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| **Title** | Municipal Joint Commenters’ Comments on ERCOT’s September 9, 2022 Proposed Bylaws Amendment |
| **Date** | September 30, 2022 |
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| **Market Segment** | Municipal |

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| **Comments** |

Municipal Joint Commenters respectfully submit these comments in opposition to the 9/9/2022 proposed Bylaws Amendments (“Bylaws Amendments”). The proposed Bylaws Amendments remove corporate members’ voting rights, which impairs the highly valuable participation and perspective that corporate members provide in ERCOT’s decision-making process. Additionally, the proposed Bylaws Amendments reduce the transparency in the ERCOT decision-making process and the accountability of ERCOT to the Public Utility Commission of Texas (PUC). Further, we believe the proposed adoption of the Bylaws Amendments by the ERCOT Board and the proposed Bylaws Amendments themselves are inconsistent with state law and PUC rules. The Municipal Joint Commenters appreciate the opportunity to comment on ERCOT’s Bylaws Amendments.

**Introduction**

The Texas power market was established through a rigorous process that equally valued the input, expertise, and knowledge of all stakeholders. Active involvement by the corporate members is the vehicle through which stakeholder technical input is sought, vetted, and ultimately either fails or passes to the ERCOT Board. The highly technical nature of the policies, rules, and protocols demand rigorous debate and consideration by all stakeholders throughout this process, and with their votes, each participant’s input carries similar weight.

This long-established process provides for and promotes open and transparent dialogue and debate amongst corporate members, ERCOT staff, and the ERCOT Board. As municipally-owned utilities, we are deeply committed to transparency, as well as accountability. Each of us is required to comply with the Public Information Act and the Open Meetings Act. We are subject to Public Utility Commission of Texas (PUC) regulation of transmission siting and transmission rates, as well as any actions in the wholesale power market. We are also fully accountable to our citizen owners and the communities we serve. We take our obligations to serve our stakeholders seriously.

We trust that the ERCOT Board also recognizes the importance of transparency and accountability. We were troubled to see that the Bylaws Amendments would make several changes that do not uphold these values. We note particularly that the Bylaws Amendments contain provisions that:[[1]](#footnote-2)

* remove the requirement that ERCOT’s corporate members approve changes to ERCOT’s Certificate of Formation and Bylaws,
* remove provisions related to PUC oversight of ERCOT’s operations, and
* fail to include statutory requirements on ERCOT Board service and loosen controls on ERCOT Board members.

Taken together, the Bylaws Amendments reduce the transparency and accountability of ERCOT as a nonprofit and remove the voice of the entities that are needed to maintain grid reliability, serve customers, and make the investments necessary to keep up with the growing demand for electric service that new and existing Texans require. Further, the proposed Bylaws Amendments do not conform with ERCOT’s Certificate of Formation and duly approved Bylaws and conflict with state law and PUC rule.

We ask the ERCOT Board to reconsider this action and reject the proposed changes.

**The Bylaws Amendments Remove the Voice of Stakeholders, Dampening Investment Incentives and Reducing the Expertise Available to ERCOT**

ERCOT does not own any physical assets for the generation, transmission, distribution, or sale of electricity. It does not have any direct interaction with end-use customers, nor does it have the authority to order new investment or construction and bears no financial risk in the administration of the market. As a matter of statutory requirement, the ERCOT Board has no financial stake in the success of the ERCOT market.

These physical assets are owned by third-party stakeholders that have collectively invested hundreds of billions of dollars into the ERCOT market – investments that are expected to be functional for decades into the future. Stakeholders have a vested interest in the overall market’s success – and bear tremendous risk if the market fails. In addition, we are concerned that the proposed changes would remove any ability of corporate members to vote in a dissolution winding up, distribution, plan of merger, or any sale of substantially all the assets of ERCOT.

ERCOT’s corporate membership includes more than 150 customers and consumer groups in addition to the entities that own the generation that powers the grid, the transmission and distribution networks that carry that power across the state, and the retail operations that serve millions of end-use consumers. These stakeholders bring diverse perspectives to the table. The current ERCOT Bylaws promote robust discussion, negotiation, and compromise between corporate members. That vote forces different groups with disparate positions and interests to the table, which most often leads to more thorough and better policies. Eliminating corporate member voting rights will diminish the weight of their input and relegate corporate members to an advisory-only role, thus impairing the highly valuable participation and perspective that corporate members provide in ERCOT’s decision-making process.

