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Texas Data Center Critical Dates and Procedures Following the 2026 Elections

The November 3 election will put a Democratic governor and lieutenant governor in office in January alongside a Democratic House and a Republican Senate, just as the audit, the Batch Zero load interconnection study, and the TCEQ permit pause that Governor Abbott put in place this fall are scheduled to come to a head. The calendar below sets out the dates and procedures data center developers, owners, lenders, and offtakers should be tracking.

Texas's data center landscape is being reshaped on two parallel tracks. The first is regulatory: since August, Governor Abbott has directed the Public Utility Commission of Texas (PUCT) and the Electric Reliability Council of Texas (ERCOT) to audit every data center advancing through the interconnection process, directed the Texas Water Development Board (TWDB) to enforce water-use reporting, and directed the Texas Commission on Environmental Quality (TCEQ) to halt all permits sought by data center projects until ERCOT completes its audit. The second is political: in last week's election, Democrats won the governorship, the lieutenant governorship, and control of the Texas House, while Republicans retained control of the Senate. Data centers were a dominant campaign issue, and bill filing for the 90th Legislature, which opened on November 9, has already produced bipartisan proposals to repeal the data center sales tax exemption, require water-use disclosure, and bar local tax incentives.

For data center clients, the practical question is what comes next. The audit reports are due in December, a new governor and a new legislature arrive in January, and the Batch Zero study timeline and the composition of the agencies that regulate data centers may both change before the end of the 2027 regular session. Below, we set out the key dates, explain how they interact, and identify where timing remains uncertain.

Critical dates at a glance

The table below collects the dates discussed in this alert in chronological order. Dates marked “target” or “expected” are subject to change, and several depend on decisions not yet made by ERCOT, the PUCT, TCEQ, or the incoming administration.

Date	Milestone	Why it matters
November 9, 2026	Bill prefiling opens for the 90th Legislature	Proposed data center bills are already on file; bill filing runs through March 12
December 10, 2026 (target)	ERCOT files the Batch Zero Eligibility Verification Report and the Community Impact Review Report	Targeted completion of the Governor’s audit; determines which Large Loads remain in Batch Zero
December 17, 2026 (expected)	PUCT open meeting on the audit reports	Earliest date the audit can be treated as complete and the TCEQ permit pause could lift; ERCOT expects to file any good cause exception requests, including any relating to Batch Zero timing, by this meeting
January 3, 2027	120th Congress convenes at noon (a Sunday) unless Congress appoints by law another day	Divided federal government begins; indirect effect on Texas projects, more direct for FERC-jurisdictional assets
January 12, 2027	90th Texas Legislature convenes at noon	Regular session begins; Republican Senate and Democratic House

January 19, 2027	Governor Hinojosa's inauguration	Proposed data center moratorium during campaign to facilitate legislative action; authority to rescind or replace Governor Abbott's directives; appointment power over PUCT and TCEQ as existing terms expire
Late January 2027	Nominations for PUCT seats not yet confirmed by the Texas Senate, due within the first 10 days of the session	First test of the new governor's approach to the PUCT
March 12, 2027	Last day to file bills	Defines the universe of data center legislation for the regular session
April 9, 2027	Current PGRR 145 deadline for Batch Zero study results	ERCOT has said it will not meet this date; extension expected
May 31, 2027	Sine die (end of legislative session); the governor's veto period begins	Last day for the Legislature to pass data center legislation in the regular session; a special session is possible afterward
August 31, 2027	TCEQ Commissioner (current chair) Paup's term expires	First TCEQ term to expire and become available for new appointment
September 1, 2027	PUCT terms of Commissioners Jackson and Rhode expire; customary effective date for new statutes	Additional PUCT seats open; new data center laws would generally take effect
Any time after January 19, 2027	Special session (governor's call only; up to 30 days)	Possible if a data center bill stalls or the governor seeks faster action than the regular session allows

The audit and the TCEQ permit pause: December 10 and December 17

Audit completion. ERCOT has told the PUCT that it will file two reports by December 10, 2026: the Batch Zero Eligibility Verification Report, which determines which Large Loads (75 MW and above) remain eligible for Batch Zero, and the Community Impact Review Report, which summarizes the water, power, ownership, and community-impact information collected from data centers. Both are slated for discussion at the PUCT's December 17, 2026 open meeting. As of ERCOT's November 5 update to the PUCT, first-round responses from 257 developers (roughly 5,140 questions) had been reviewed, a shorter second round of developer-specific questions was expected, and ERCOT stated that its review was not yet complete. Final inclusion or exclusion from Batch Zero is expected to follow the December reports.

TCEQ moratorium. Governor Abbott's September 21 directive instructs TCEQ to issue no permits sought by data center projects until ERCOT completes its audit. The directive sets no fixed end date, so the pause is tied to the audit milestone above. Read together, the earliest date on which TCEQ could resume issuing data center permits is the audit's completion, targeted for filing on December 10 and PUCT consideration on December 17. The directive also provides that no state agency should advance data center regulatory approvals until the PUCT, ERCOT, and the Texas Water Development Board (TWDB) have acquired the audit information.

