
Public Utility Commission Tackles Weatherization Rules for Electricity Market

Under the provisions of Senate Bill 3, power generation companies and wires utilities within the ERCOT region must protect their critical facilities against extreme weather or face fines of up to \$1 million per day.



Although still in draft form, legislatively mandated weatherization rules for Texas generators and wires companies should be complete and in force in time for the next winter season, according to regulators.

Power sector weatherization is required under new energy reform legislation – Senate Bill 3 (SB 3) – which lawmakers adopted earlier this year in response to February’s statewide outages. Gov. Greg Abbott signed SB 3 into law on June 8, and since then the Texas Public Utility Commission has rushed to implement key provisions before a statutory deadline in early December. The PUC expects to release draft rules for public comment on August 26.

Under the new law, power generators and wires companies within the ERCOT region must protect their critical facilities against extreme weather or face fines of up to \$1 million per day. SB 3 also calls for the creation of a weather study to help guide implementation, and likewise includes various unrelated provisions relating to everything from the establishment of an emergency alert system to the identification of critical gas infrastructure.

To accommodate the accelerated rulemaking process, PUC chair Peter Lake has suggested shortening the period for the public to comment on the draft weatherization rules, and Commissioner Jimmy Glotfelty has urged generators and wires utilities to start making upgrades sooner rather than later. “We’re hoping they’re not waiting on us – we’re hoping they’re well along in the process,” he said earlier this month.

Further complicating the rushed process is the need for the accompanying weather study, also required by SB 3. ERCOT will not have that study complete until late January, which is after the December compliance deadline.



TWO-STEP PROCESS

To work around the problem, PUC commissioners have announced plans to implement the SB 3 weatherization mandates in two steps. The first begins with the agency fashioning a limited set of rules by December 1 that will include broad requirements for generators and wires companies to correct any weatherization deficiencies identified during the serious winter storms of 2011 and 2021. PUC commissioners also have discussed implementing best-practices improvements identified by federal regulators after the 2011 winter storm. “Make a plan to fix those (plant failures) and execute that plan,” explained Barksdale English, PUC Director of Compliance and Enforcement, in reference to the first step of the two-step process.

Then, in 2022, the PUC would implement the second step: the creation of more granular weatherization regulations that correspond with various extreme weather risk probabilities. ERCOT will identify these specific risk probabilities through the pending weather study, which the organization is conducting in coordination with the state climatologist and private vendors. ERCOT officials say the study will include hourly weather data going back more than 100 years and will cover several discrete regions of the state. The study should be complete by late January.

SB 3 also gives ERCOT and the PUC new enforcement authority. That is, unlike legislation adopted after statewide outages in 2011, SB 3 allows for fines of up to \$1 million per day for weatherization violations. The legislation also directs ERCOT to conduct inspections, and officials have said that they may require affidavits of compliance from plant owners and conduct spot checks as the new process gets underway.

Operators of generation plants have stated that in order to weatherize their plants, they will need to install windbreaks, install heated boxes around sensitive gauges and equipment, and make other technical adjustments. The most costly aspects of such upgrades arise from hiring extra workers and paying overtime, as opposed to the cost of purchasing actual equipment, according to plant owners. Many of the installed upgrades also are seasonal and temporary in nature and, as such, plant operators must wait until the cooler months to complete them.

SB 3 also directs the Railroad Commission to implement weatherization rules for critical natural gas units, and gives the agency corresponding inspection authority. However, the Railroad Commission has substantially more time to draft those rules because SB 3 calls first for the completion of a supply chain map by September 2022.

Weatherization FAQ

Q. What did the PUC do to ensure critical energy infrastructure is prepared for the winter?

A. The Texas Legislature adopted Senate Bill 3, by Sen. Paul Bettencourt and Rep. Chris Paddie. SB 3 includes several pages of new rules relating to the weatherization of generation facilities and transmission and distribution utilities within the ERCOT region. SB 3 also requires the weatherization of natural gas facilities deemed critical for the energy supply chain. Gov. Greg Abbott signed SB 3 into law on June 8.

Q. After a 2011 winter emergency, the legislature received criticism for not mandating new weatherization standards. Does SB 3 include new mandates?

A. Yes. SB 3 instructs ERCOT to ensure compliance with the new weatherization standards through inspections. It also allows for penalties of up to \$1 million per day for violations of weatherization standards.

WHAT STAKEHOLDERS ARE SAYING

SB 3 does not specify who should pay for weatherization updates and such costs might be considerable. For instance, an April study by the Federal Reserve Bank of Dallas put the cost of winterizing the entire Texas energy system at \$430 million per year. Some power generation companies warn that if the PUC requires them to bear those costs alone, then they might take generation offline – thereby making the grid more unreliable. “Companies without cost recovery will be forced to decide whether to invest in capital improvements or to retire or seasonally mothball those marginal units,” Texas Competitive Power Advocates, an electric generation trade group, said in a PUC filing.

