

PROJECT NO. 48721

RULEMAKING PROCEEDING TO	§	PUBLIC UTILITY COMMISSION
AMEND 16 TAC §25.505, RELATING	§	
TO RESOURCE ADEQUACY IN THE	§	OF TEXAS
ELECTRIC RELIABILITY COUNCIL	§	
OF TEXAS POWER REGION	§	

**PROPOSAL FOR PUBLICATION OF AMENDMENTS TO §25.505 AND
REPEAL OF §25.508
AS APPROVED AT THE DECEMBER 20, 2018 OPEN MEETING**

The Public Utility Commission of Texas (commission) proposes amendments to §25.505, relating to resource adequacy in the Electric Reliability Council of Texas power region and repeal of §25.508, relating to the high system-wide offer cap in the Electric Reliability Council of Texas power region. The proposed amendments will provide for improved regulatory flexibility with respect to natural gas price indices to be used in the calculation of the peaker net margin, remove obsolete language, update reporting requirements consistent with current practices and the ERCOT Protocols, and clarify that ERCOT will not administer any administrative pricing mechanisms such as the Operating Reserve Demand Curve or the Reliability Deployment Price Adder in the event that the peaker net margin threshold is reached and the Low System-Wide Offer Cap is applied. The proposed repeal removes language that is now obsolete.

The commission also requests comment from interested persons on the following question: As an alternative to the changes in §25.505(f)(6)(A) of the proposed rule, should the commission instead consider eliminating the Low System-Wide Offer Cap from the scarcity pricing mechanism?

Growth Impact Statement

The agency provides the following governmental growth impact statement for the proposed rule, as required by Texas Government Code §2001.0221. The agency has determined that for each year of the first five years that the proposed rule is in effect, the following statements will apply:

- (1) the proposed rule will not create a government program and will not eliminate a government program;
- (2) implementation of the proposed rule will not require the creation of new employee positions and will not require the elimination of existing employee positions;
- (3) implementation of the proposed rule will not require an increase and will not require a decrease in future legislative appropriations to the agency;
- (4) the proposed rule will not require an increase and will not require a decrease in fees paid to the agency;
- (5) the proposed rule will not create a new regulation;
- (6) the proposed rule will repeal an existing regulation by deleting a rule that is obsolete;
- (7) the proposed rule will not change the number of individuals subject to the rule's applicability; and
- (8) the proposed rule will not affect this state's economy.

Fiscal Impact on Small and Micro-Businesses and Rural Communities

There is no adverse economic effect anticipated for small businesses, micro-businesses, or rural communities as a result of implementing the proposed rule. Accordingly, no economic impact statement or regulatory flexibility analysis is required under Texas Government Code §2006.002(c).

Takings Impact Analysis

The commission has determined that the proposed rule will not be a taking of private property as defined in chapter 2007 of the Texas Government Code.

Fiscal Impact on State and Local Government

Kristin Abbott, Market Analyst, has determined that for the first five-year period the proposed amendments are in effect, there will be no fiscal implications for the state or for units of local government under Texas Government Code §2001.024(a)(4) as a result of enforcing or administering the sections.

Public Benefits

Kristin Abbott, Market Analyst, has also determined that for each year of the first five years the proposed section is in effect, the anticipated public benefits expected as a result of the adoption of the proposed rule will be improved clarity through updated language, improved clarity to the market, and improved alignment of regulations affecting the day-ahead and real-time markets. There will be no probable economic cost to persons required to comply with the rule under Texas Government Code §2001.024(a)(5).

Local Employment Impact Statement

For each year of the first five years the proposed section is in effect there should be no effect on a local economy; therefore, no local employment impact statement is required under Texas Government Code §2001.022.

Costs to Regulated Persons

Texas Government Code §2001.0045(b) does not apply to this rulemaking because the Public Utility Commission is expressly excluded under subsection §2001.0045(c)(7).

Public Hearing

The commission staff will conduct a public hearing on this rulemaking, if requested in accordance with Texas Government Code §2001.029, at the commission's offices located in the William B. Travis Building, 1701 North Congress Avenue, Austin, Texas 78701 on February 26, 2019. The request for a public hearing must be received within 30 days after publication.

Public Comments

Comments on the proposed amendment may be filed with the commission's filing clerk at 1701 North Congress Avenue, Austin, Texas or mailed to P.O. Box 13326, Austin, TX 78711-3326, within 30 days after publication. Sixteen copies of comments to the proposed amendment are required to be filed by §22.71(c) of 16 Texas Administrative Code. 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. The commission

invites specific comments regarding the costs associated with, and benefits that will be gained by, implementation of the proposed rule. The commission will consider the costs and benefits in deciding whether to adopt the rule. All comments should refer to project number 48721.

These amendments are proposed under §14.002 of the Public Utility Regulatory Act, Tex. Util. Code Ann. (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 §39.101, which establishes that customers are entitled to safe, reliable, and reasonably priced electricity, and gives the commission the authority to adopt and enforce rules to carry out these provisions; and §39.151, which grants the commission oversight and review authority over independent organizations such as ERCOT, directs the commission to adopt and enforce rules relating to the reliability of the regional electrical network and accounting for the production and delivery of electricity among generators and all other market participants, and authorizes the commission to delegate to an independent organization such as ERCOT responsibilities for establishing or enforcing such rules.

Cross reference to statutes: Public Utility Regulatory Act §§14.002, 39.101, and 39.151.

§25.505. Reporting Requirements and the Scarcity Pricing Mechanism in the Electric Reliability Council of Texas Power Region.

(a) **General.** The purpose of this section is to prescribe reporting requirements for the Electric Reliability Council of Texas (ERCOT) and market participants, and to establish a scarcity pricing mechanism for the ERCOT market.

