire to work with Congress to shield passive receivers from liability as well as plans to update its PFAS Destruction and Disposal Guidance more frequently from every three years to annually.

EPA Announces Plans to Address PFAS Contamination. On April 28, 2025, the EPA Administrator outlined upcoming agency action to address PFAS. Among other items, EPA plans to designate an agency lead for PFAS and the creation of effluent limitations guidelines ("ELGs"). The new designated agency lead for PFAS would help align any agency PFAS efforts across its many programs. No specifics were given for who or when the designation would be announced.

EPA intends to continue efforts to develop ELGs specifically for PFAS manufacturers and metal finishers. EPA also intends to evaluate other ELGs as necessary for reduction in PFAS discharges.

EPA and Health and Human Services ("HHS") Announce Review of Fluoride Health Risks in Drinking Water. On April 7, 2025, the EPA Administrator and the Secretary of HHS jointly announced the agencies' decision to review new scientific information on the potential health risks associated with fluoride in drinking water. EPA and HHS will coordinate research efforts according to the announcement. The review is in response to The National Toxicology Program Report that concluded with moderate confidence that fluoride exposure above 1.5 milligrams per liter may be associated with detrimental health effects in young children. The new scientific evaluation will inform EPA decisions on the standard for fluoride in drinking water and whether EPA's current fluoride standard—4.0 milligrams per liter—should be lowered.

Texas Office of the Attorney General ("AG")

AG Files Suit Against Travis County for Failing to Comply with Post Closure Care Requirements at County Landfill. On May 13, 2025, the AG filed suit against Travis

County after an investigation by the Texas Commission on Environmental Quality ("TCEQ") alleged that the Travis County Landfill (the "Landfill") which operated from 1968 until 1982 was in violation of various post closure care requirements.

In its Petition, the AG alleges that on March 8, 2024, TCEQ conducted a compliance investigation at the Landfill and found violations including vegetation growing into and penetrating the Landfill cap, subsidence and ponding, and leachate leaks. TCEQ sent the notice of violation letter shortly after the inspection and provided actions to be completed to return to compliance. On December 16, 2024, TCEQ found that Travis County's compliance progress was inadequate. The Petition alleges that there continues to be leachate leaks and issues with the leachate drainage system, holes in the Landfill cap from removing trees and vegetation, continued vegetation growth into the cap, and subsidence and ponding.

The AG is bringing claims for civil penalties for unauthorized discharge of waste into state water and failure to follow minimum design operation, closure, and post-closure requirements. The AG is also bringing a claim for injunctive relief to bring the Landfill into compliance.

Public Utility Commission of Texas ("PUC")

Three Transmission-Only Electric Utility Comprehensive Base-Rate Cases Settle.

Wind Energy Transmission Texas, LLC ("WETT")

As previously reported, WETT filed a statement of intent to change rates and tariffs on December 3, 2024, seeking a revenue requirement for the provision of electric transmission service in Texas of $136,602,978, an increase of $15,949,204 over the utility's adjusted test year revenues. WETT also requested a return on equity ("ROE") of 10.5%, cost of debt of 4.334%, capital structure consisting of no more than 55% debt and 45% equity, and overall rate of return of 7.11%. The Steering Committee of Cities Served by Oncor and other stakeholders conducted discovery and filed direct testimony. After discussions with WETT and the other parties, all parties reached a settlement agreement resulting in a revenue requirement of $130,631,220, ROE of 9.6%, cost of debt of 4.33%, capital structure of 59% long-term debt and 41% equity, and overall rate of return of 6.493%. The Commission approved the rates, terms, and conditions set forth in the settlement agreement on June 20, 2025. More information can be found under PUC Docket No. 57299.

