SIERRA CLUB
LONE STAR CHAPTER

To: The Honorable Ken King, Chair, Chair, House Committee on State Affairs
The Honorable Ana Hernandez, Vice-Chair, House Committee on State Affairs
Members, Committee on State Affairs

From: Cyrus Reed, Legislative and Conservation Director, Lone Star Chapter, Sierra Club, cyrus.reed@sierraclub.org, 512-888-9411 (Office)

April 23rd, 2026

Re: SB 6 Implementation, Other Needed Large Load Reforms and Battery Storage Safety Concerns

Monitor the implementation and associated rulemaking of all legislation passed by the Committee and enacted by the 89th Legislature to ensure that legislative purposes are properly implemented, including the following:

Senate Bill 6: *relating to the planning for, interconnection and operation of, and costs related to providing service for certain electrical loads and to the generation of electric power by a water supply or sewer service corporation;*

Battery Storage and Safety*: Examine the current rules and regulations regarding battery storage and safety. Evaluate potential risks to communities and make recommendations to allow the continued deployment of battery storage without compromising public safety.*

The Sierra Club is pleased to offer comments to the House Committee on State Affairs on data centers, AI and other large loads, as well as utility-scale battery storage deployment and safety.

Sierra Club has more than 22,000 members in Texas, most of them within ERCOT. We have many members who are very concerned about the water, energy and air quality impacts of data centers and other large electric loads. These community members are not misinformed as some have claimed, but citizens, residents and constituents who are seeing how large industrial

facilities are popping up often in rural, water-stressed areas of Texas. Please take their - and our concerns- seriously. We have also seen how development of large loads in other states - including Virginia - has overwhelmed local grid, water and air quality protections, and that state is now playing catch up. Getting the rules and regulations correct at the front end before the massive arrival of these new large loads is key.

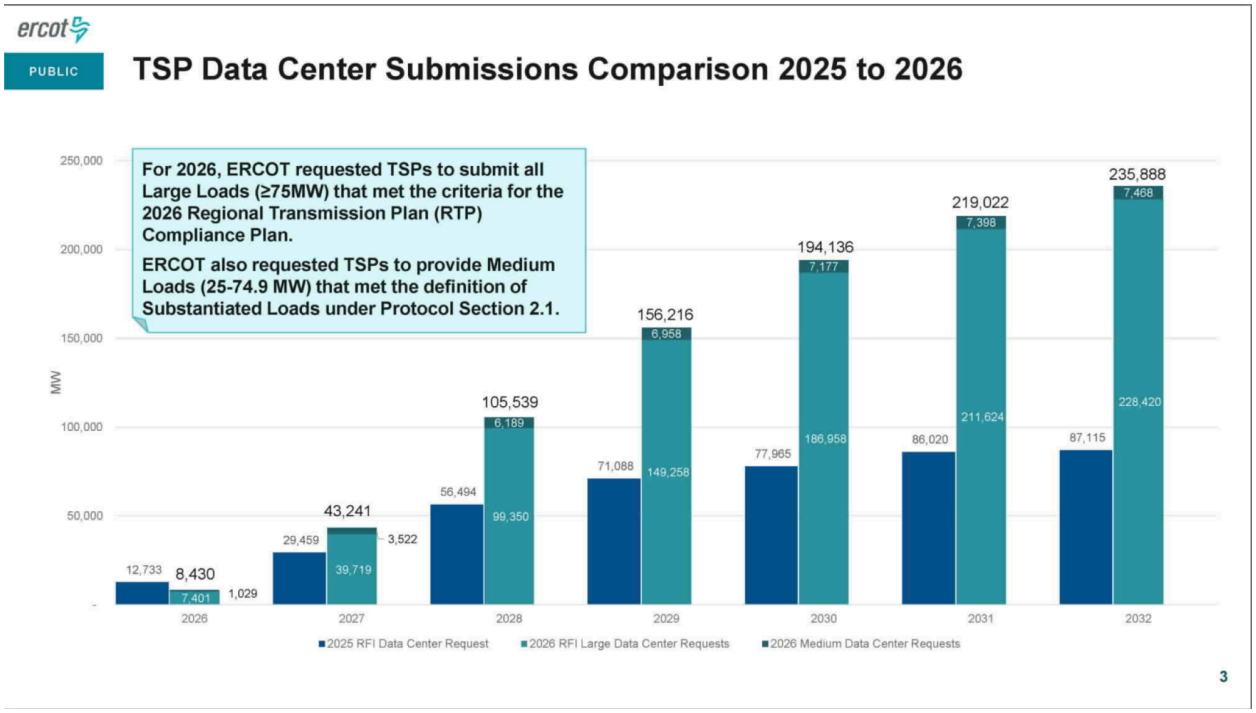
This committee must also be arriving at increasing costs being faced by ERCOT consumers. Recently, TEPRI - the Texas Energy Poverty Research Institute - issued a new report entitled "ERCOT Electricity Affordability Outlook." The report details how electricity rates have increased by approximately 30% since 2021, and projects another rise of 29% for 2025-2030, primarily driven by planned, large-scale investments in transmission and distribution.

