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| NPRR Number | [1199](https://www.ercot.com/mktrules/issues/NPRR1199) | NPRR Title | Implementation of Lone Star Infrastructure Protection Act (LSIPA) Requirements |
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| Date | | December 8, 2023 | |
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| Submitter’s Information | | | |
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| Market Segment | | Independent Generator and Investor Owned Utility (IOU) | |

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| Comments |

Joint Commenters appreciate the opportunity to comment on Nodal Protocol Revision Request (NPRR) 1199, related to the Texas Legislature’s recent amendments to the Lone Star Infrastructure Protection Act (LSIPA) in the 88th Legislative Session via Senate Bill (SB) 2013. Joint Commenters have seen, but not had a chance to fully digest, ERCOT’s December 8, 2023 comments, which appear to adopt some of the concepts proposed by Joint Commenters below (including changing 24 hours to 15 minutes in the definition of critical electric grid equipment, adding a definition of “reliable operation,” and incorporating a knowledge qualifier for the attestation). Joint Commenters look forward to discussing this NPRR at the next scheduled meeting for the Protocol Revision Subcommittee (PRS) and hopefully working with ERCOT toward a consensus position on this NPRR. In the interest of time, Joint Commenters submit their comments below, which do not address or respond to ERCOT’s December 8, 2023 comments, and which propose additional changes for consideration.

SB 2013 (codified in Public Utility Regulatory Act[[1]](#footnote-1) (PURA) § 39.360) requires market participants to report to ERCOT purchases of critical electric grid equipment or services from companies owned by certain designated countries (China, Iran, North Korea, and Russia) and to attest that any such purchase will not result in access to or control of its critical electric grid equipment by that foreign entity, excluding access allowed for product warranty and support. The new statutory language does not define the key terms “critical electric grid equipment or service” or “purchase,” instead directing ERCOT to “adopt guidelines or procedures relating to the requirements in this section, including the qualification of electric grid equipment or services as critical.”[[2]](#footnote-2)

Joint Commenters support ERCOT’s initial approach of leveraging the existing North American Electric Reliability Corporation (NERC) Critical Infrastructure Protection (CIP) framework to define what equipment or services qualify as “critical.” The NERC CIP framework is a well-established and well-understood framework for market participants to evaluate which of their equipment, if misused or disabled, could potentially threaten the reliable operation of the electric grid. Joint Commenters encourage ERCOT to borrow more completely from this framework, as detailed further below, and make additional recommendations that are intended to more closely align the NPRR with the LSIPA.

In sum, Joint Commenters recommend that the NPRR be modified to:

1. Incorporate into the definition of “critical electric grid equipment” the 15-minute timeframe and the focus on sudden and uncontrolled disturbances that the NERC CIP standards use to delineate what counts as “critical.”
2. Revise the definition of “critical electric grid services” to strike the term “maintenance,” to be consistent with SB 2013’s exclusion for services related to a warranty or product support.
3. Make the attestation requirement applicable only to direct “purchases” by a market participant from an LSIPA Designated Company and strike the proposed extension of that requirement to upstream transactions involving non-LSIPA Designated Companies, tracing back to the original manufacture or creation of the equipment in a Designated Country.
4. Adopt a definition of “affiliate” specifically for purposes of the LSIPA requirements, which Joint Commenters suggest should be modeled after the existing definition of “affiliate” in the ERCOT Bylaws, as well as recent federal legislation regarding beneficial ownership, to narrow the universe of potentially relevant entities for attestations required by the LSIPA.
   1. For purposes of the new attestation related to critical electric grid equipment or services, further narrow the applicable “affiliates” to affiliates that would potentially raise the concerns of the LSIPA – i.e., affiliates that could potentially gain remote access to critical electric grid equipment – rather than include affiliates in unrelated lines of business.
5. Add a knowledge qualifier to the LSIPA attestations, to be consistent with SB 2013 and Chapter 117 of the Texas Business & Commerce Code (incorporated by reference in SB 2013), which impose restrictions on transactions only with a company that a market participant “knows” is an LSIPA Designated Company.
6. Incorporate the language from SB 2013 regarding the obligations of a market participant with respect to past purchases of critical electric grid equipment/services from LSIPA Designated Companies prior to the effective date of the statute (dating back five years). In that instance, SB 2013 requires only that the market participant take reasonable and necessary steps to mitigate access to critical electric grid equipment by an LSIPA Designated Company (as opposed to attest that no such access exists).
7. Set out an initial compliance timeframe of 180 days for the first attestation that will be due following the effective date of the NPRR, since the initial attestation will cover purchases dating back to June 2018 and since this is a new requirement that will require a fair amount of due diligence by market participants to comply, even if the NPRR is revised to more closely align with NERC standards and the statute as proposed below.
8. Proposed Changes to Definition of Critical Electric Grid Equipment

As detailed below, Joint Commenters propose that the proposed 24-hour timeframe in the definition of “critical electric grid equipment” be replaced with 15 minutes and that the definition incorporate a definition of “reliable operation” based on the NERC Glossary of Terms.

Because the LSIPA does not define the key term “critical electric grid equipment,” ERCOT must define the term according to basic canons of statutory construction, including that the term should be defined according to its common usage (i.e., dictionary definition[[3]](#footnote-3)) or, if a technical meaning has been acquired through legislative definition or otherwise, according to its technical meaning.[[4]](#footnote-4) In addition, in defining the term, ERCOT must presume that the Legislature intended a “just and reasonable result” and a “result feasible of execution.” [[5]](#footnote-5)

According to its common usage, the word “critical” conveys urgency and is defined in the dictionary, in relevant part, as “of the nature of a crisis”; “crucial”; “indispensable”; “threatening a seriously bad outcome”; “grave”; and “of decisive importance with respect to the outcome.”[[6]](#footnote-6) The term “critical” in the electricity industry also has acquired a technical meaning, which is consistent with the common meaning of the term. As noted above, NERC has adopted a comprehensive framework to address the protection of “critical” cyber assets,[[7]](#footnote-7) defining such assets to be those that, if misused or disabled, would adversely impact “reliable operation” of the bulk electric system within 15 minutes, with “reliable operation” referring to sudden, unanticipated, and uncontrolled events[[8]](#footnote-8)—i.e., assets that are “critical,” as that term is commonly understood, to the reliable operation of the grid.

