

CHAPTER 25. SUBSTANTIVE RULES APPLICABLE TO ELECTRIC SERVICE PROVIDERS

Subchapter O. UNBUNDLING AND MARKET POWER.

DIVISION 2. INDEPENDENT ORGANIZATIONS.

§25.363. ERCOT Fees and Other Rates.

- (a) **Scope.** This section applies to all fees and rates levied or charged by the Electric Reliability Council of Texas (ERCOT) in its role as an independent organization under the Public Utility Regulatory Act (PURA) §39.151. Charges for wholesale market services acquired by ERCOT in accordance with its protocols are not governed by this section, but may be revised in accordance with §25.362 of this title (relating to Electric Reliability Council of Texas (ERCOT) Governance).
- (1) A fee or rate that was in effect on the effective date of this section shall remain in effect and shall not be changed without commission approval.
 - (2) ERCOT must seek and obtain commission approval of any new or modified rate or fee prior to implementing the new or modified rate or fee.
- (b) **System of accounts and reporting.** For the purpose of accounting and reporting to the commission, ERCOT shall maintain its books and records in accordance with Generally Accepted Accounting Principles. ERCOT shall establish a standard chart of accounts and employ it consistently from year to year. The standard chart of accounts shall be used for the purpose of reporting to the commission and shall be consistent with the fee-filing application approved by the commission and the long-term operations plan. The accounts shall show all revenues resulting from the various fees charged by ERCOT and reflect all expenses in a manner that allows the commission to determine the sources of the costs incurred for each activity for which a separate fee is charged. ERCOT may not change its chart of accounts to be any less detailed than that required in the fee-filing package without prior commission approval.
- (c) **Allowable expenses for fees and rates.** Fees and rates shall be based upon ERCOT's cost of performing its required functions as described in PURA §39.151(a). To determine the reasonable cost of performing its functions, ERCOT shall use a historical test year, except that ERCOT may use a future test year if ERCOT demonstrates that the scope of its activities and functions has been expanded by the commission or the market participants, resulting in higher future costs. To determine if the costs are reasonable and necessary, the commission shall review ERCOT's costs for consistency compared to the ERCOT long-term operations plan, to costs incurred by market participants and other independent system operators for similar activities, and to any other information and data considered appropriate by the commission.
- (1) Only those expenses that are reasonable and necessary to carry out the functions described in PURA §39.151, shall be included in allowable expenses.
 - (2) Allowable expenses, to the extent they are reasonable and necessary may include, but are not limited to the following general categories:
 - (A) Operating expenses, which include salaries and related benefits, direct advertising for the specific purpose of recruiting employees, legal and consulting services, hardware and software maintenance and licensing, insurance, employee training and travel, and depreciation;
 - (B) Facility and equipment costs, and other long-lived investments;
 - (C) Debt service (interest plus principal reduction) and other reasonable and necessary costs of capital to fund investments in property and facilities, and other capital expenditures that are used and useful in performing the functions of an independent organization;
 - (D) Expenses associated with fees and dues charged by organizations setting electric or energy business practices and communications standards (*e.g.*, North American Electric Reliability Council ("NERC"), North American Energy Standards Board ("NAESB"), and ISO/RTO Council) to which ERCOT is presently a member; and

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§25.363(c)(2) continued

- (E) Actual expenditures for public service announcements and community education efforts, provided that the total sum of all such items allowed in the cost of service shall not exceed 0.05% of the annual ERCOT revenue requirement or \$50,000, whichever is less.
- (3) The following are not allowable as a component of expenses:
 - (A) Legislative advocacy expenses, whether made directly or indirectly;
 - (B) Funds expended in support of political candidates, movements or causes;
 - (C) Funds expended promoting religious causes;
 - (D) Funds expended in support of or in acquiring membership in social, recreational, or fraternal clubs or organizations;
 - (E) Funds expended for advertising, marketing, or other promotions, which includes, but is not limited to:
 - (i) promotional goods;
 - (ii) efforts to increase name recognition;
 - (iii) radio, television, newspaper or other media advertising; except as otherwise expressly authorized; and
 - (F) any expenditure found by the commission to be unreasonable, unnecessary, not in the public interest, or not sufficiently supported by the fee-filing package and accompanying evidence.