As an organization, we did support SB 6 - as a necessary important first step toward incorporation of these new large computational loads - and we are also members of ERCOT, and serve on the Reliability and Operations Committee, which is currently reviewing proposed protocols and guidelines around the ERCOT "batch" process and other rules to create "Controllable Load Resources" and "Bring Your Own Generation" standards. We recognize the amount of work that has gone into the development of proposed rules to implement SB 6 as well as the proposed ERCOT protocols, interconnection studies and RPG (Regional Planning Group) analysis.

SB 6 Implementation and why it is important as a base level of guardrails to large load development

Sierra Club supported SB 6, including its major provisions to require interconnection studies and standards, separate permission for large loads that are co-located with existing generation, a demand management tool, new requirements on ERCOT forecasting, and especially a reconsideration and reevaluation of how transmission costs are borne by ratepayers. Forecasts of Large Loads warning to interconnect continue to be extremely high. While the 2025 RTP predicted up to 220 GWs of loads within six years, even more recent projections continue to show even higher loads wishing to interconnect, showing the importance of SB 6 as an initial protective measure. Just last week, ERCOT issued a stark reminder of why SB 6 is so important, issuing a demand projection that is startling in the potential impact of new large loads - some 235 additional GWs - on our grid, stating that up to a total of 367 GWs of load could be on the grid by 2032, a number that is clearly not realistic but indicates why SB 6 and the batch process is so important. The projection is a snapshot which does not incorporate all of the required rulemaking aspects of Project No. 58480**:** Establishing rules for forecasting the future demand of large loads. That rulemaking was just implemented, and for the first round, ERCOT and the PUCT

could not implement all of the requirements. Projections should get better once that rule is fully implemented. Indeed, just last week, ERCOT and the PUCT agreed that an "adjustment" must be made for the the outer years, but even if the number in 2032 is actually closer to 110 or 120 GWs and not 367 GWs, the potential impact on grid reliability, customer cost, water use, and even air quality is clearly of concern.



Transmission Interconnections and ERCOT Batch Process

Sierra Club is watching the ERCOT batch process and proposals and is engaged through the stakeholder process. We understand the need for a more regional and statewide approach but do want to assure that the medicine proposed is focused on the right target, and that other users are not prevented from being served by the grid. We support PGGR 145 overall, but do have concerns about the confusion caused by having some projects already approved through RPG and the previous protocols, and whether those will be considered as "Base" within the batch process. We would support including large loads that have met all of the requirements in place on April 1, 2026 as base within batch zero, as many have suggested, but subjecting other loads to more study, and not considering them as "base" within batch zero.

While the Sierra Club understands the need to build the large transmission infrastructure, we are concerned at both the cost, but also the siting decisions which could impact important habitat, and natural resources. We hope the legislature will also look at other transmission solutions like Enhanced Grid Technologies and Reconductoring.