The 15-minute standard, in particular, was the topic of significant study and analysis by NERC and stakeholders.[[9]](#footnote-9) In adopting NERC’s petition to approve the 15-minute standard, the Federal Energy Regulatory Commission (FERC) noted that NERC and the bulk of commenters viewed a 15-minute timeframe as reasonable because it would “capture assets involved in real-time operations, such as systems that provide input to an operator for real-time operations or trigger automated real-time operations.”[[10]](#footnote-10) As explained by NERC (and quoted in FERC’s order approving NERC’s petition), “the 15-minute parameter is about identifying those assets that, when called upon in real-time or rendered unavailable in real-time, could impact reliable operations.”[[11]](#footnote-11) NERC further explained that the 15-minute parameter would include, as critical, equipment such as SCADA, Energy Management Systems, transmission protection systems, and generation control systems, but would exclude, for example, equipment that simply collects data for engineering analysis, support, or maintenance, as those sorts of systems would not provide input to the operator for real-time operations or trigger automated real-time operations.[[12]](#footnote-12) At FERC’s direction, NERC subsequently conducted an informational survey with stakeholders regarding what types of equipment would be captured by the 15-minute parameter, and in reporting the results of that survey to FERC, NERC noted that participants viewed the 15-minute standard as an easy and clear standard to apply.[[13]](#footnote-13)

In order to leverage the significant work that went into establishing the timeframe that should be used to determine if equipment is “critical,” and in order to implement SB 2013 in a just and reasonable way that is feasible of execution, Joint Commenters recommend that NPRR1199 replace the current proposed timeframe of “24 hours” with “15 minutes.” Joint Commenters further recommend that NPRR1199 specifically import into the “critical electric grid equipment” definition the definition of “reliable operation” from the NERC Glossary of Terms (with minor modifications to refer to the ERCOT System rather than the BES); the “reliable operation” definition further helps to clarify which equipment is truly critical, by defining reliable operation in terms of sudden, unanticipated, and uncontrolled disturbances to the grid.[[14]](#footnote-14)

In contrast to the ”15 minute standard,” a piece of equipment that, if rendered inoperable, could cause issues for the grid 24 hours later (as currently proposed in NPRR1199) would not be “critical” according to any common or technical understanding of the term “critical”,[[15]](#footnote-15) because there would be time to address the issue (or put in place mitigative measures) before the inoperability of the equipment threatened the reliable operation of the grid (which, as noted above, is appropriately defined in NERC standards as a sudden disturbance, cascading outages, or unanticipated system failure – i.e., something that happens without, or with very little, advanced notice).

Defining the terms “critical electric grid equipment or services” too broadly (e.g., by encompassing any equipment that might have an adverse impact on the grid 24 hours in the future) also would be completely unworkable for market participants and thus would be infeasible to execute and unjust and unreasonable, contrary to the basic principles of statutory construction cited above. Specifically, if “critical” is defined too broadly, market participants would be placed in the untenable position of having to track down records of transactions for potentially hundreds or even thousands of individual pieces of equipment, dating back five years—if those records even exist, given that retention requirements under existing Commission rules and ERCOT Protocols (to the extent they would apply to this context in the first place) only extend back three years.[[16]](#footnote-16)

Defining the term in a broad manner (i.e., with the 24-hour timeframe reference) is also unnecessary to satisfy the apparent intent of SB 2013 to protect the electric grid from exposure to sabotage by potentially hostile foreign actors—with the “intent” being derived primarily from the words adopted by the Legislature, which is always the primary indicator of Legislative intent, but also supported by the enrolled bill summary for SB 2013, which describes the purpose of the legislation as “hardening the security of the state’s power grid and put[ting] in place necessary protections to prevent the grid from being exposed to attacks.”[[17]](#footnote-17) By leveraging the NERC definitions of critical cyber asset (including the 15-minute timeframe) and reliable operation, NPRR1199 would appropriately narrow its focus to devices that could be used by a hostile actor to remotely access and sabotage the reliability of the electric grid. Thus, Joint Commenters propose revisions below to the definition of “critical electric grid equipment” that would replace “24 hours” with “15 minutes” and add a definition of “reliable operation” consistent with NERC’s Glossary of Terms.

Joint Commenters also recommend that the definition of “critical electric grid equipment” be modified to clarify that equipment that can access the Market Information System (MIS) or Wide Area Network (WAN) is only critical if the disabling, misuse, etc. of that equipment would, within 15 minutes, adversely impact the reliable operation of the grid. The current proposal for NPRR1199 would include equipment that is used to access MIS or the WAN as critical by definition, without respect to whether that equipment can actually be used to harm the reliable operation of the grid. The current proposal seemingly could capture any employee’s laptop that is used to login to the MIS, even if that connectivity to the MIS would not enable access to the ERCOT grid or threaten reliable operation of the grid. That would greatly expand NPRR1199’s applicability beyond the existing CIP framework and would create an unworkable and infeasible exercise for market participants, who would have to track down where all laptops—and potentially even component parts of laptops if the NPRR language applying to upstream chains of transactions and manufacture is retained—were purchased. To ensure that NPRR1199 applies only to equipment that, if disabled, misused, etc., would adversely affect the reliable operation of the grid, Joint Commenters recommend that the reference to equipment used to access the MIS or WAN similarly be qualified by limiting it to equipment that if disabled, misused, etc., would, within 15 minutes, adversely impact reliable operations.

1. Proposed Change to Definition of “Critical Electric Grid Service”

Joint Commenters generally support the proposed definition of “critical electric grid service,” with one minor proposal to strike the word “maintenance” from the definition. SB 2013 (codified in PURA § 39.360) specifically excludes from its scope purchases of services (or equipment) that result in access to critical electric grid equipment for product warranty or support purposes:

For each purchase reported by a business entity under Subsection (c), the business entity shall submit an attestation to the independent organization that the purchase will not result in access to or control of its critical electric grid equipment by a company described by Section [117.002](a)(2), Business & Commerce Code, as added by Chapter 975 (S.B. 2116), Acts of the 87th Legislature, Regular Session, 2021, excluding access specifically allowed by the business entity for product warranty and support purposes.[[18]](#footnote-18)

NPRR1199 currently includes “maintenance” in the definition of “critical electric grid service,” but maintenance would be related to “product warranty and support purposes” and thus should be excluded from the scope of the new attestation requirements for critical electric grid equipment and services.