Three points deserve particular attention in planning:

- **True impact of December dates.** The pause is a gubernatorial directive, not a rule or a statute, and it binds only the current administration. Governor-elect Hinojosa has pledged to issue her own moratorium on all data center approvals until the Legislature passes new protections. If TCEQ resumes permitting after December 17, the window before the January 19 inauguration would be roughly a month.
- **Scope questions are not fully settled.** TCEQ's pause reaches beyond grid-connected projects, and the agency shut down its electronic filing system in October after advocates identified permit approvals that had continued after the pause began. Projects with pending air, stormwater, or water authorizations should confirm status directly with TCEQ staff.
- **Energization remains separately paused.** ERCOT has paused approvals to energize new Large Load data centers and crypto facilities until the eligibility verification and community-impact review are complete. The pause does not apply to medium loads (25 MW to under 75 MW) or to Large Loads that are not data centers or crypto facilities.

Batch Zero: December classifications, an April 9 deadline, and likely extension

Batch Zero is ERCOT's one-time transitional study of Large Loads (75 MW and above) under Planning Guide Revision Request (PGRR) 145. As adopted, PGRR 145 required ERCOT to classify each Large Load by August 7, 2026, and to deliver study results and offer capacity to loads no later than April 9, 2027. The Governor's August 3 directive disrupted that sequence. The key Batch Zero dates now are as follows:

- **Now through December 10:** ERCOT paused the study process and delayed final classifications while it completes the eligibility verification. ERCOT issued conditional classifications in early September, placing 204 projects (66.4 GW) in base load and 158 projects (127.9 GW) in studied load, subject to the outcome of the verification process. Most developers were expected to receive a second, short round of project-specific questions with a five-business-day response window.
- **December 10, 2026:** ERCOT files the Batch Zero Eligibility Verification Report with the PUCT. Final inclusion in, or exclusion from, Batch Zero is expected to follow in December. Projects that cannot substantiate their attestations, or that fail to respond, risk disqualification.
- **December 17, 2026:** The PUCT's open meeting. ERCOT has indicated that any additional good cause exception requests, including any relating to Batch Zero timelines, will be filed in time for this meeting.
- **April 9, 2027:** The current PGRR 145 deadline for Batch Zero study results. ERCOT has not yet formally asked the PUCT to move it.

Extension of the Batch Zero study dates is likely. ERCOT's August 10 filing stated that, if necessary, it would seek another good cause exception or engage the stakeholder process to address the April 9 deadline, and ERCOT's senior leadership told the PUCT at its August 20 open meeting that the study would not be complete by April 9, 2027, with a new timeline still to be determined.

Two further variables could move these dates. First, a new governor taking office on January 19 may direct the PUCT and ERCOT to slow the process, add audit steps, or condition study results on new requirements. Second, legislation enacted in the 2027 session may impose new conditions on large load interconnection that ERCOT would then need to reflect in Batch Zero or in the next batch.

The 90th Legislature: prefiling, session, and the special-session question

The legislative calendar is fixed by the Texas Constitution and the chambers' rules, and it sets the outer boundary for any statutory response to the data center debate:

- **November 9, 2026:** Bill prefiling opened for the 90th Legislature, the first day legislators and legislators-elect may file bills. More than 1,260 bills had been filed by the close of the first day, including a handful from both parties to repeal the sales and use tax exemption for data centers, SB 35 (requiring ERCOT to share information related to large load customers with the TWDB to assist TWDB with water planning and its related duties and responsibilities), and SB 36 (a bar on local tax incentives for data centers).
- **January 12, 2027:** The 90th Regular Session convenes at noon.
- **March 12, 2027:** Last day to file bills, the 60th day of session.
- **May 31, 2027:** Sine die, the 140th and final day of the regular session. The governor's veto period then begins.

Because the House will be controlled by Democrats, the Senate by Republicans, and a new governor and a new lieutenant governor (who presides over the Senate) will take office, we expect data center legislation to be among the few areas of genuine overlap. Absent a two-thirds vote for immediate effect, new statutes enacted in the regular session generally take effect in late summer, commonly September 1. That means any new statutory framework could not govern projects until months after the audit concludes, which is the gap an interim gubernatorial moratorium would be designed to fill.

Special session. Only the governor may call a special session, and the governor alone sets its agenda. Special sessions last up to 30 days. Both Governor-elect Hinojosa and Lieutenant Governor-elect Goodwin called for a special session on data centers during the campaign, directing the call to Governor Abbott, who did not call a special session. Once Governor Hinojosa takes office on January 19, that power is hers, but the regular session will already be underway, so the more realistic window for a special session is after sine die on May 31, 2027, most likely if data center legislation stalls or is vetoed.