SB 6 Rulemakings at the PUCT

The Sierra Club has been engaged in all five rulemakings at the PUCT and we are generally pleased with the efforts of the agency, though we continue to argue for a lower threshold of who the rules apply to. In particular, we have argued that transmission-connected large loads between 25 MWs and 75 MWs should also be included. We believe that the PUCT should make a decision on transmission cost allocation by the end of the year. The Sierra Club favors an approach which would base transmission costs on a combination of overall energy use and peak demand over all 12 months, which we believe would be a fairer way to allocate costs to all users rather than the 4CP approach, and should lower the potential that ratepayers are paying the cost of transmission mainly used by large industrial loads like data centers. We also support a separate demand charge on these specific users.

Project No. 58479: Establishing rules for new large loads that will be located with an existing generation resource

We are generally supportive of the ultimate adopted rule, though somewhat concerned that ERCOT seems to be treating dispatchable and non-dispatchable existing generation the same, even though reliability concerns are greater when a large load co-locates next to a large gas, coal or nuclear plant. Indeed, because many renewable resources are located in areas facing transmission congestion, locating at renewable sites can actually make our grid more efficient. We hope that ERCOT and the PUCT will treat these co-locations arrangements on a case by case basis to assure that reliability and costs are not put on other customers.

Project No. 58480**:** Establishing rules for forecasting the future demand of large loads

Again, we were generally pleased with the outcome, though we disagreed with the decision not subjecting "medium" loads to the same forecast process. Again the latest ERCOT projection is a first stab and these projections should improve as the rules are fully implemented.

Project No. 58481**:** Establishing standard rules for connecting large load customers to the ERCOT grid

We are in general support of the staff recommendation, although again we would apply the requirements to all large loads over 25 MWs. We have suggested more of a sliding upfront MW fee, from $25,000 to $75,000 depending upon the size of the large load, and that up to

50 percent could be reimbursable if certain conditions are met, such as being operational for at least three to five years. However, there must be an upfront fee to protect consumers against speculation. Having large loads come to ERCOT, cause transmission buildout and then having those loads not materialize would be devastating to consumer costs.
It's important to note that under our present system, large loads are generally not paying large upfront costs for interconnection and the result is that many of these costs are being shifted to other ratepayers.

Project No. 58482**:** Developing a paid service for procuring power use reductions from large loads to help balance supply and demand on the grid.

This rulemaking has just begun and there is currently not a final proposal for comment. We are of the opinion that the service should attempt to mirror ancillary service methodologies, though we recognize it can not be run in the same way because of notice and other requirements. We do continue to call for a similar service for residential users. Within ERCOT, large loads are already being paid through services like Emergency Response that do not offer the same opportunity for small commercial and residential consumers.

Project No. 58484**:** Evaluating whether the existing methods used to assign the cost of transmission projects to Texas consumers are fair

This is the most important rulemaking in our view because it helps determine how transmission is paid for going forward. We believe the current system of 4 CP socialized transmission costs is unfair to residential and small business consumers. Sierra Club has suggested that we move from 4 CP to 12 CP, but also include an energy use component (75% peak use, 25% energy use). By moving to such a hybrid approach, the CP would continue to provide an incentive to lower peak use, but also make the cost more reflective of how transmission is utilized. In addition, we support calls for a separate demand charge for large loads, and again we would apply that charge to all loads with at least 25 MWs demand.

Project No. 58317. Updates regarding the overall implementation of SB 6.

This is a catch-all project where issues like the batch zero process are discussed.

Additional Community Protections from Large Loads

Cost should be borne by developers and operators, not other ratepayers

Large electric loads must be required to pay separately for 100 percent of the costs necessary to service them, including transmission and energy use, distribution and financing costs. While not the subject of this committee, we have similar beliefs for water use and treatment and wastewater treatment, water distribution, and financing costs.

The Legislature could also consider passing a requirement that all private electric utilities, cooperative and municipal utilities develop a specific large load tariff schedule, which is the official pricing structure set by utility companies, including rates based on energy consumption, demand charges and other charges (such as service fees). Large-load customers must be subject to a tariff schedule that is equal or proportional to the costs of serving them, mitigating the risk that other classes of retail consumers are paying unwarranted costs. This may include instituting a new tariff schedule or amending an existing tariff schedule.