Grid operations are extraordinarily technical, and no grid operator is able to develop in a vacuum the rules, policies, and protocols that allow it to incorporate the vast technological innovation that we see every day in our industry. ERCOT’s corporate members volunteer thousands of hours every year to promote objectivity and reliability in grid operations. ERCOT has been strengthened by the robust stakeholder input that comes from these entities and the consensus that comes from balancing the viewpoints of corporate members. As municipally-owned utilities, we are proud of our participation in the ERCOT decision-making process and happy to share our expertise with ERCOT and other stakeholders.

The Bylaws Amendments would remove the obligation to seek corporate member approval of amendments to ERCOT’s Certificate of Formation and Bylaws. Further, the Bylaws Amendments would create a provision allowing the ERCOT Board to unilaterally change the procedures for the Technical Advisory Committee (TAC).[[2]](#footnote-3) Requiring consensus with stakeholders and investors for both of ERCOT’s fundamental governing documents, as well as the procedures for the stakeholder committee that provides outside technical advice, is critical to incent the feasibility of future investments. Without a requirement that the ERCOT Board seek consensus on these changes, building in ERCOT will be seen as a riskier investment. At a time when Texas continues its remarkable growth and incorporates increased loads from electrification, investments in grid assets is critical; actions should not be taken that would hinder investments needed to serve this growth. By introducing regulatory risks that jeopardize future investment, the Bylaws Amendments run contrary to the stated goals of state officials to increase investment in reliable generation in the ERCOT region.

In addition, TAC provides critical expertise for ERCOT. Just as with ERCOT’s corporate membership, TAC is made up of a diverse array of stakeholders, including consumer representatives, and its decisions reflect compromise among those interests. The TAC procedures also reflect this spirit of compromise, ensuring that various interests are weighted evenly and without special treatment toward any one segment. If the Board unilaterally amends the TAC procedures without first reaching consensus with TAC, this balance could be disrupted, resulting in ERCOT receiving distorted feedback and eroding the trust, collaborative spirit, and expertise that has developed around TAC.

The legislative discussion around Senate Bill 2 generally reflected this understanding. The Author’s Statement of Intent emphasized that “qualified utility professionals who have worked in this market should be the ones in charge of discussing any modifications to market protocols and other governance issues that the [ERCOT Board] considers.”[[3]](#footnote-4)

**The Bylaws Amendments Limit PUC’s Oversight of ERCOT, Conflicting with Statute and PUC Rule.**

At present, the ERCOT Bylaws reinforce that the PUC has the authority to initiate an action to remove an ERCOT Board member.[[4]](#footnote-5) The Bylaws Amendments would remove this provision, putting at question whether the PUC, as ERCOT’s primary state regulator, would have the authority to remove a Board member.

Under the Bylaws Amendments, the removal of a Board member could only be initiated by the Board itself. Under both current and proposed Section 4.5(b) of the Bylaws, a Board member may be removed only if the Board member has A) been found by the Board to have committed a prohibited act identified in the Bylaws and the Board member has been allowed to be heard at a Board-held hearing, and B) the Board has voted to recommend removal with a 75% supermajority. Further, the PUC would only be able to review a Board action that results in a recommendation of removal.[[5]](#footnote-6) If the Board is unable to meet the supermajority requirement to recommend removal, it appears that the PUC would not be able to review and independently recommend removal of a Board member.

If the Bylaws Amendments restrict the PUC’s authority to independently remove an ERCOT Board member, such an approach would conflict with the Public Utility Regulatory Act (PURA) § 39.151, which gives the PUC “complete authority to oversee and investigate [ERCOT’s] finances, budget, and operations as necessary to ensure the organization's accountability and to ensure that the organization adequately performs the organization's functions and duties.”[[6]](#footnote-7) It would also conflict with PUC rule, which allows the PUC to “remove an unaffiliated member of the governing board for cause.”[[7]](#footnote-8)

Further, if the Bylaws Amendments limit the PUC to only reviewing a Board action that results in a recommendation of removal, this would conflict with PUC rule, which requires ERCOT to permit PUC review of “a decision concerning an individual or organization’s qualification or an individual’s removal from the governing board.”[[8]](#footnote-9)

The amendments would also allow ERCOT Board members to serve an additional term (three three-year terms, rather than the current two).[[9]](#footnote-10) The PUC does not appoint ERCOT Board members and, under the Bylaws Amendments, would be unable to independently initiate an action to remove an ERCOT Board member, so this change would further distance and insulate the ERCOT Board from its own regulator.

