# Section 12: Appealing Rejected Verifiable Costs

This section of ERCOT’s Verifiable Cost Manual describes the policies and procedures that apply when a Filing Entity wishes to appeal a rejection of their Verifiable Costs.

### Appealing Verifiable Cost Rejections

If ERCOT denies a Filing Entity’s Verifiable Cost submission (or a portion thereof) or if ERCOT rescinds its prior approval of a Filing Entity’s Verifiable Cost submission (or a portion thereof), the Filing Entity may appeal ERCOT’s decision.

If any additional costs are approved as a result of the appeal process, the additional costs will only be used going forward. The newly approved costs will not be used to resettle prior Operating Days. If the inclusion of the newly approved costs represents a shift in ERCOT’s Verifiable Cost doctrine, this Manual will be updated and, if necessary, Nodal Protocol Revision Requests will be drafted. These updates will inform Market Participants of the doctrinal shift, will allow similarly situated Filing Entities to submit analogous costs, and, thus, will ensure that ERCOT approves Verifiable Costs without bias.

### Verifiable Cost Appeal Process and Timeline

There are two levels of review available to Filing Entities wishing to appeal a rejection of their Verifiable Costs. They are as follows:

#### First Level of Appeal

* Filing Entities initiate appeals of rejected Verifiable Costs. This is done by submitting an appeal to ERCOT.
* Appeals must be submitted no more than twenty (20) Business Days after ERCOT informs a Filing Entity of its final decision and the rejection. If a Filing Entity does not submit an appeal within this 20 Business Day period, the Filing Entity is deemed to have accepted the rejection.
* A Review Meeting between the appealing Filing Entity and ERCOT must be scheduled to occur within twenty (20) Business Days of a Filing Entity initiating an appeal. This Review Meeting may be held over the phone. When scheduling a Review Meeting, Filing Entities must name a primary and an alternate representative. The Filing Entity’s representative will meet with ERCOT’s Verifiable Cost Appealing Group, who will represent ERCOT and who is outside of the Verifiable Cost Team.
* Both ERCOT Verifiable Cost Team and the appealing Filing Entity must submit a position paper to all parties involved at least two (2) Business Days before the Review Meeting with ERCOT’s Verifiable Cost Appealing Group. These papers are to:
  + Explain why a cost or a portion thereof should or should not be included in the Filing Entity’s Verifiable Costs;
  + Include copies of documentation that proves the costs were incurred; and
  + Reference sections within the Nodal Protocols, this Manual, or other controlling documents that supports inclusion/exclusion of the disputed costs.
* The goal of this first level of appeal is to reach an agreement and understanding between ERCOT and the Filing Entity as quickly as possible by providing dialog between the Filing Entity and a representative of ERCOT that is external to the Verifiable Cost Team.
  + If the ERCOT Verifiable Cost Appealing Group finds a Filing Entity’s arguments and position paper to be persuasive, ERCOT will update the Filing Entity’s Verifiable Costs to the extent approved by the representative(s). The inclusion of these costs will take effect at the next monthly verifiable cost update after approval by ERCOT’s representative(s).
  + If ERCOT’s representative(s) is unpersuaded by the Filing Entity, the rescission or rejection stands.
  + If at any time it becomes apparent from discussions between the Filing Entity and ERCOT that no agreement will be reached or that the positions of the Filing Entity and ERCOT are diametrically opposed, this level of review should quickly be terminated to allow the Filing Entity to elevate their appeal to the next level.
* Review at this level must terminate within 50 Business Days after an appeal is submitted. If no agreement is reached or if ERCOT’s representative does not make a decision in this time, the appeal is deemed denied and the rejection/rescission stands.

#### Second Level of Appeal

This level of appeal is only available to Filing Entities that unsuccessfully appealed ERCOT’s treatment of their Verifiable Costs through the first level of appeal. That is, this level of appeal is only open to Filing Entities that timely appealed the Verifiable Cost Team’s rejection of their costs but were unable to persuade ERCOT’s representative to approve inclusion of a cost (or the extent requested).

A Filing Entity may only appeal the costs or amounts that were rejected by ERCOT’s representative in the first level of appeal. If ERCOT’s representative and a Filing Entity reach an understanding in the first level of appeal, their agreed upon treatment of a cost is not appealable. For example, if a Filing Entity and ERCOT’s representative agree to include 50% of disputed cost “A” but do not agree as to the treatment of disputed cost “B”, a Filing Entity may only appeal for the inclusion of cost “B”. On the other hand, if a Filing Entity never assents to the partial inclusion of cost “A”, the Filing Entity may appeal to have all of cost “A” included.

* Filing Entities initiate this second level of appeal by submitting an appeal to ERCOT through MIS.
* Appeals must be submitted no more than ten (10) Business Days after the termination of the first level of appeal, as determined by the status shown on the MIS. If a Filing Entity does not submit an appeal within this 10 Business Day period, the Filing Entity loses their right to appeal.
* Appeal at this level is determined by ERCOT’s unaffiliated members of the BOD. ERCOT’s unaffiliated members of the BOD will make a decision at [undetermined place/time—next board meeting? a meeting with ERCOT and the Filing Entity within 60 days?].
* To aid the BOD in making their decision, they will receive the position papers and meeting notes from the first level of appeal. Additionally, representatives of ERCOT and the Filing Entity must attend the BOD to answer any questions that they may have.
* If the BOD approves the inclusion of any additional costs or amounts, ERCOT will update the Filing Entity’s Verifiable Costs to the extent approved. The inclusion of these costs will take effect at the next monthly verifiable cost update after approval by the BOD.

If the BOD denies inclusion of the appealed costs or amounts, ERCOT’s rescission or rejection stands.