Utilities can also set rate surcharges for capital improvements such as the capacity expansions and other work often needed to serve large new industrial customers, but those costs are distributed among all ratepayers. We recommend updating statute to ensure current ratepayers are not asked to foot the bill when data centers and other large new facilities come to town.

Transparent Reporting / Effective Planning Requires Transparency

Annual Reporting. To accurately understand the impact of any energy and water user and ensure our state's long-term water and energy supply remains secure, we need detailed information about how much water and energy is being used. The lack of transparency and use of non-disclosure agreements in data center development prevents a clear understanding of their energy and water consumption and hampers water and energy supply planning at the state and local levels. Effective planning guides strategic investment and supports smart growth in Texas. This all relies on good and accurate data. We recommend requiring data centers to report annually to the PUC on energy use, peak and overall, energy sources used, cooling systems used, total water consumption (peak water use and total water use), and water sources, including the amount diverted, to enable a fair assessment of their energy and water use and impacts on local water and energy resources. The PUC should share this data with ERCOT and TWDB to be used in the regional and state water planning process, as well as with TCEQ for their regulatory functions. Reporting could also include information on any backup power technology utilized. We strongly suggest that these requirements be placed on any transmission-level large load customer of 25 MWs or greater.

State Public Website: Require PUCT to design, implement, and maintain a publicly accessible website to provide information about all data centers and other large electric facilities in the state, including water and energy use.

NDA (Non-Disclosure Agreements) are secrecy contracts signed between a data center developer and local governments that prohibit the government from sharing information about the data center development deal with the broader public. While there could be some legitimate trade secrets that might make sense to protect, the Legislature should establish guidelines that prohibit NDAs around information that should be available to the public, including:

- Water use, cooling technology and water sources
- Energy use and sources
- Wastewater discharge
- Use of backup generators

Water and Energy Efficiency Requirements / Ensure Data Centers (& other Industrial Water Users) Are Good Stewards

Data center designers consider several variables when selecting a facility's cooling technology and energy use and may find themselves choosing between options with varying levels of efficiency in their use of water and energy. We recommend establishing statewide design standards requiring the default selection of the most efficient feasible technology and other processes that typically utilize or consume energy and water, including the utilization of dry cooling technologies where possible.

In addition, the Legislature could direct SECO to adopt a statewide building code for large industrial loads that would be a state minimum and require large loads to meet certain building code standards, including water and energy efficiency. The Code should be based on codes developed by the International Code Council.

Mitigation Requirement: Let's help Texans conserve their resources and mitigate large load impacts

To offset resource consumption and balance the impacts of development with long-term benefits, data center developers should either be required or encouraged to contribute to programs that reduce energy and water use, including weatherization, energy efficiency, and water conservation and water production programs, or even land conservation efforts.

We recommend exploring:

- Requiring the developers of large electric loads industrial facilities to contribute to programs in amounts commensurate with the amount of water and energy they consume (based on data submitted annually to the PUC), so that their impact can be reduced with reductions in residential and small commercial use. This could for example be a program like “Bring your own distribution capacity” (BYODC) where large loads work with local utilities and communities to bring efficiency and resilience measures to the local distribution grid, or programs to incentivize water conservation, land conservation and water development. Let’s make the large loads actual contributors to local solutions, instead of impacts. Large loads could either help design the programs themselves, or pay into a mitigation fund, perhaps overseen by a state agency like SECO, TDHCA or even TWDB.
- Requiring developers to implement Community Benefit Agreements with local or regional entities where they are located to do the same as the above.

Air Quality Concerns

We recognize that the House Committee on State Affairs does not generally deal with air quality issues, but they are paramount to address as the grid incorporates more and more data centers and other large loads that rely on backup and onsite generation, often fueled by gas and diesel engines.