1. Proposed Terminology Change from “Procurement” to “Purchase” and Proposed Definition of “Purchase”

Third, Joint Commenters propose that NPRR1199 mirror the statutory terminology from LSIPA by using the term “purchase” rather than “procurement” and by deleting the proposed language that would extend the attestation requirement to “procurement” of equipment from a non-LSIPA Company who, in turn, “procured” equipment that was manufactured, produced, created, or otherwise provided by an LSIPA Company or Country, potentially through a chain of transactions. ERCOT’s proposed NPRR language effectively requires reporting on any piece of equipment that was originally manufactured in a designated country (e.g., China) and was ultimately sold or provided through one or more transactions to the market participant. While Joint Commenters appreciate ERCOT’s desire to avoid creating “loopholes” in the reporting requirements, the proposed NPRR language represents a significant expansion of the statutory requirement in the LSIPA, which is expressly limited to purchases from a designated foreign entity, and could effectively treat most equipment acquisitions as triggering the attestation requirement (as many items are manufactured in China). The LSIPA states, in relevant part:

(c) An independent organization certified under Section 39.151 shall require as a condition of operating in the power region for which the independent organization is certified that a business entity report to the independent organization the purchase of any critical electric grid equipment or service from [a company known by the business entity to be an LSIPA Designated Company].

(d) For each purchase reported by a business entity under Subsection (c), the business entity shall submit an attestation to the independent organization that the purchase will not result in access to or control of its critical electric grid equipment by [a company known by the business entity to be an LSIPA Designated Company], excluding access specifically allowed by the business entity for product warranty and support purposes.[[19]](#footnote-19)

The proposed NPRR effectively interprets the phrase “purchase of any critical electric grid equipment or service from” an LSIPA Designated Company to include “procurement of Critical Electric Grid Equipment or Critical Electric Grid Services that were manufactured, produced, created, or otherwise provided by an LSIPA Designated Company and subsequently sold to the Entity by a non-LSIPA Designated Company.” (Emphasis added). In other words, the NPRR expands the attestation requirement beyond purchases by a market participant from an LSIPA Designated Company to acquisition by a market participant of equipment that was “manufactured, produced, created, or otherwise provided” by an LSIPA Company to a non-LSIPA Company and then subsequently sold to the market participant.

Not only would this interpretation effectively add language to the statute (contrary to basic tenets of statutory construction),[[20]](#footnote-20) but it also would be unworkable (and thus an unreasonable implementation of the statute, also contrary to basic tenets of statutory construction) in the sense that it would require market participants to trace back through five years of critical electric grid equipment purchases, to the original manufacturer or seller of each piece of equipment, to determine if one of those transactions involved one of the designated countries (which is paperwork that market participants have not previously been required to maintain and likely will have to spend significant time recreating, if they even can). While Joint Commenters appreciate ERCOT’s desire to ensure that the statute is applied in a manner consistent with its intent and without creating loopholes, Joint Commenters submit that it would be contrary to the legislative intent to add words to the statute (e.g., create and manufacture) that the Legislature opted not to include.

To capture the proposed comments above, Joint Commenters have proposed, below, that the NPRR be modified to define “purchase” as “purchase, lease, or other receipt in exchange for monetary value” and have stricken the proposed sentence in the original NPRR that would extend the requirements to upstream transactions or manufacture of critical electric grid equipment by an LSIPA Designated Company. Joint Commenters have also proposed that the term “procurement” throughout the NPRR be replaced with the statutory term “purchase.”

1. Proposed Definition of LSIPA Affiliate and Narrowing of Relevant Affiliates for Purposes of New Attestation on Critical Electric Grid Equipment and Services

SB 2013 defines “affiliate” as having “the meaning assigned by the protocols of the independent organization certified under Section 39.151, Utilities Code, for the ERCOT power region.”[[21]](#footnote-21) In other words, the term “affiliate,” for purposes of the new LSIPA attestation related to critical electric grid equipment and services, is to be defined by ERCOT in the Protocols. While there is an existing definition of “affiliate” in the Protocols, that definition (based on chains of successive ownership of five percent of voting securities) casts a broader net than the definition of “affiliate” in the ERCOT Bylaws, which is based on common control.

Given that SB 2013 refers to the definition “assigned” by ERCOT in the Protocols, rather than incorporating the “affiliate” definition in PURA (and thereby the existing Protocols definition), Joint Commenters interpret SB 2013 as directing ERCOT to craft a specific “affiliate” definition for purposes of the LSIPA critical electric grid equipment attestation. As noted above, the new provisions added by SB 2013 to the LSIPA are intended to safeguard the grid from attack by potential hostile actors, and thus, the relevant affiliates for this purpose should be ones that are under common control with an entity from which the market participant purchases critical electric grid equipment or services. Simply having a common owner of 5 percent voting securities (i.e., the existing “affiliate” definition) should not be sufficient for this purpose. With its focus on common, actual control, the Bylaws definition of “affiliate” provides an appropriate template from which to craft a definition for the new LSIPA attestation. In addition, federal legislation requiring reporting to the Financial Crimes Enforcement Network (and associated federal regulations) regarding “beneficial ownership information” are similar to the Bylaws definition in terms of the focus on “control” (and have a similar aim as the LSIPA in terms of guarding against potentially hostile actors),[[22]](#footnote-22) but establish 25 percent (rather than 20 percent, as in the Bylaws) as the threshold for control.[[23]](#footnote-23) Joint Commenters have proposed a new definition of affiliate (called an “LSIPA Affiliate”) based on the Bylaws definition and the federal beneficial ownership legislation. For efficiency and uniformity, Joint Commenters have also proposed making the new definition applicable to the existing attestation related to the LSIPA (related to a market participant’s own owners and affiliates), as that attestation also is concerned with ensuring that potentially hostile actors are not able to exercise control over a market participant.