The transition: January 3 (Congress) and January 19 (Governor)

January 3, 2027: the 120th Congress. Under the 20th Amendment, a new Congress assembles on January 3 unless a law sets a different day, and January 3, 2027 falls on a Sunday, so developers should watch for the final opening schedule. Post-election reporting indicates that Democrats won control of both chambers while Republicans hold the White House, which sets up a divided federal government. For Texas data center projects, the near-term effect is indirect, because ERCOT interconnection is governed primarily by state law and PUCT and ERCOT rules rather than by FERC. Projects with assets or offtake in PJM, MISO, SPP, or other FERC-jurisdictional markets, and projects that depend on federal tax, permitting, or export-control policy, will be most impacted by committee organization and early oversight priorities in the new Congress.

January 19, 2027: the Governor's inauguration. Under the Texas Constitution, Governor-elect Hinojosa takes office on January 19, 2027, at which point Governor Abbott's term ends and the directives he issued this fall remain in place only for as long as the new governor permits. The inauguration falls one week after the Legislature convenes, so the new governor will begin her term with the session already in progress. Four points matter for planning:

- **A formal moratorium is envisioned but not yet defined.** Governor-elect Hinojosa has said she will issue a moratorium on all data center approvals until the Legislature passes new protections. Governor Abbott's directives paused ERCOT's energization approvals and TCEQ's permit issuance but did not formally declare a moratorium, so the form, scope, and duration of her order, and which agencies it reaches, will not be known until she acts.
- **Existing directives may be rescinded, narrowed, or expanded.** Because Abbott's directives are gubernatorial instructions to agencies, the next governor may keep, modify, or replace them on or after January 19.
- **Appointment power shifts immediately.** The governor designates the chair of both the PUCT and TCEQ, and seats on both commissions come up for replacement in the first year (see below).

- **The Senate confirms.** Republicans retain the Senate majority, so appointees who need confirmation will require Republican support.

None of this makes the legislative or regulatory outcome predictable. The incoming governor has said data centers can still come to Texas subject to new protections for Texans, and the data center industry has signaled willingness to engage with the new administration.

PUCT and TCEQ: when commissioner seats come up for replacement

The next governor will have an unusually early opportunity to shape both agencies. All five PUCT commissioners and all three TCEQ commissioners are gubernatorial appointees serving staggered six-year terms, and the governor designates the chair of each. The current terms are as follows:

Agency	Commissioner	Term expires	Observations
PUCT	Courtney Hjaltman	September 1, 2025 (expired)	Serves in a holdover capacity and has not been reappointed
PUCT	Kathleen Jackson	September 1, 2027	Seat expires within the new governor's first year
PUCT	Patrick Rhode	September 1, 2027	Has not yet been confirmed
PUCT	Thomas Gleeson (Chair)	September 1, 2029	The governor may designate a new chair upon taking office
PUCT	Morgan Johnson	September 1, 2031	Has not yet been confirmed
TCEQ	Brooke Paup (Chair)	August 31, 2027	Seat expires within the new governor's first year
TCEQ	Catarina Gonzales	August 31, 2029	
TCEQ	Tonya Miller	August 31, 2031	Has not yet been confirmed

Two other timing considerations merit mentioning here. First, the January 19 inauguration comes just days after the Legislature convenes on January 12. The Senate has not confirmed Commissioners Rhode, Johnson, or Miller, each of whom was appointed after the Senate adjourned on September 4, 2025 and is serving as a recess appointee. The Texas Constitution

requires the governor to nominate each recess appointee, or another person, within the first 10 days of the session, a window that opens under Governor Abbott and closes days after Governor-elect Hinojosa takes office; if no nomination is made, the Senate may consider the recess appointee as if nominated. A nominee needs a two-thirds vote of the senators present to be confirmed; if the Senate fails to act on a nominee in the regular session, the nominee is considered rejected when the session ends. Second, the terms of Commissioners Jackson and Rhode on the PUCT expire on September 1, 2027, and the term of the TCEQ Chairwoman Paup expires in August 2027. Thus, the new governor could designate new chairs of both agencies immediately upon taking office and could appoint a majority of both the PUCT and TCEQ within her first year, with appointees subject to Senate confirmation. For pending and prospective projects, the practical consequence is that the regulatory posture of the agencies that oversee interconnection, permits, and cost-allocation rules may shift during the same months in which the Legislature considers new statutes.

The Gibson Dunn Data Centers and Digital Infrastructure Practice Group is closely monitoring legislative, regulatory, and political developments affecting the data center industry. As the transition in Texas unfolds, we are available to work with clients individually to assess how these developments affect specific projects and to tailor strategies for pending and planned interconnection, permitting, financing, and contracting decisions. We are also prepared to assist clients with all aspects of data center development, operations, and infrastructure strategy. Please contact one of the Gibson Dunn lawyers listed below or the lawyer with whom you usually work if you have any questions.

The following Gibson Dunn lawyers prepared this update: Tory Lauterbach, Emily Naughton, Anita Girdhari, Mike Szczurek, Allison Hellreich, and Jess Rollinson.

Gibson Dunn's lawyers are available to assist in addressing any questions you may have regarding these issues. For additional information about how we may assist you, please contact the Gibson Dunn lawyer with whom you usually work, the authors, any leader or member of the firm's Data Centers & Digital Infrastructure, Energy Regulation & Litigation, Real Estate, or Projects practice groups, or the following data centers teams:

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