Cross Texas Transmission, LLC ("CTT" or "Cross Texas")

As previously reported, CTT filed a statement of intent to change rates and tariffs on January 14, 2025, where it sought a revenue requirement of $76,506,194, representing an approximately 7.05% increase over its currently approved revenue requirement. Cross Texas also asked for a return on equity of 10.60%, cost of debt of 3.94%, and CTT's actual capital structure of 55.07% debt and 44.93% equity, which results in a weighted average cost of capital of 6.93%. The Steering Committee of Cities Served by Oncor and other stakeholders conducted discovery and filed testimony. After discussions with CTT and the other parties, all parties have reached a settlement in principle. More information can be found under PUC Docket No. 57467.

Electric Transmission Texas, LLC ("ETT" or "the Company")

As previously reported, ETT filed an application to change its rates and tariffs on January 31, 2025. ETT—a transmission only utility operating over 2,000 miles of transmission throughout ERCOT—sought a revenue requirement of approximately $426.3 million, representing a 15.3% increase over ETT's current revenue requirement. Additionally, ETT requested a return on equity of 10.6% and a capital structure of 55% debt and 45% equity.

On June 12, 2025, ETT filed a stipulation and settlement agreement. After Cities, Commission Staff, and other intervenors filed testimony recommending various reductions to ETT's request, the Company agreed to reduce its requested revenue requirement by $36.3 million, resulting in a settled revenue requirement of $390 million. The settlement agreement is subject to the Commission's review, and should receive final approval before the end of July.

Oncor Electric Delivery Company, LLC ("Oncor") and Texas-New Mexico Power Company ("TNMP") Distribution Cost Recovery Factor ("DCRF") Proceedings Settle.

Oncor

As previously reported, Oncor filed an Application to Amend its DCRF on February 14, 2025, seeking a $107.6 million increase in distribution revenues. Notably, this was the first DCRF proceeding where a transmission and distribution utility sought recovery of System Resiliency Plan ("SRP") related costs. The Legislature recently created SRPs as an alternative mechanism for utilities to recover "system resiliency" related costs.

On March 26, 2025, Oncor filed a stipulation and settlement agreement, which the Commission approved on April 24, 2025. During settlement negotiations, Cities and other intervenors challenged Oncor's SRP related request, and the Company ultimately agreed to remove all SRP costs from this DCRF. Accordingly, Oncor agreed to an approximately $1.3 million reduction to its original DCRF request. The Company will seek to recover its SRP costs in a future base rate proceeding.

TNMP

As previously reported, TNMP filed an Application to amend its DCRF on March 14, 2025. TNMP requested an increase in distribution revenues of $24.9 million. Unlike Oncor, TNMP did not request to recover any of its System Resiliency Plan costs due to the timing of the PUC's approval of its Resiliency Plan. Cities Served by Texas-New Mexico Power Company intervened in the proceeding to evaluate the request and participate in discovery.

Only one intervening party, Texas Industrial Energy Consumers, filed a recommendation indicating two issues with the request. Ultimately, an Order was filed on May 15, 2025, approving the Application as filed. The Order can be found on the PUC Interchange in Docket No. 57816.

AEP Texas, Inc. ("AEP") and CenterPoint Energy Houston Electric, LLC ("CenterPoint") File Applications to Amend Mobile Temporary Emergency

Electric Energy Facilities ("TEEEF") Riders.

AEP

On May 7, 2025, AEP filed an Application to Amend its Rider Mobile TEEEF. Under the Public Utility Regulatory Act, a transmission and distribution utility may lease and operate facilities that provide temporary electric energy to distribution customers during a significant power outage. A utility may recover the reasonable and necessary costs of leasing and operating these facilities through a rider—the TEEEF Rider.

Here, AEP is seeking a total TEEEF Rider revenue requirement of $36.2 million. If the Commission approves AEP's request, the average residential customer's monthly bill would increase by approximately $0.60 per month. AEP Cities and other parties have intervened to review AEP's request. The Parties will soon initiate discovery and may ultimately challenge aspects of AEP's application. We will provide updates as AEP's TEEEF application proceeds.

CenterPoint

Within two months, April and May, CenterPoint filed two applications with the PUC relating to its TEEEF capacity and rates. Both applications, however, have very different requests.