In addition, for purposes of the new attestation related to critical electric grid equipment, Joint Commenters recommend that the Protocols limit the applicable “affiliates” to those who are in the business of selling or producing critical electric grid equipment or services. Affiliates in unrelated lines of business (e.g., clothing manufacturers) would not seem to raise the concerns at which the new LSIPA attestation is aimed, in that such an unrelated affiliate presumably would not have the ability to gain control over any critical electric grid equipment through a purchase of equipment or services by the market participant from their affiliate. Thus, Joint Commenters have proposed that, for the new critical electric grid equipment/services attestation, “affiliates” be limited to an affiliate that “manufactures, sells, leases, or provides Critical Electric Grid Equipment or sells or provides Critical Electric Grid Services.”

1. Proposed Addition of Knowledge Qualifier

Joint Commenters have proposed adding a knowledge qualifier to the new attestation related to critical electric grid equipment/services, specifically by making the attestation applicable if the market participant purchases critical electric grid equipment/services from an entity known to the market participant to be an LSIPA Designated Company. SB 2013 (as codified in PURA § 39.360) specifically requires attestations regarding purchases of critical electric grid equipment or services from companies described in Section 117.002(a)(2)[[24]](#footnote-24) of the Texas Business and Commerce Code. That section prohibits a business entity from entering a contract providing access to critical infrastructure to a company that the business entity “knows” meets certain ownership criteria (e.g., ownership by China, Iran, North Korea, Russia, or other country designated by the Governor to be a threat to critical infrastructure). By referring to the Texas Business and Commerce Code section to identify the companies that trigger the attestation requirement, SB 2013 effectively incorporates the knowledge standard in the Texas Business and Commerce Code. Thus, Joint Commenters propose that NPRR1199 reflect that knowledge standard, both by describing the companies that trigger the attestation requirement as companies “known” by the market participant to be an LSIPA Designated Company and by adding knowledge qualifiers to the LSIPA attestations.

1. Proposed Language Regarding Purchases Before the LSIPA’s Effective Date

Joint Commenters propose language related to the requirements for any purchases of critical electric grid equipment or services from an LSIPA Designated Company in the five years preceding the June 9, 2023 effective date of SB 2013, to capture the different statutory requirements set out in SB 2013 for such purchases. Specifically, SB 2013 states that:

(a) For the purposes of Section 39.360(c), Utilities Code, as added by this Act, a business entity operating in a power region on the effective date of this Act shall report to the independent organization certified for that power region under Section 39.151, Utilities Code, any purchase made within the five years preceding the effective date of this Act.

(b) For any past purchase reported by a business entity as described by Subsection (a) of this section, the business entity shall take reasonable and necessary actions to mitigate access to or control of its critical electric grid equipment by a company described by Section [117.002(a)(2)], Business & Commerce Code, as added by Chapter 975 (S.B. 2116), Acts of the 87th Legislature, Regular Session, 2021, excluding access specifically allowed by the business entity for product warranty and support purposes, and report those actions to the independent organization.[[25]](#footnote-25)

In other words, for past purchases (pre-dating SB 2013’s effective date), the requirement for any purchases of critical electric grid equipment or services from an LSIPA Designated Company is to attest that the market participant has taken reasonable and necessary measures to mitigate access by the LSIPA Designated Company to critical electric grid equipment. In contrast, any purchases made on or after SB 2013’s effective date must not result in any access, period, to critical electric grid equipment. To reflect this distinction in the statute, Joint Commenters have proposed a new subparagraph in ERCOT Nodal Protocol 16.1.4 below.

1. Initial Timeframe for Compliance with the New Attestation Requirements

While Joint Commenters support the 60-day timeframe for reporting purchases of critical electric grid equipment or services from an LSIPA Designated Company on a going forward basis, the initial attestation to be required by NPRR1199 will require significant time and effort for market participants to comply with, as it will relate to purchases dating back five years and for which market participants may not have complete records. Thus, Joint Commenters urge that an initial timeframe greater than 60 days is needed to gather this initial paperwork and conduct diligence relating to past purchases. Joint Commenters have proposed 180 days for the initial attestation following the effective date of NPRR1199.

Joint Commenters’ proposed revisions to the cover page and Protocol language is provided below.

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| Revised Cover Page Language |

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| Nodal Protocol Sections Requiring Revision | 1.3.2.1, Items Considered ERCOT Critical Energy Infrastructure Information  2.1, Definitions  2.2, Acronyms and Abbreviations  16.1.3, Market Participant Citizenship, Ownership, or Headquarters  16.1.4, Market Participant Reporting of Critical Electric Grid Equipment and Services-Related Purchase (new)  23, Form Q, Attestation Regarding Market Participant Citizenship, Ownership, or Headquarters  23, Form R, Reporting and Attestation Regarding Purchase of Critical Electric Grid Equipment and Critical Electric Grid Services from a Lone Star Infrastructure Protection Act (LSIPA) Designated Company or LSIPA Designated Country (new) |
| Revision Description | This Nodal Protocol Revision Request (NPRR) revises the Protocols to reflect new requirements added to the Lone Star Infrastructure Protection Act (LSIPA) as part of Senate Bill (SB) 2013 during the 88th regular legislative session.  Specifically, this NPRR makes the following changes to the Protocols:   * Adds definitions of “Critical Electric Grid Equipment,” “Critical Electric Grid Services,” “Lone Star Infrastructure Protection Act (LSIPA) Affiliate,” “Lone Star Infrastructure Protection Act (LSIPA) Designated Company,” and “Lone Star Infrastructure Protection Act (LSIPA) Designated Country” to Section 2.1; * Adds paragraph (5) to Section 16.1.3, reflecting ERCOT’s statutory authorization, established in SB 2013, to immediately suspend or terminate a Market Participant’s registration or access to any of ERCOT’s systems if ERCOT has a reasonable suspicion that the Entity meets any of the criteria described by Section 2274.0102(a)(2), Government Code, as added by Chapter 975 (S.B. 2116), Acts of the 87th Legislature, Regular Session, 2021; * Adds Section 16.1.4, establishing new reporting and attestation requirements for Critical Electric Grid Equipment and Critical Electric Grid Services purchases by Market Participants and entities that seek to register as Market Participants; * Amends Section 23 to add Form R, which shall be used by Market Participants and applicants for Market Participant registration to comply with the reporting and attestation requirements in Section 16.1.4; * Updates Section 16.1.3 and Section 23, Form Q using the new defined terms, where appropriate; and * Amends Section 1.3.2.1 to provide that certain information submitted on Form R shall constitute ERCOT Critical Energy Infrastructure Information (ECEII) under the Protocols.   ERCOT welcomes comments from Market Participants on the requirements proposed in this NPRR. We are aware that the North American Electric Reliability Corporation (NERC) has Critical Infrastructure Protection (CIP) standards related to the identification and safeguarding of critical infrastructure that is part of the “Bulk Electric System (BES)” as defined by NERC. ERCOT has evaluated options for incorporating NERC definitions in the Protocols in order to identify the types of programmable and remote-capable critical electric grid equipment for which purchase of equipment and services must be reported pursuant to this NPRR and believes that the NERC CIP standards provide a reasonable framework that should inform the NPRR requirements. The NPRR thus incorporates certain language from NERC’s definitions of “BES Cyber Asset” and “Reliable Operation” into the proposed definition of Critical Electric Grid Equipment. However, ERCOT defines the term “Critical Electric Grid Equipment” more broadly than the NERC definition of BES Cyber Asset, by expanding its applicability beyond the BES and including additional relevant elements of the ERCOT System such as distribution assets. |
| Business Case | This NPRR is needed to implement legislative requirements established in SB 2013, which amended the LSIPA to add new reporting and attestation obligations aimed at ensuring that ERCOT Market Participants do not purchase critical electric grid equipment or services that would allow access to or control of critical electric grid equipment by citizens of or businesses associated with the countries of China, Iran, Russia, North Korea, and any other country designated by the Governor as a threat to critical infrastructure. This NPRR supports the security of the ERCOT grid. |