Other electric companies have warned against a one size-fits-all approach to weatherization rules. They noted that a generation facility located in West Texas, for instance, might require different cold weather protection than one located along the Gulf Coast. Older plants, too, might have different needs from more modern ones. Some companies noted the difficulty of installing equipment to protect plants for both winter cold emergencies and summer heat emergencies.

OCSC’s Comments

The Steering Committee of Cities Served by Oncor (“OCSC”), in comments filed at the PUC on July 30, noted that its interest in the weatherization issue arises from cities’ dual roles as both electric consumers in their own right – that is, cities procure power in the deregulated retail market for crucial public functions such as fire, police, and water service – and as advocates on behalf of retail customers who reside or do business within their corporate limits.

OCSC acknowledged that generating companies might retire certain marginal units rather than investing in weatherization, and agreed that such an outcome would exacerbate problems identified during Winter Storm Uri. The OCSC said that in such limited cases, ratepayer recovery might be necessary. However, the coalition recommended that any ratepayer recovery of weatherization costs be limited only to those costs incurred by specified marginal generators. As a general proposition, ratepayers should not bear the cost of weatherization alone, the OCSC stated.

OCSC also expressed concern that under draft rules promulgated by PUC staff that Black Start Service generating units – that is, units available to restart the grid after a total blackout – do not have to comply with weather reliability standards until late 2023. Black Start Service “generating units are a top priority to the grid’s reliability, and these units should be in compliance with the new weather reliability standards as soon as practicable,” OCSC wrote.

Weatherization FAQ

Q. How much will statewide weatherization cost and who will pay for it?

A. An April study by the Federal Reserve Bank of Dallas put the cost of winterizing the entire Texas energy system at \$430 million a year. SB 3 does not specify who should pay for weatherization updates, and some power generation companies have warned that they might take generation offline – thereby making the grid more unreliable – if regulators force them to bear those costs on their own. The Steering Committee of Cities Served by Oncor has stated that ratepayer recovery of such costs should be limited.

Q. Will the PUC have rules in place by next winter?

A. That’s the plan. The agency is embarking on an accelerated rulemaking schedule. The PUC requested input from stakeholders on June 9 – one day after Gov. Greg Abbott signed the bill into law – and then held a work session related to the issue on August 12. It expects to release draft rules for public comment on August 26. PUC Chair Peter Lake has suggested limiting the public comment period to 10-15 days in order to get the finalized rules in place by December 1. The PUC faces an early December statutory deadline for implanting weatherization rules. The legislation gives the Railroad Commission more time to comply.

ABOUT SB 3 AND WEATHERIZATION

Texas Gov. Greg Abbott on June 8 signed into law Senate Bill 3, which the legislature drafted in response to February's statewide power outages. SB 3 is an omnibus bill that includes energy reform provisions covering a wide variety of topics. For instance, SB 3 includes provisions for the creation of an emergency alert system and unrelated provisions related to the identification of critical natural gas infrastructure.

Among its most important features, however, are those relating to the weatherization of critical energy infrastructure located within the ERCOT region. Key details of these weatherization provisions include:

- SB 3 creates a new Section 38.075 of the Public Utility Regulatory Act. Under it, the PUC must establish requirements for generation providers and transmission and distribution utilities within the ERCOT region to implement measures to provide adequate service during a weather emergency.
- SB 3 requires ERCOT to inspect generation assets and transmission and distribution utilities to ensure compliance with reliability standards set by the PUC. ERCOT must report any violations it finds to the PUC, while also giving asset owners a reasonable amount of time to make corrections.
- Under SB 3, the PUC shall require any generation asset owner that experiences major or repeated forced service interruptions to contract with an outside party to assess the provider's weatherization plans and procedures, and to submit that assessment to the PUC and ERCOT. The PUC may require the generation asset owner to implement any recommendations made by the outside party.
- SB 3 includes provisions to assess fines of up to \$1 million per day for violations.
- SB 3 requires the Railroad Commission to inspect critical gas infrastructure facilities to ensure they are protected against extreme weather. The legislation requires the Railroad Commission to report to the Attorney General any violations not cured within a reasonable time. However, the Railroad Commission has additional time to set weatherization rules because SB 3 calls first for the completion of an electricity supply chain map to identify critical gas infrastructure. Under SB 3, that map must be complete before September 2022, and then weatherization rules for critical natural gas units are due no later than six months afterwards.

Weatherization FAQ

Q. Have there been barriers to implementation?

A. Yes. SB 3 requires the creation of a weather study to guide implementation. However, ERCOT will not complete the study until January, and the PUC has set an SB 3 implementation deadline of December 1 to meet statutory requirements. To address this timing disconnect, the PUC proposes to get its general standards in place first, and then fine-tune those standards after the weather study is complete in January.