**The Bylaws Amendments Fail to Include Statutory Restrictions on ERCOT Board Service**

The Bylaws Amendments would create a new Section 4.3(e), which requires ERCOT Board members to be residents of Texas and bars legislators from serving as Board members, as required by Senate Bill 2. However, Senate Bill 2 also contains several other restrictions on ERCOT Board service, including:

* No Board member may serve if they have a fiduciary duty or assets in the ERCOT electricity market (*see* PURA § 39.151(g-3))[[10]](#footnote-11)
* No more than two Board members may be employed by an institute of higher education in a professorial role (*see* PURA § 39.151(g-4))

ERCOT has already unilaterally amended its Bylaws to comply with Senate Bill 2, and the Bylaws Amendments would be ERCOT’s second revision since the enactment of Senate Bill 2. However, despite two opportunities to implement unambiguous statutory instructions from the Legislature, ERCOT continues to exclude these restrictions on Board service in its Bylaws.

**The Bylaws Amendments Loosen Requirements for ERCOT Board Members**

At present, the ERCOT Bylaws limit the reimbursement of ERCOT Board member expenses to specific categories: registration, travel, lodging and related expenses for training activities.[[11]](#footnote-12) The proposed amendments would do away with these limitations in favor of a broad “all reasonable Board-related expenses.”[[12]](#footnote-13)

The Bylaws Amendments also provide the ERCOT Board, not the PUC, with the authority to approve these reimbursements.[[13]](#footnote-14) This approach would be inconsistent with PUC rule, which states that “[c]ompensation, per diem and travel reimbursements to be paid to unaffiliated members of the governing board shall be subject to commission review and approval.”[[14]](#footnote-15) The PUC has not undertaken a public vote to review and approve any ERCOT Board member expenses since the restructuring of the Board to comply with Senate Bill 2, and it is not clear whether ERCOT will submit any reimbursements it has made to Board members for PUC review and approval.

**Member Approval for the Bylaws Amendments is Required by ERCOT’s Certificate of Formation and Bylaws**

ERCOT’s current Bylaws were put into effect on October 20, 2021 after approval by the PUC.[[15]](#footnote-16) This version incorporated changes to the ERCOT governing structure, consistent with the recently-enacted Senate Bill 2. At the time, ERCOT asserted that these changes were made “solely to conform with new legal requirements,” and therefore, the normal approval process, including voting by the corporate membership, the ERCOT Board, and the PUC were deemed unnecessary.[[16]](#footnote-17) However, ERCOT ultimately sought approval from the ERCOT Board and the PUC to provide the opportunity for PUC input and greater public notice.[[17]](#footnote-18) To date, ERCOT has not asked the corporate members to ratify these changes.

Under ERCOT’s Certificate of Formation, ERCOT’s Bylaws “may be altered, amended or repealed or new Bylaws adopted, by the Members, if allowed, through a procedure set forth in the Bylaws or any other manner set forth in the Bylaws.”[[18]](#footnote-19) Likewise, the ERCOT bylaws state that “these Bylaws may be amended, altered, or repealed by the voting Segments” before prescribing the procedure to do so.[[19]](#footnote-20) The listed procedure emphasizes the role of corporate members in this process, stating that “Corporate Members must vote to enact the Board-approved amendment”[[20]](#footnote-21) and “An affirmative vote by at least four of the seven Segments shall be necessary to amend these Bylaws.”[[21]](#footnote-22) The Bylaws also state that a vote of the corporate members are also required for an amendment to the Certificate of Formation.[[22]](#footnote-23)

Even ERCOT’s definition of a corporate member is inextricably tied to voting rights – corporate members “shall have the rights and obligations as described in these Bylaws including the right to vote on all matters submitted to the general membership (such as election of TAC Representatives and amendments to the Certificate of Formation and these Bylaws).[[23]](#footnote-24)

This process has been the same in practice. For instance, when providing an overview of the bylaw amendment process last year, ERCOT’s General Counsel emphasized that bylaw amendments are “subject to approval by Corporate Members.”:[[24]](#footnote-25)