On April 18, 2025, CenterPoint filed an Application to Reduce its TEEEF Capacity and Rates. As discussed above, this reduction stems from a solution to the ongoing concerns surrounding CenterPoint's lack of use of its recently acquired mobile generation units, and CPS Energy's proposed retirement of the operations of three of its natural gas generation units. CenterPoint entered into an agreement with the Electric Reliability Counsel of Texas and CPS Energy to relocate CenterPoint's mobile generation units to San Antonio, CPS Energy's service area. As a result of this agreement, CenterPoint is requesting to reduce its capacity by approximately 480 MW and reduce its TEEEF revenue requirement by $24 million. This results in a reduction to the average residential customer's monthly bill by approximately $2.00 per month in 2027.

Soon after CenterPoint's Application requesting a reduction, on May 27, 2025, CenterPoint filed an Application for Authorization to Lease TEEEF. On January 8, 2025, 16 Texas Administrative Code § 25.56, was adopted and went into effect. This rule specifically refined the scope of TEEEF filings and required utilities to request authorization from the PUC to lease TEEEF units. Pursuant to this rule, CenterPoint is requesting authorization to enter into two new lease agreements for small TEEEF that will allow CenterPoint the ability to respond to severe weather events. In its Application, CenterPoint is not requesting an increase to its rates.

The Gulf Coast Coalition of Cities has intervened in both proceedings to evaluate CenterPoint's requests, participate in discovery, and potentially challenge aspects of CenterPoint's requests. More information on the applications can be found on the PUC's interchange in Docket Nos. 57980 and 58107. We will provide updates as the applications proceed.

CenterPoint System Resiliency Plan Settles. As previously reported, CenterPoint filed its second, updated proposed System Resiliency Plan (SRP) in late January. CenterPoint requested to spend $5.75 billion over a three-year period on 39 resiliency projects. Intervening parties and PUC Staff conducted discovery, filed testimony challenging projects in the SRP that were ineligible for SRP recovery or were not beneficial to ratepayers at this time, and participated in settlement discussions with CenterPoint. After weeks of discussions, a settlement was reached. Filed on June 12, 2025, the settlement reduced SRP by $2.576 billion. Under the settlement, CenterPoint will spend an estimated $3.178 billion over three years on 30 resiliency projects and will defer $242 million to a fourth year in order to decrease the impact on ratepayers. The PUC has not approved the settlement and will be considering the settlement at an upcoming Open Meeting. The settlement agreement can be found on the PUC's Interchange in Docket No. 57579.

PUC Rulemaking Update. PUC Staff's current rulemaking calendar for 2025 can be found under Docket No. 57606. Commission Staff has noted the rulemaking calendar does not capture the full breadth of its rulemaking and other legislative implementation activities. Staff is currently engaged in scoping and scheduling rulemaking projects that are not yet reflected on the calendar. The rulemaking calendar and dates included are subject to change, but the following projects appeared on the rulemaking calendar as of May 7, 2025:

- Project No. 57603 – Unplanned Generation Service Interruption Reporting
- Project No. 52059 – Review of Commission Filing Requirements
- Project No. 57374 – Exemption Process for ERCOT Technical Standards
- Project No. 57602 – Permian Basin Reliability Plan Reporting Requirements and Monitor
- N/A – Standard Generation Interconnection Agreement
- N/A – Review of § 24.167
- N/A – NonERCOT Fuel Recovery
- Project No. 56574 – Rule Review for Chapter 22 – Procedural Rules
- Project No. 57819 – CCN Mapping Resources Webpage Attestation Requirement
- N/A – Expedited STM & Temporary Rates
- N/A – Temporary Managers & Emergency Orders
- Project No. 52301 – ERCOT Governance and Related Issues
- Project No. 54233 – Technical Requirements and Interconnection Processes for Distributed Energy Resources
- Project No. 55249 – Regional Transmission Reliability Plans
- Project No. 56736 – Retail Sales Report
- Project No. 57883 – Commission Directives to ERCOT
- Project No. 57928 – Review of 25.53, Electric Service Emergency Operations Plan

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