Many large data centers are proposing to add significant generation resources, many of which have significant air quality impacts. Often these onsite generation resources are located in communities that are already suffering from poor air quality measures, impacting local air quality, health and wildlife. These emissions can also contribute to the conditions leading to extreme weather.

Cloud compute and artificial intelligence data centers are almost always built with substantial on-site backup diesel generation to ensure continuity of operations even during power outages. In many cases, the number of these (typically uncontrolled) 2-4 megawatt on-site generators are sized to match- the capacity of the data center, and it is increasingly common to have large data centers with dozens or even hundreds of backup diesel generators. Each of these generators produce the equivalent emissions of several diesel trucks. The Sierra Club recommends that the Texas Legislature consider several policy options to seek to mitigate the air quality impacts of diesel generators at data centers. These include:

➢ Mandate that air permits assess cumulative emissions & simultaneous operations

➢ Mandate transparency, public comment, and reporting for minor sources

➢ Prevent expansion of “emergency” conditions that allow for operation of diesel units

➢Require back-up generation require Tier IV controlled generators and/or battery storage

County Authority

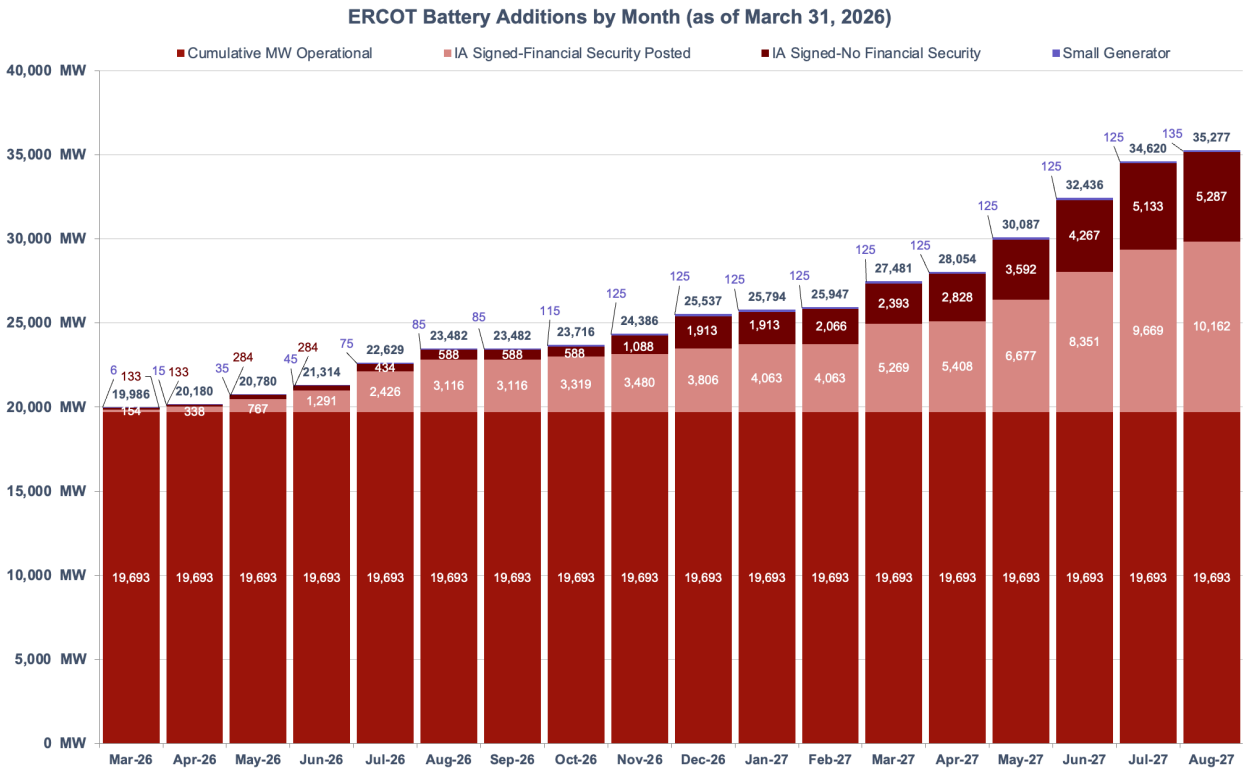
The legislature has a difficult balancing act to grant counties the authority to manage land use outside city limits. While we do not favor giving counties the ability to ban or place moratorium on development, we do believe that counties need more tools to protect their citizens from growth and development that does not reflect the unique circumstances of their counties. We believe there is a “sweet” spot of reasonable county regulations. Counties need additional authority to manage impervious cover, stormwater and drainage management, landscaping standards, and other land use issues for flood management purposes. This authority would be useful in managing the development of large industrial facilities and limiting their impact on flood severity, aquifer recharge, and other important issues. We recommend counties be given the authority to collect drainage fees and manage impervious cover to mitigate the impacts of large industrial developments on flood severity, and also have more authority over setting building code standards and enforcement of those codes, including through direct or third-party inspections.