Table

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ERCOT followed this practice in securing approval of Bylaws amendments in 2020,[[25]](#footnote-26) 2018,[[26]](#footnote-27) 2015,[[27]](#footnote-28) 2013,[[28]](#footnote-29) 2010,[[29]](#footnote-30) 2007,[[30]](#footnote-31) 2005,[[31]](#footnote-32) 2003,[[32]](#footnote-33) 2002,[[33]](#footnote-34) 2001,[[34]](#footnote-35) and 2000.[[35]](#footnote-36) ERCOT also sought corporate member approval for its only Articles of Incorporation amendment filing before the PUC.[[36]](#footnote-37) The exceptional circumstances of the 2021 revisions — which had the sole purpose of conforming the bylaws to new statutory requirements — are not present today, and as such ERCOT’s Certificate of Formation and Bylaws clearly require that this matter must be put to the corporate members for approval.

**Member Approval for the Bylaws Amendments is Required by State Law**

A Texas nonprofit corporation is governed in accordance with its Certificate of Formation and its Bylaws, but each must be consistent with the Texas Business and Organizations Code (“TBOC”). TBOC § 22.102 provides the following:

Sec. 22.102. BYLAWS. (a) The initial Bylaws of a corporation shall be adopted by the corporation's Board of Directors or, if the management of the corporation is vested in the corporation's members, by the members.

(b) The Bylaws may contain provisions for the regulation and management of the affairs of the corporation that are consistent with law and the Certificate of Formation.

(c) The Board of Directors may amend or repeal the Bylaws, or adopt new Bylaws, *unless*:

(1*)*  this chapter or the corporation's Certificate of Formation wholly or partly reserves the power exclusively to the corporation's members;

(2) the management of the corporation is vested in the corporation's members; or

(3) in amending, repealing, or adopting a bylaw, the members expressly provide that the Board of Directors may not amend or repeal the bylaw.

Taken together, these provisions would only allow the ERCOT Board to amend the Bylaws without corporate member approval if none of the three exceptions apply. At least two of the three do.

TBOC § 22.102(c)(1) requires the ERCOT Board to seek corporate member approval if the ERCOT Certificate of Formation “wholly or partly reserves the power exclusively to the corporation's members.” As noted above, the ERCOT Certificate of Formation states that the Bylaws “may be altered, amended or repealed or new Bylaws adopted, by the Members, if allowed, through a procedure set forth in the Bylaws or any other manner set forth in the Bylaws.”[[37]](#footnote-38) Tellingly, this is the sole reference to the process of amending the Bylaws found in the Certificate of Formation. Given that ERCOT’s corporate members are the sole entity listed in ERCOT’s Certificate of Formation that have the authority to amend the Bylaws, it is clear that this is an exclusive reservation under TBOC § 22.102(c)(1), and therefore, the ERCOT Board would be required to put this matter to the corporate members for approval.

Further, TBOC § 22.102(c)(3) requires the ERCOT Board to seek corporate member approval if “in amending, repealing, or adopting a bylaw, the members expressly provide that the Board of Directors may not amend or repeal the bylaw.” As noted above, in 11 sets of Bylaws revisions over a 20-year period, the corporate members consistently provided that member approval is required to amend, alter, or repeal any section of the Bylaws. This language was also carried through into the October 2021 bylaw amendments carried out unilaterally by the ERCOT Board.

In fact, the Bylaws serve to expressly restrict the ability of the ERCOT Board to act unilaterally. Section 13.1(c) states that, after the Board votes to recommend approval of a proposed bylaw amendment, “the Board shall place the proposal on the agenda of the next Annual Meeting of the Corporate Members unless the Board in its discretion calls a Special Meeting of the Corporate Members to vote on the proposal or determines to seek Membership approval without a meeting...” In each of these three scenarios, the ERCOT Board is required to seek corporate member approval, whether it be by a vote or acclamation in writing, and it cannot act unilaterally to approve amendments to the Bylaws.

**Conclusion**

The Municipal Joint Commenters are deeply concerned that the Bylaws Amendments move ERCOT away from the expertise and consensus-based model that has strengthened ERCOT’s operations, encouraged investment in the ERCOT market, and leads to more thorough and better policies. It would also shift ERCOT from being held accountable by its primary state regulator and laws passed by the Legislature, while also loosening requirements on ERCOT Board members. We also believe the Bylaws Amendments are inconsistent with state law and PUC rules and lacking to the overall transparency and accountability of ERCOT.

We urge the ERCOT Board to reconsider this action and to reject the Bylaws Amendments.