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| Revised Proposed Protocol Language |

**1.3.2.1 Items Considered ERCOT Critical Energy Infrastructure Information**

(1) ECEII includes but is not limited to the following, so long as such information has not been disclosed to the public through lawful means:

(a) Detailed ERCOT System Infrastructure locational information, such as Global Positioning System (GPS) coordinates;

(b) Information that reveals that a specified contingency or fault results in instability, cascading or uncontrolled separation;

(c) Studies and results of simulations that identify cyber and physical security vulnerabilities of ERCOT System Infrastructure;

(d) Black Start Service (BSS) test results, individual Black Start Resource start-up procedures, cranking paths, and ERCOT and individual TSP Black Start plans;

(e) Information contained in Section 1.B. and Exhibit 1 to the Standard Form Black Start Agreement (Section 22, Attachment D, Standard Form Black Start Agreement), except for the Hourly Standby Price, Notice, and Certification sections. This includes, without limitation, the following information that could identify a Generation Resource as a Black Start Resource:

(i) Resource name;

(ii) Resource ID;

(iii) County where the Resource is located;

(iv) Interconnected substation;

(v) Resource MW capability; and

(vi) Tested next start units;

(f) Emergency operations plans, including ERCOT’s emergency operations plan and any emergency operations plan submitted to ERCOT pursuant to any PUCT rule or North American Electric Reliability Corporation (NERC) Reliability Standard;

(g) Detailed ERCOT Transmission Grid maps, other than maps showing only small portions of the ERCOT Transmission Grid such as those included in Regional Planning Group (RPG) Project ERCOT Independent Review reports;

(h) Detailed diagrams or information about connectivity between ERCOT’s and other Entities’ computer and telecommunications systems, such as internet protocol (IP) addresses, media access control (MAC) addresses, network protocols, and ports used; and

(i) Information contained in Section 23, Form R, Reporting and Attestation Regarding Purchase of Critical Electric Grid Equipment and Critical Electric Grid Services from a Lone Star Infrastructure Protection Act (LSIPA) Designated Company or LSIPA Designated Country, submitted to ERCOT that:

(i) Identifies Critical Electric Grid Equipment and Critical Electric Grid Services purchased from an LSIPA Designated Company;

(ii) Describes how such purchase of Critical Electric Grid Equipment or Critical Electric Grid Services relates to the operation of the grid;

(iii) Provides an attestation as to whether such purchase of Critical Electric Grid Equipment or Critical Electric Grid Services will result in access to or control of Critical Electric Grid Equipment by an LSIPA Designated Company; or

(iv) Identifies any measures taken to ensure that the purchase of Critical Electric Grid Equipment or Critical Electric Grid Services will not result in access to or control of Critical Electric Grid Equipment by an LSIPA Designated Company; and

(j) Any information that is clearly designated as ECEII in writing by the Disclosing Party at the time the information is provided to Receiving Party, subject to the procedures set forth in paragraph (3) of Section 1.3.2.2, Submission of ERCOT Critical Energy Infrastructure Information to ERCOT.

## 2.1 DEFINITIONS

**Critical Electric Grid Equipment**

Equipment that can be used to gain remote access to or control of ERCOT System Infrastructure, the ERCOT Wide Area Network (WAN), or Market Information System (MIS), if such equipment, if destroyed, degraded, misused, or otherwise rendered unavailable would, within 15 minutes or less of its mis-operation, non-operation, or required operation, adversely impact the reliable operation of ERCOT System Infrastructure. For purposes of the term Critical Electric Grid Equipment, “reliable operation” means operating the elements of the ERCOT System Infrastructure within equipment and electric system thermal, voltage, and stability limits so that instability, uncontrolled separation, or cascading failures of such system will not occur as a result of a sudden disturbance, including a cybersecurity incident, or unanticipated failure of ERCOT System Infrastructure elements. Redundancy of affected facilities, systems, and equipment shall not be considered when determining adverse impact..

**Critical Electric Grid Services**

Services provided by a vendor relating to the operation, control, monitoring, or use of Critical Electric Grid Equipment.

**ERCOT System Infrastructure**

The Transmission Facilities, distribution facilities, Resources, Settlement Only Generators (SOGs), and Emergency Response Service (ERS) Resources that comprise the ERCOT System and the physical and virtual cyber assets used to control the ERCOT System.

