

**PROJECT NO. 46369**

**RULEMAKING RELATING TO § PUBLIC UTILITY COMMISSION  
RELIABILITY MUST-RUN SERVICE §  
§ OF TEXAS**

**PROPOSAL FOR PUBLICATION OF AMENDMENT TO §25.502  
AS APPROVED AT THE MARCH 30, 2017 OPEN MEETING**

The Public Utility Commission of Texas (commission) proposes amendments to §25.502, relating to pricing safeguards in markets operated by the Electric Reliability Council of Texas (ERCOT). The proposed amendments adjust the notice requirements and complaint timeline applicable to suspension of operation of generation resources, give the ERCOT discretion to decline to enter into a Reliability Must-Run (RMR) service agreement based on an analysis that may consider the economic value of lost load, require ERCOT governing-board approval of RMR and Must-Run Alternative (MRA) service agreements, and require refund of payments for capital expenditures related to RMR or MRA service agreements in certain circumstances. This is a competition rule subject to judicial review as specified by Public Utility Regulatory Act §39.001(e). Project Number 46369 is assigned to this proceeding.

Julia Harvey, Director of Wholesale Market Policy, Competitive Markets Division, has determined that for each year of the first five-year period the proposed amendments are in effect, there will be no fiscal implications for state or local government as a result of enforcing or administering the amendments.

Ms. Harvey has determined that for each year of the first five years the proposed amendments are in effect, the public benefit anticipated as a result of enforcing the amendments will be a reduction

in costs associated with supporting the reliability of the ERCOT system. This benefit will be derived from ERCOT's improved ability to avoid uneconomic and unnecessary RMR service agreements. The proposed amendments will enhance ERCOT's ability to evaluate the need for RMR service and provide greater oversight of RMR service agreements by (1) lengthening the RMR evaluation timeline, enabling ERCOT to evaluate less costly alternatives to RMR service prior to entering an RMR service agreement; (2) allowing ERCOT to assess the economic value of the incremental reliability provided by RMR or MRA service and to decline to enter into a service agreement based on this analysis; and (3) requiring ERCOT governing-board approval of decisions pertaining to RMR or MRA service when ERCOT's analysis shows there is a reliability need. Additionally, the required refund of payments for capital expenditures relating to RMR or MRA service will reduce costs and will ensure that the public does not inappropriately subsidize capital upgrades made to resources if those resources continue commercial operation after the termination of the RMR or MRA service agreement with ERCOT.

There will be no adverse economic effect on small businesses or micro-businesses as a result of enforcing these amendments. Therefore, no regulatory flexibility analysis is required. There is no anticipated economic cost to persons who are required to comply with the amendments as proposed.

Ms. Harvey has also determined that for each year of the first five years the proposed amendments are in effect, there should be no effect on a local economy, and therefore no local employment impact statement is required under section 2001.022 of the Administrative Procedure Act, Tex. Gov't Code Ann. §2001.022 (West 2016).

The commission staff will conduct a public hearing on this rulemaking if requested in accordance with section 2001.029 of the Administrative Procedure Act, Tex. Gov't Code Ann. §2001.029 (West 2016). The hearing will be held at the William B. Travis Building, 1701 North Congress Avenue, Austin, Texas 78701. The request for a public hearing must be received within 30 days after publication in the *Texas Register*.

Initial comments on the proposed amendment may be submitted to the Filing Clerk, Public Utility Commission of Texas, 1701 North Congress Avenue, P.O. Box 13326, Austin, Texas 78711-3326, within 30 days after publication. Sixteen copies of comments on the proposed amendments are required to be filed by §22.71(c) of this title. Reply comments may be submitted within 45 days after publication. Comments should be organized in a manner consistent with the organization of the proposed rule. All comments should refer to Project Number 46369.

This amendment is proposed under section 14.002 of the Public Utility Regulatory Act, Tex. Util. Code Ann. §14.002 (West 2016) (PURA), which provides the commission with the authority to make and enforce rules reasonably required in the exercise of its powers and jurisdiction; and specifically, PURA §39.151, which authorizes the commission to adopt rules relating to reliability of the ERCOT transmission network.

Cross reference to statutes: Public Utility Regulatory Act §14.002 and §39.151.

**§25.502. Pricing Safeguards in Markets Operated by the Electric Reliability Council of Texas.**

(a)-(b) (No change.)

(c) **Definitions.** The following terms, when used in this section, shall have the following meanings, unless the context indicates otherwise.

(1)-(3) (No change.)

(4) **Must-run alternative (MRA) service** – a service that ERCOT may procure as an alternative to reliability must-run service.

(5)(4) **Noncompetitive constraint** – A transmission element on which prices to relieve congestion are not moderated by the normal forces of competition between multiple, unaffiliated resources.

(6) **Reliability must-run (RMR) service** – a service provided by a generation resource to meet a reliability need resulting from the planned suspension of operation of that generation resource for a period of greater than 180 calendar days.

(7)(5) **Resource** – a generation resource, or a load capable of complying with ERCOT instructions to reduce or increase the need for electrical energy or to provide an ancillary service (*i.e.*, a “load acting as a resource”).

(8)(6) **Resource entity** – an entity that owns or controls a resource.