We also urge the ERCOT Board to put the October 2021 changes to the ERCOT Bylaws to the corporate members for approval as soon as possible, consistent with state law, the ERCOT Certificate of Formation, and the ERCOT Bylaws.

1. The listing of specific provisions here should not be taken as assent for or agreement with any other change suggested by the Bylaws Amendments. The Municipal Joint Commenters reserve the right to expand upon these comments for other issues not addressed here. [↑](#footnote-ref-2)
2. Bylaw Amendments § 5.1(k). [↑](#footnote-ref-3)
3. Senate Research Center, Bill Analysis, Tex. S.B. 2, 87th Leg., R.S. (Jun. 2, 2021).

   Link: <https://capitol.texas.gov/tlodocs/87R/analysis/pdf/SB00002F.pdf#navpanes=0> [↑](#footnote-ref-4)
4. ERCOT Bylaws § 4.5(b). “An Unaffiliated Director may be removed by the PUCT in accordance with applicable law.” Elsewhere in the Bylaws Amendments, the redline changes references to “Unaffiliated Director” to “Selected Director” to comply with the new selection process contemplated by Senate Bill 2. [↑](#footnote-ref-5)
5. ERCOT Bylaws § 4.5(b). “Any Board action to remove a Director from the Board shall be subject to review by the PUCT.” [↑](#footnote-ref-6)
6. PURA § 39.151(d). [↑](#footnote-ref-7)
7. 16 Texas Administrative Code § 25.362(g)(5). Under this provision, “cause” includes several scenarios that would not be considered cause under § 9.3 of the ERCOT Bylaws (defining Prohibited Acts), including a) being indicted or charged with a felony or conviction of a misdemeanor involving moral turpitude, or b) having a fundamental disagreement with the PUC as to the policies or procedures that ERCOT shall adopt. [↑](#footnote-ref-8)
8. 16 Texas Administrative Code § 25.362(g)(4). [↑](#footnote-ref-9)
9. Bylaws Amendments § 4.3(b). [↑](#footnote-ref-10)
10. One Board member has already resigned under this provision due to her position on the Board of Regents for Texas A&M. The University has a power generation facility that primarily serves its College Station campus, but it does have the ability to sell electricity into the ERCOT market. [↑](#footnote-ref-11)
11. ERCOT Bylaws § 10.1(b). [↑](#footnote-ref-12)
12. Bylaws Amendments § 10.1(b). [↑](#footnote-ref-13)
13. *Id*. “The Board shall have the authority to fix the compensation of its Selected Directors who may be paid a fixed sum plus reimbursement of travel expenses for attendance at each meeting of the Board, or a stated compensation as a member thereof, or any combination of the foregoing.” [↑](#footnote-ref-14)
14. 16 Texas Administrative Code § 25.362(g)(5). It should be noted that substantial portions of this rule were developed in response to a multi-million-dollar embezzlement scandal involving five ERCOT employees and a contractor. *See PUC Rulemaking Proceeding Concerning Oversight of the Electric Reliability Council of Texas (ERCOT)*, Project No. 29855, Order Adopting Amendment to §25.362 as Approved at the November 23, 2004, Open Meeting at 6 (Dec. 7, 2004). “[Commenters] argued that ERCOT’s failure to be forthcoming concerning recent allegations of criminal activity by some ERCOT employees indicate the need for the rule.” *See also* Natalie Gott, Six are indicted in grid operator fraud case, Houston Chronicle, Jan. 25, 2005.

    Link: <https://www.chron.com/business/energy/article/Six-are-indicted-in-grid-operator-fraud-case-1483004.php> [↑](#footnote-ref-15)
15. *Petition of Electric Reliability Council of Texas, Inc. for Expedited Approval of Bylaws Amendment*, Docket No. 52683, Order (Oct. 20, 2021). [↑](#footnote-ref-16)
16. *See* Memo from Chad Seely, ERCOT Vice President, General Counsel and Corporate Secretary to the ERCOT Board of Directors at 2 (October 5, 2021). “While Board and Commission approval are not required for amendments pursuant to Section 14.2 since such amendments are solely to conform with new legal requirements, ERCOT staff recommends that the Board review and approve the proposed changes at its meeting on October 12, 2021, consistent with the Board’s power pursuant to Bylaws Section 14.2 to resolve “[a]ny question as to the application or interpretation of any [Bylaws] provision,” and to increase transparency regarding these conforming changes as required by law.”