**Lone Star Infrastructure Protection Act (LSIPA) Affiliate**

With respect to any LSIPA Designated Company, any person who, directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with the LSIPA Designated Company. For purposes of this definition, “controls,” “controlled by,” or “under common control with” shall mean the power of a person, directly or indirectly, through one or more intermediaries, to direct the management and/or policies and procedures of another person, whether through voting securities or contract. Ownership by a person of equity securities (whether publicly traded or not) of another person shall not result in control for purposes of this definition if: (1) the holder owns (in its name or via intermediaries) less than twenty-five percent (25%) of the outstanding securities of the person; or (2) the holder owns (in its name or via intermediaries) twenty-five percent (25%) or more of the outstanding securities of the person, and: (a) the securities are held as an investment; (b) the holder does not have representation on the person’s board of directors (or equivalent governing body) or vice versa; and (c) the holder does not in fact exercise influence over day to day management decisions.

**Lone Star Infrastructure Protection Act (LSIPA) Designated Company**

An Entity (including LSIPA Affiliates) that meet any of the company ownership or headquarters criteria listed in Texas Business and Commerce Code, Section 117.002(a)(2)(A)-(b)(2)(B) or Texas Government Code, Section 2275.0102(a)(2)(A)-(b)(2)(B), added by Act of June 18, 2021, 87th Leg., R.S., Ch. 975 (S.B. 2116).

**Lone Star Infrastructure Protection Act (LSIPA) Designated Country**

China, Iran, North Korea, Russia, or a country designated by the Governor as a threat to critical infrastructure pursuant to Texas Business and Commerce Code, Section 117.003 or Texas Government Code, Section 2275.0103, added by Act of June 18, 2021, 87th Leg., R.S., Ch. 975 (S.B. 2116).

## 2.2 ACRONYMS AND ABBREVIATIONS

**LSIPA** Lone Star Infrastructure Protection Act

16.1.3 Market Participant Citizenship, Ownership, or Headquarters

(1) An Entity is not eligible to register or maintain its registration with ERCOT as a Market Participant if the Entity:

(a) Is a person who is a citizen of a Lone Star Infrastructure Protection Act (LSIPA) Designated Country; or

(b) Is an LSIPA Designated Company.

(2) If an Entity meets any of the above listed criteria solely due to the citizenship, ownership, or headquarters of a wholly owned subsidiary, majority-owned subsidiary, or LSIPA Affiliate, the Entity may be eligible to register as a Market Participant if it certifies that the subsidiary or LSIPA Affiliate at issue will not have direct or remote access to or control of ERCOT’s Wide Area Network (WAN), Market Information System (MIS), or any data from such ERCOT systems.

(3) Any Entity that seeks to register as a Market Participant shall submit an attestation as reflected in Section 23, Form Q, Attestation Regarding Market Participant Citizenship, Ownership, or Headquarters, certifying that the Entity complies with the above criteria to the best of the Entity’s knowledge and belief following reasonable diligence.

(4) If there are changes to a Market Participant’s citizenship, ownership, or headquarters such that the Market Participant meets any of the prohibited company citizenship, ownership (including LSIPA Affiliations), or headquarters criteria of an LSIPA Designated Company, then the Market Participant shall execute and submit a new attestation to ERCOT within ten Business Days of the change becoming effective.

(5) ERCOT may immediately suspend or terminate a Market Participant’s registration or access to any of ERCOT’s systems if ERCOT has a reasonable suspicion that the Entity meets any of the criteria described by paragraph (1) above.

***16.1.4 Market Participant Reporting of Critical Electric Grid Equipment and Services-Related Purchase***

(1) As a condition of registering and maintaining registration with ERCOT as a Market Participant, an Entity shall report to ERCOT the purchase, lease, or other receipt in exchange for monetary value (referred to in this Section as a “purchase”) of any Critical Electric Grid Equipment or Critical Electric Grid Services from a company known to the Entity to be a Lone Star Infrastructure Protection Act (LSIPA) Designated Company (including an LSIPA Affiliate only if the affiliate manufactures, sells, leases, or provides Critical Electric Grid Equipment or sells or provides Critical Electric Grid Services) or an LSIPA Designated Country.

(a) For each reported purchase, the Entity shall attest that the procurement will not result in access to or control of Critical Electric Grid Equipment by an LSIPA Designated Company or an LSIPA Designated Country, excluding access specifically allowed by the Entity for product warranty and support purposes.

(b) For any past purchases reported in accordance with paragraph (2) below that were made before June 8, 2023, the Entity shall take reasonable and necessary actions to mitigate access to or control of its Critical Electric Grid Equipment by a company known to the Entity to be an LSIPA Designated Company (including an LSIPA Affiliate only if the affiliate manufactures, sells, leases, or provides Critical Electric Grid Equipment or sells or provides Critical Electric Grid Services) or an LSIPA Designated Country, excluding access specifically allowed by the Entity for product warranty and support purposes, and report those actions to ERCOT.

(2) Market Participants and Entities applying for registration with ERCOT shall submit a report and attestation, on the form reflected in Section 23, Form R, Reporting and Attestation Regarding Purchase of Critical Electric Grid Equipment and Critical Electric Grid Services from a Lone Star Infrastructure Protection Act (LSIPA) Designated Company or LSIPA Designated Country, identifying any purchase described in paragraph (1) above that occurred during the following time periods:

(a) For a Market Participant, purchase(s) that were made on or after June 8, 2018; and

(b) For an Entity applying for registration with ERCOT, purchase(s) that were made within the five years preceding the date it signed the Standard Form Agreement.

(3) Market Participants shall submit a report and attestation, on the form reflected in Section 23, Form R, identifying any purchase (s) described in paragraph (1) above that occur after the date(s) of the purchases reported pursuant to paragraph (2) above and have not already been reported pursuant to this Section.

(4) Reports and attestations submitted pursuant to paragraph (3) above shall be submitted within 60 days of the date of the earliest purchase identified in the report, except that the initial report and attestation required under paragraph (2) following the effective date of Nodal Protocol Revision Request 1199 shall be made within 180 days of that effective date.

**ERCOT Nodal Protocols**

**Section 23**

**Form Q: Attestation Regarding Market Participant Citizenship, Ownership, or Headquarters**

**TBD**

**Attestation Regarding Market Participant Citizenship, Ownership, or Headquarters**

**Legal Name of Market Participant (Applicant):**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**Legal Address of Applicant:**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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**Applicant DUNS Number:** \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Check the one box that applies [do not check both boxes]:

1. With respect to the above referenced Applicant, I hereby attest that, to the best of my knowledge and belief following reasonable diligence:

NONE of the following statements in paragraphs (A) - (D) are TRUE.