Battery Storage and Safety*: Examine the current rules and regulations regarding battery storage and safety. Evaluate potential risks to communities and make recommendations to allow the continued deployment of battery storage without compromising public safety.*

In the same way that many Texans have been concerned about the rise of large loads locating in their neighborhoods and communities, some Texans have legitimate concerns about the safety of another type of industrial facility - large scale battery storage facilities, sometimes called Battery Energy Storage Systems, or BESS.

BESS has become an increasingly important and necessary part of our electric grid. Indeed, there are approximately 20,000 MWs of utility-scale batteries currently on the system, with up to 35,000 MWs expected to be in service by August of 2027. As Texas’s grid has moved more and more being supplied by intermittent resources, batteries have played a role in providing energy (and ancillary services) during solar and wind ramp up and ramp down events, while also providing other ancillary services since they can react so quickly to changes in frequency, voltage and demand. Indeed, storage is continually setting new records for capacity and use on

our system, reducing the risk of brownouts or other reliability issues. Often, storage is being located directly at wind and solar facilities, extending their usefulness, while in other cases it is being located on the distribution system or at substations close to loads.



Notes:
- Operational capacity includes generating units that have received ERCOT approval to synchronize with the grid but have not passed qualification testing necessary to be approved for full participation in ERCOT market operations.
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- Includes Private Use Network (PUN) generators that export power to the grid.
- Accounts for retirements and rating changes due to facility expansions or repowering as these occur.
- Operational capacities are based on real power ratings, which reflect the maximum power that a generating unit can produce during normal sustained operating conditions as specified by the equipment manufacturer.
- Operational capacities include only facilities that have registered with ERCOT (Those larger than one megawatt and supply power to the ERCOT system.)
- This chart reports annual planned units with projected Commercial Operations Dates throughout the calendar year. In contrast, ERCOT's Capacity, Demand and Reserves (CDR) report shows planned capacity projected to be available on or before the start of a given season.
- Projects that have prior-year Projected CODs that have not been met, and for which ERCOT has not received COD updates, appear as planned projects for the subsequent year.
- The data presented here is based upon the latest information provided to ERCOT by resource owners and developers and can change without notice.
- A Small Generator is defined in the ERCOT Planning Guide (Section 5.2.1(3)) as a generator that currently has, or is proposed to have, an aggregate nameplate capacity of less than ten MW. The Small Generator category may include Distributed Generation Resources (DGRs) less than ten MW that are registered as Generation Resources to participate in the ERCOT markets.
- For battery storage facilities co-located with generation equipment (hybrid systems), the installed capacities reflect the standalone battery capacity amounts.
- This chart includes battery energy storage systems defined as Self-Limiting Facilities (SLFs), where the MW capacities are reported as zero to reflect projects for which the battery system is sized to be less than the total nameplate capacity of all registered generators at the facility. Other generators at the facility typically include one or more inverter-based resources, such as solar.

Indeed, this spring, batteries have routinely been providing between 15 to 20 percent of the demand right at solar rampdown and before other resources like wind and gas have begun to provide more long-duration power.