    [Link: https://www.ercot.com/files/docs/2021/10/05/4\_Approval\_of\_Amendments\_to\_ERCOT\_Bylaws.pdf](Link:%20https://www.ercot.com/files/docs/2021/10/05/4_Approval_of_Amendments_to_ERCOT_Bylaws.pdf) [↑](#footnote-ref-17)
17. *Id*. “To provide the opportunity for Commission input as required by PURA § 39.151(g-1) and greater public notice of the Bylaws amendments, ERCOT has filed a petition requesting the Commission’s final approval, following the Board’s approval, of the proposed amendments.” [↑](#footnote-ref-18)
18. ERCOT Certificate of Formation, Article Nine, as effective January 31, 2019. [↑](#footnote-ref-19)
19. ERCOT Bylaws Section 13.1, as effective October 12, 2021. [↑](#footnote-ref-20)
20. *Id*. at Section 13.1(d). [↑](#footnote-ref-21)
21. *Id*. at Section 13.1(d)(4). [↑](#footnote-ref-22)
22. *Id*. at Section 13.2. [↑](#footnote-ref-23)
23. *Id*. at Section 3.2(a). [↑](#footnote-ref-24)
24. *See* Presentation by Chad Seely, ERCOT Vice President, General Counsel and Corporate Secretary, and Vickie Leady, Assistant General Counsel and Assistant Corporate Secretary, to the ERCOT Board Human Resources and Governance Committee at 3 (June 7, 2021).

    Link: <https://www.ercot.com/files/docs/2021/06/07/8_Review_of_Bylaws_Amendment_Process.pdf> [↑](#footnote-ref-25)
25. *Petition of Electric Reliability Council of Texas, Inc. for Expedited Approval of Bylaws Amendment*, Docket No. 50918, Petition at 2 and 76-79 (Jun. 10, 2020). [↑](#footnote-ref-26)
26. *Petition of Electric Reliability Council of Texas, Inc. for Approval of Amendments to Articles of Incorporation and Amended and Restated Bylaws*, Docket No. 48677, Petition at 2 (Sep. 11, 2018). [↑](#footnote-ref-27)
27. *Petition of the Electric Reliability Council of Texas, Inc. for Approval of Bylaws Amendment*, Docket No. 44741, Petition at 1 (May 18, 2015). [↑](#footnote-ref-28)
28. *Petition of the Electric Reliability Council of Texas, Inc. for Approval of Bylaws Amendments*, Docket No. 41761, Petition at 1 (Aug. 13, 2013). [↑](#footnote-ref-29)
29. *Petition of the Electric Reliability Council of Texas for Approval of Amended and Restated Bylaws*, Docket No. 37852, Petition at 1 (Jan. 7, 2010). [↑](#footnote-ref-30)
30. *Petition of the Electric Reliability Council of Texas for Approval of Amended and Restated Bylaws*, Docket No. 34427, Petition at 1 (Jun. 21, 2007). [↑](#footnote-ref-31)
31. *Petition of the Electric Reliability Council of Texas for Approval of Amended and Restated Bylaws*, Docket No. 32025, Petition at 1 (Nov. 9, 2005). [↑](#footnote-ref-32)
32. *See Petition of the Electric Reliability Council of Texas for Approval of Amended and Restated Bylaws*, Docket No. 32025, Reply of the Electric Reliability Council of Texas to the Comments of Commission Staff and Shannon McClendon at 8–9 (Nov. 9, 2005) (noting Bylaw amendments effective December 16, 2003 and approved by Corporate Members). [↑](#footnote-ref-33)
33. *Petition of the Electric Reliability Council of Texas (ERCOT) for Approval of Governance Changes*, Docket No. 26861, Petition at 1 (Dec. 9, 2002). [↑](#footnote-ref-34)
34. *Petition of the Electric Reliability Council of Texas for Approval of Governance Changes*, Docket No. 24932, Petition at 1 (Oct. 30, 2021). [↑](#footnote-ref-35)
35. *Application of the ERCOT ISO for Certification as the Independent Organizations to Perform Transmission and Distribution Access, Reliability, Information Exchange, and Settlement Functions*, Docket No. 22061, Petition at 4 (Jan. 27, 2000). [↑](#footnote-ref-36)
36. Docket No. 48677, Petition at 2. [↑](#footnote-ref-37)
37. ERCOT Certificate of Formation, Article Nine, as effective January 31, 2019. [↑](#footnote-ref-38)