ONE OR MORE of the following statements in paragraphs (A) - (D) are TRUE.



(A) The Applicant, or a wholly-owned subsidiary, majority-owned subsidiary, parent company, or LSIPA Affiliate of the Applicant, is owned by:

(i) Individuals who are citizens of a Lone Star Infrastructure Protection Act (LSIPA) Designated Country; or

(ii) A company or other entity, including a governmental entity, that is owned or controlled by citizens of or is directly controlled by the government of an LSIPA Designated Country; or

(B) The majority of stock or other ownership interest of the Applicant, or a wholly-owned subsidiary, majority-owned subsidiary, parent company, or LSIPA Affiliate of the Applicant is held or controlled by:

(i) Individuals who are citizens of an LSIPA Designated Country; or

(ii) A company or other entity, including a governmental entity, that is owned or controlled by citizens of or is directly controlled by the government of an LSIPA Designated Country; or

(C) The Applicant, or a wholly-owned subsidiary, majority-owned subsidiary, parent company, or LSIPA Affiliate of the Applicant is headquartered in an LSIPA Designated Country; or

(D) The Applicant is a person and is a citizen of an LSIPA Designated Country.

**If you checked the box for “ONE OR MORE of the following statements in paragraphs (A) - (D) are TRUE” solely because a wholly-owned subsidiary, majority-owned subsidiary, or** LSIPA **Affiliate meets any of the citizenship or headquarters criteria listed above, then please answer question 2 below.**

2. With respect to the subsidiary or LSIPA Affiliate at issue, check the one box that applies [do not check both boxes]:

The subsidiary or LSIPA Affiliate will NOT have direct or remote access to or control of ERCOT’s Wide Area Network (WAN), Market Information System (MIS), or any data from such ERCOT systems.



The subsidiary or LSIPA Affiliate will have direct or remote access to or control of ERCOT’s WAN, MIS, or any data from such ERCOT systems.



By signing below, I certify that I am authorized to bind the Applicant listed above, that I am authorized to execute and submit this attestation on behalf of Applicant, and that the statements contained herein are true and correct.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Signature

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Name

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Title

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Date

**ERCOT Nodal Protocols**

**Section 23**

**Form R: Reporting and Attestation Regarding Purchase of Critical Electric Grid Equipment and Critical Electric Grid Services from a Lone Star Infrastructure Protection Act (LSIPA) Designated Company or LSIPA Designated Country**

**TBD**

**Reporting and Attestation Regarding Purchase of Critical Electric Grid Equipment and Critical Electric Grid Services from a Lone Star Infrastructure Protection Act (LSIPA) Designated Company** **or LSIPA Designated Country**

This form should be submitted to [LSIPA@ercot.com](mailto:LSIPA@ercot.com) in accordance with the deadlines provided in Section 16.1.4, Market Participant Reporting of Critical Electric Grid Equipment and Services-Related Procurement.

**Legal Name of Applicant or Market Participant:**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**Legal Address of Applicant or Market Participant:**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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**Applicant or Market Participant DUNS Number:** \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Check the one box that applies [do not check both boxes]:

1. With respect to the above referenced Applicant or Market Participant, I hereby attest that, to the best of my knowledge and belief following reasonable diligence, the following statement is either true or not true, as indicated below:

The Market Participant or Applicant has purchased Critical Electric Grid Equipment or Critical Electric Grid Services from a company known to the Market Participant to be an LSIPA Designated Company (including an LSIPA Affiliate only if the affiliate manufactures, sells, leases, or provides Critical Electric Grid Equipment or sells or provides Critical Electric Grid Services) or LSIPA Designated Country within one of the time periods described in paragraph (2) or (3) of Section 16.1.4.

The above statement is TRUE.



The above statement is NOT TRUE.



**If you checked the box for “TRUE” in question 1, then please complete sections 2 and 3 below.**

2. **List each purchase of Critical Electric Grid Equipment or Critical Electric Grid Services from a company known to the Market Participant or Applicant to be an LSIPA Designated Company or LSIPA Designated Country that occurred in the time periods described in paragraph (2) or (3) of Section 16.1.4 and has not already been reported to ERCOT under Section 16.1.4.** **For each purchase, please provide:**

**a. A description of the Critical Electric Grid Equipment or Critical Electric Grid Service purchased:**

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**b. The name of the LSIPA Designated Company from which the purchase was made and the LSIPA Designated Country with which it is associated (or, if applicable, the name of the LSIPA Designated Country from which the purchase was made):**

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**c. The date on which the purchase was made:**

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**d. A general description of how each piece of equipment or service relates to the operation of ERCOT System Infrastructure:**

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**e. For purchases that were made on or after June 8, 2023, a description of the measures taken to ensure that the purchase will NOT result in access to or control of Critical Electric Grid Equipment by an LSIPA Designated Company or an LSIPA Designated Country, excluding access allowed by the Applicant or Market Participant for product warranty and support purposes:**

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**f. For purchases that were made before June 8, 2023, a description of the actions taken to mitigate access to or control of Critical Electric Grid Equipment by an LSIPA Designated Company or an LSIPA Designated Country, excluding access allowed by the Applicant or Market Participant for product warranty and support purposes:**

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

3. With respect to the purchase at issue:

I attest that the following purchase(s) described in my response to question 2 above will NOT result in access to or control of Critical Electric Grid Equipment by an LSIPA Designated Company or LSIPA Designated Country, excluding access specifically allowed for product warranty and support purposes:



**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

I attest that the following purchase(s) described in my response to question 2 above WILL result in access to or control of Critical Electric Grid Equipment by an LSIPA Designated Company or LSIPA Designated Country:



**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

4. If the Applicant or Market Participant attests that a purchase from an LSIPA Designated Company or an LSIPA Designated Country WILL result in access to or control of Critical Electric Grid Equipment by an LSIPA Designated Company or LSIPA Designated Country, then please describe the access to or control of Critical Electric Grid Equipment that was created by the purchase. Please also list any actions the Applicant or Market Participant has taken to mitigate the risks associated with such access or control:

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

By signing below, I certify that I am authorized to bind the Applicant or Market Participant listed above, that I am authorized to execute and submit this attestation on behalf of such Applicant or Market Participant, and that the statements contained herein are true and correct to the best of my knowledge and belief following reasonable diligence.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Signature

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Name

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Title

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Date

1. Tex. Util. Code §§ 11.001-66.016 (PURA). [↑](#footnote-ref-1)
2. PURA § 39.360(g). [↑](#footnote-ref-2)
3. *See* *Tex. State Bd. Of Examiners of Marriage & Fam. Therapists v. Tex. Med. Ass’n*, 511 S.W.3d 28, (Tex. 2017) (“Because the statute and the rule do not define these key terms, we must apply their common, ordinary meaning unless a contrary meaning is apparent from the statute's language. To determine a statutory term’s common, ordinary meaning, we typically look first to their dictionary definitions and then consider the term’s usage in other statutes, court decisions, and similar authorities.”) (internal citations omitted) (emphasis added). [↑](#footnote-ref-3)
4. *See* Code Construction Act, Tex. Gov’t Code § 311.011 (“(a) Words and phrases shall be read in context and construed according to the rules of grammar and common usage. (b) Words and phrases that have acquired a technical or particular meaning, whether by legislative definition or otherwise, shall be construed accordingly.”) (emphasis added). [↑](#footnote-ref-4)
5. *Id.* § 311.021 (“In enacting a statute, it is presumed that: (1) compliance with the constitutions of this state and the United States is intended; (2) the entire statute is intended to be effective; (3) a just and reasonable result is intended; (4) a result feasible of execution is intended; and (5) public interest is favored over any private interest.”) (emphasis added). [↑](#footnote-ref-5)
6. See dictionary.com. [↑](#footnote-ref-6)
7. In version 5 of the CIP standards (adopted in the 2013/2014 timeframe), NERC changed the terminology from “critical cyber asset” to “BES cyber asset,” but the latter term (BES cyber asset) still equates to “critical” in the sense that the term refers to the types of assets that are subject to protection requirements under the CIP (i.e., “Critical” Infrastructure Protection) standards. See NERC Glossary of Terms; *Version 5 Critical Infrastructure Protection Reliability Standards*, Order No. 791, 78 Fed. Reg. 72,755 (Dec. 3, 2013), 145 FERC ¶ 61,160 at PP 116-125 (2013), *Order on Clarification and Rehearing*, Order No. 791-A, 146 FERC ¶ 61,188 (2014). [↑](#footnote-ref-7)
8. The NERC Glossary of Terms defines “reliable operation” as “operating the elements of the [grid] within equipment and electric system thermal, voltage, and stability limits so that instability, uncontrolled separation, or cascading failures of such system will not occur as a result of a sudden disturbance, including a cybersecurity incident, or unanticipated failure of system elements.” Emphasis added. [↑](#footnote-ref-8)
9. *See* *Version 5 Critical Infrastructure Protection Reliability Standards*, Order No. 791, 78 Fed. Reg. 72,755 (Dec. 3, 2013), 145 FERC ¶ 61,160 at PP 116-125 (2013), *Order on Clarification and Rehearing*, Order No. 791-A, 146 FERC ¶ 61,188 (2014); *Version 5 Critical Infrastructure Protection Reliability Standards*, FERC Docket No. RM13-5-000, Informational Filing of North American Electric Reliability Corporation Regarding the BES Cyber Asset Survey Under RM13-5 (Feb. 3, 2015). [↑](#footnote-ref-9)
10. 145 FERC ¶ 61,160 at PP 122 (2013). [↑](#footnote-ref-10)
11. *Id.* [↑](#footnote-ref-11)
12. *Id.* [↑](#footnote-ref-12)
13. *Version 5 Critical Infrastructure Protection Reliability Standards*, FERC Docket No. RM13-5-000, Informational Filing of North American Electric Reliability Corporation Regarding the BES Cyber Asset Survey Under RM13-5 (Feb. 3, 2015).

    145 FERC ¶ 61,160 at PP 122 (2013). [↑](#footnote-ref-13)
14. *Supra* note 8. [↑](#footnote-ref-14)
15. *Supra* notes 3 and 4. [↑](#footnote-ref-15)
16. *E.g.*, 16 Tex. Admin. Code § 25.503(n)(3); ERCOT Nodal Protocols, Section 22(A), § 11(I). [↑](#footnote-ref-16)
17. 88th Tex. Leg., R.S., S.B. 2013, Enrolled Bill Summary (Jun. 9, 2023). [↑](#footnote-ref-17)
18. PURA § 39.360(d) (emphasis added). [↑](#footnote-ref-18)
19. PURA § 39.360(c), (d) (emphasis added). [↑](#footnote-ref-19)
20. Basic tenets of statutory construction, as developed in Texas Supreme Court cases, dictate that the Legislature is presumed to have intended every word in the statute to have effect and to have purposefully excluded any words not set out in the statute. *E.g.*, *In re CenterPoint Energy Houston Electric, LLC*, 629 S.W.3d 149 (Tex. 2021) (“In construing statutory language, ‘we presume the Legislature chose the statute’s language with care, purposefully choosing each word, while purposefully omitting words not chosen.’”) (quoting *In re Commitment of Bluitt*, 605 S.W.3d 199, 203 (Tex. 2020)). [↑](#footnote-ref-20)
21. 88th Tex. Leg., R.S., S.B. 2013, § 1 (effective Jun. 9, 2023). [↑](#footnote-ref-21)
22. See 87 FR 59498 (effective Jan. 1, 2024) (adopting regulations to implement the statutory requirements referenced above) (“These requirements are intended to help prevent and combat money laundering, terrorist financing, corruption, tax fraud, and other illicit activity, while minimizing the burden on entities doing business in the United States.”). [↑](#footnote-ref-22)
23. 31 U.S.C. § 5336. [↑](#footnote-ref-23)
24. SB 2013 and PURA § 39.360 technically reference Chapter 113 of the Texas Business and Commerce Code, but the LSIPA was ultimately codified in Chapter 117 instead of Chapter 113 so the citation above has been changed to match where the law was codified. [↑](#footnote-ref-24)
25. 88th Tex. Leg., R.S., S.B. 2013, § 7 (effective Jun. 9, 2023) (emphasis added). [↑](#footnote-ref-25)