Rank	Time	Maximum Battery Discharge To Total Demand Ratio Value
1	March 13, 2026 at 07:30 PM CDT	0.204
2	April 6, 2026 at 07:45 PM CDT	0.187
3	December 23, 2025 at 05:25 PM CST	0.176
4	April 8, 2026 at 07:45 PM CDT	0.17
5	March 23, 2026 at 07:55 PM CDT	0.164
6	December 31, 2025 at 05:45 PM CST	0.163
7	March 28, 2026 at 08:00 PM CDT	0.162
8	March 24, 2026 at 07:30 PM CDT	0.16
9	February 28, 2026 at 06:15 PM CST	0.16
10	March 16, 2026 at 07:50 PM CDT	0.156

Fortunately, the Legislature and ERCOT have already taken important actions to assure that this battery development is safe and is actually helping keep our ERCOT grid reliable. Recently, ERCOT passed new rules to assure that going forward (after April 1, 2026), all new batteries must include grid enhancing technologies that will make these resources even more valuable. ERCOT and stakeholders are also engaged in an ongoing discussion to provide better visibility on batteries "state of charge" to assure that ERCOT has an accurate understanding of resource adequacy. Rules must be balanced to assure our market is efficient - better for consumers - while also providing the needed information so that ERCOT can react to situations in real time.

For its part the legislature passed three very important new laws in 2025, thanks in part to the actions of the Chairman and this committee.

House Bill 3824 (King). Requires the adoption of fire safety standards and certifications developed by National Fire Protection Association & Underwriters Laboratories for all utility-scale batteries, and mandates third-party inspections, emergency response planning and annual training for first responders at BESS facilities. The rules for this law are through the Texas Department of Insurance and go into effect in January of 2027.

While counties and cities can not pass their own rules on BESS on these issues that go beyond these standards, counties and cities can assure these rules are followed, and municipal utilities have additional ability to inspect and create safety standards.

House Bill 3809 (Darby). Establishes requirements for BESS facilities, including posting of full financial assurance for facility decommissioning, land restoration, recycling and disposal. Frankly, these requirements are stronger now for BESS facilities than they are for oil and gas wells at the Texas Railroad Commission. This bill became effective on September 1, 2025, meaning all newer storage facilities must have financial assurance in place to cover the full cost of decommissioning. This is a very important provision to assure safety.

House Bill 3229 (Lambert). Requires recyclers of wind, solar, and BESS components to submit annual reports to TCEQ and post financial assurance to cover recycling and disposal. The bill includes compliance and enforcement including a provision of up to $500 a day for not following the requirements of the bill.

The passage of these three laws, along with the new rules at ERCOT on grid enhancing technologies and state of charge, will go a long way to assuring BESS safety and reliability. Still, we understand that some communities such as those in the Hill Country have concerns about the location and siting of these utility-scale facilities going forward.

Sierra Club believes that this committee must assure that the laws passed are implemented by TDI, local utilities and the TCEQ, including compliance and enforcement.

However, we also believe that other protections should be explored.

First, we would hope that the industry is proactive and includes information on their websites about their existing projects which might have been developed before these laws were put in place. In particular, letting the public know that they are meeting these fire safety and other standards is important.

Second, we believe that in some cases local county authorities should have some additional regulatory authority over land use in general. Thus, while we would not support allowing a county to impose moratoriums or bans on a specific industry, we would be supportive of new laws that give counties more authority over issues related to water resources, such as draining fees and districts, impervious cover, and key water features like karst formations, as well as more authority to adopt, and enforce modern building codes. We have previously supported bills in this regard, such as HB 882 by Ron Reynolds - *Relating to building codes applicable in the unincorporated areas of a county* from the 89th Regular Session and HB 117 by Zweiner during

the 2nd Special Session - *Relating to the authority of a county to regulate impervious cover in the unincorporated area of the county*.

Sierra Club believes that full implementation of the three laws passed last session, including enforcement, better proactive information provided by the industry for existing BESS and some expansion of authority for counties over certain land use issues should help balance development of storage while ensuring safety.

The Sierra Club appreciates the opportunity to offer these comments to the committee.