(9) **Suspension date** – the date specified by a generation entity in a notice to ERCOT as the date on which it intends to suspend operation of a generation resource for a period of greater than 180 calendar days.

(d) (No change.)

(e) **RMR Reliability-must-run** resources. Except for the occurrence of a forced outage, a generation entity shall ~~submit to~~notify ERCOT in writing a notice of suspension of operation no later than ~~150~~90 calendar days prior to ~~the suspension date~~the date on which it intends to cease or suspend operation of a generation resource for a period of greater than 180 calendar days. The generation entity shall include with its notice a budget of eligible costs, in accordance with applicable protocols, to provide RMR service. ERCOT shall issue a final determination of the need for RMR service within 60 calendar days of ERCOT's receipt of the notice. If ERCOT determines that the generation resource is not needed for RMR service, the generation entity may suspend operation of the generation resource before the suspension date, subject to ERCOT approval. Unless ERCOT has determined that a generation entity's generation resource is not required for ERCOT reliability, the generation entity shall not terminate its registration of the generation resource with ERCOT unless it has transferred the generation resource to a generation entity that has a current resource-~~entity~~ agreement with ERCOT and the transferee registers that generation resource with ERCOT at the time of the transfer.

(1) **Complaint with the commission.** If, by the suspension date, ERCOT has not notified the generation entity that the continued operation of the generation resource is not required for reliability or has not entered into an RMR service agreement with the generation entity for the generation resource, after 90 calendar days following ERCOT's receipt of the generation entity's notice, either ERCOT has not informed the generation entity that the generation resource is not needed for

~~ERCOT reliability or both parties have not signed a reliability must run (RMR) agreement for the generation resource,~~ then the generation entity may file a complaint with the commission against ERCOT, ~~underpursuant to~~ §22.251 of this title (relating to Review of Electric Reliability Council of Texas (ERCOT) conduct).

(A) (No change.)

(B) ~~As required by Pursuant to~~ §22.251(d) of this title, absent a showing of good cause to the commission to justify a later deadline, the generation entity's deadline to file the complaint is 35 calendar days after the suspension date~~90th calendar day following ERCOT's receipt of the notice.~~

(C) (No change.)

(D) In its complaint, the generation entity may request interim relief under ~~pursuant to~~ §22.125 of this title (relating to Interim Relief), an expedited procedural schedule, and identify any special circumstances pertaining to the generation resource at issue.

(E) ~~As required by Pursuant to~~ §22.251(f) of this title, ERCOT shall file a response to the generation entity's complaint and shall include as part of the response all existing, non-privileged documents that support ERCOT's position on the issues identified by the generation entity as required by ~~pursuant to~~ §22.251(d)(1)(C) of this title.

(F) (No change.)

(G) Any compensation ordered by the commission shall be effective the first ~~calendar~~ 91st calendar day after the suspension date~~ERCOT's receipt of the~~

~~notice~~. If there is a pre-existing RMR service agreement concerning the generation resource, the compensation ordered by the commission shall not become effective until the termination of the pre-existing agreement, unless the commission finds that the pre-existing RMR service agreement is not in the public interest.

(H) If the generation entity does not file a complaint with the commission, the generation entity shall be deemed to have accepted ERCOT's most-recent offer as of the suspension date~~15th calendar day after ERCOT's receipt of the notice~~.

(2) **Out-of-merit-order dispatch.** The generation entity shall maintain the generation resource so that it is available for out-of-merit-order dispatch instruction by ERCOT until:

(A) (No change.)

(B) any RMR service agreement takes effect;

(C)-(D) (No change.)

(3) **RMR exit strategy.** Unless otherwise ordered by the commission, the implementation of an RMR exit strategy in conformance with the~~pursuant to~~ ERCOT Protocols is not affected by the filing of a complaint under~~pursuant to~~ this subsection.

(4) **Evaluation of RMR and MRA service.** ERCOT may decline to enter into an RMR or MRA service agreement based on an evaluation that considers the costs and benefits of the RMR or MRA service, subject to the requirements of paragraph

(5) of this subsection. ERCOT may incorporate the economic value of lost load into its evaluation.

(5) **Approval of RMR and MRA service agreements.** All RMR and MRA service agreements shall be subject to approval by the ERCOT governing board. If ERCOT identifies a reliability need for RMR or MRA service but declines to enter into an RMR or MRA service agreement, ERCOT's decision to decline to enter into an agreement shall be subject to approval by the ERCOT governing board. In its request for governing-board approval, ERCOT shall present information that justifies the RMR or MRA service agreement or its decision not to enter into such an agreement.

(6) **Refund of payments for capital expenditures.** A resource entity that owns or controls a resource providing RMR or MRA service shall refund payments for capital expenditures made by ERCOT in connection with the RMR or MRA service agreement if the resource participates in the energy or ancillary service markets at any time following the termination of the agreement. ERCOT may require less than the entire original amount of capital expenditures to be refunded to reflect the depreciation of capital over time.

(7) **Implementation.** ERCOT, through its stakeholder process, shall establish protocols and procedures to implement this subsection.

(f) (No change.)

This agency certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

**ISSUED IN AUSTIN, TEXAS ON THE 30<sup>th</sup> DAY OF MARCH, 2017 BY THE  
PUBLIC UTILITY COMMISSION OF TEXAS  
ADRIANA A. GONZALES**

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