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

(1) **Generation entity** -- an entity that owns or controls a generation resource.

(2) **Load entity** -- an entity that owns or controls a load resource.

(3) **Resource entity** -- an entity that is a generation entity or a load entity.

(c) Resource adequacy reports. ERCOT must publish a resource adequacy report by December 31 of each year that projects, for at least the next five years, the capability of existing and planned electric generation resources and load resources. ERCOT may publish other resource adequacy reports or forecasts as it deems appropriate. ~~Statement of opportunities (SOO). ERCOT shall publish a SOO that provides market participants with a projection of the capability of existing and planned electric generation resources, load resources, and transmission facilities to reliably meet ERCOT's projected needs. A SOO published in even-numbered years shall use a ten-year study horizon and be published by December 31 of those years. A SOO published in odd-numbered years shall use a five-year study horizon and be published on or around October 1 of those years.~~ ERCOT must shall

prescribe ~~reporting~~ requirements for generation entities and transmission service providers (TSPs) to report ~~to ERCOT~~ their plans for adding new facilities, upgrading existing facilities, and mothballing or retiring existing facilities. ERCOT also ~~must~~shall prescribe ~~reporting~~ requirements for load entities to report ~~to ERCOT~~ their plans for adding new load resources or retiring existing load resources.

(d) **Daily assessment of system adequacy.** Each day, ERCOT must publish a report that includes the following information for each hour for the seven days beginning with the day the report is published:

(1) System-wide load forecast; and

(2) Aggregated information on the availability of resources, by ERCOT load zone, including load resources.

~~Each day~~

(1) System-wide load forecast; and

(2) Aggregated information on the availability of resources, by ERCOT load zone, including load resources.

(e) **Filing of resource and transmission information with ERCOT.** ERCOT must prescribe reporting requirements for resource entities and TSPs for the preparation of the assessment required by subsection (d). At a minimum, the following information must be reported to ERCOT:

- (1) TSPs will provide ERCOT with information on planned and existing transmission outages.
 - (2) Generation entities will provide ERCOT with information on planned and existing generation outages.
 - (3) Load entities will provide ERCOT with information on planned and existing availability of load resources, specified by type of ancillary service.
 - (4) Generation entities will provide ERCOT with a complete list of generation resource availability and performance capabilities, including, but not limited to:
 - (A) the net dependable capability of generation resources;
 - (B) projected output of non-dispatchable resources such as wind turbines, run-of-the-river hydro, and solar power; and
 - (C) output limitations on generation resources that result from fuel or environmental restrictions.
 - (5) Load serving entities (LSEs) will provide ERCOT with complete information on load response capabilities that are self-arranged or pursuant to bilateral agreements between LSEs and their customers.
- (f) **Scarcity pricing mechanism (SPM).** ERCOT will administer the SPM. The SPM will operate as follows:
- (1) The SPM will operate on an annual calendar year basis.

- (2) For each day, the peaking operating cost (POC) will be 10 times the natural gas price index value determined by ERCOT. The POC is calculated in dollars per megawatt-hour (MWh).
- (3) For the purpose of this section, the real-time energy price (RTEP) shall be measured as an average system-wide price as determined by ERCOT.
- (4) In the annual resource adequacy cycle, the peaker net margin will be calculated as: $\sum((RTEP - POC) * (\text{number of minutes in a settlement interval} / 60 \text{ minutes per hour}))$ for each settlement interval when $RTEP - POC > 0$.
- (5) Each day, ERCOT will post at a publicly accessible location on its website the updated value of the peaker net margin, in dollars per megawatt (MW).
- (6) The system-wide offer caps will be as follows:
 - (A) The low system-wide offer cap (LCAP) will be set on a daily basis at the greater of:
 - (i) \$2,000 per MWh and \$2,000 per MW per hour; or
 - (ii) 50 times the natural gas price index value determined by ERCOT, expressed in dollars per MWh and dollars per MW per hour.
 - (B) The high system-wide offer cap (HCAP) will be \$9,000 per MWh and \$9,000 per MW per hour .
 - (C) The system-wide offer cap will be set equal to the HCAP at the beginning of each calendar year and maintained at this level as long as the peaker net margin during a calendar year does not exceed a threshold of three times the cost of new entry of new generation plants.

~~At the beginning of the annual resource adequacy cycle, the system-wide offer cap shall be set equal to the HCAP and, except for increases authorized in this section, maintained at this level as long as the PNM during an annual resource adequacy cycle is less than or equal to a threshold of \$300,000 per MW in 2012 and 2013, or the threshold set by ERCOT for a subsequent year. For 2014 and each subsequent year, ERCOT shall set the PNM threshold at three times the cost of new entry of new generation plants. During an annual resource adequacy cycle, the system-wide offer cap shall be increased in accordance with the schedule authorized in this section unless the PNM threshold has been exceeded by that date.~~

- (D) If the peaker net margin exceeds the threshold established in subparagraph (C) of this paragraph during a calendar year, the system-wide offer cap will be set to the LCAP for the remainder of that calendar year. In this event, ERCOT will not apply any administrative pricing mechanism, such as the operating reserve demand curve or the reliability deployment price adder, for the remainder of that calendar year. Energy prices will not exceed the LCAP for the remainder of that calendar year. ~~If the PNM threshold has been exceeded during an annual resource adequacy schedule, the system-wide offer cap shall be reset at the LCAP for the remainder of that annual resource adequacy cycle.~~

- (E) The Independent Market Monitor, as part of its responsibilities under Public Utility Regulatory Act §39.1515(h), may conduct an annual review of the effectiveness of the SPM.

- (g) **Development and implementation.** ERCOT must use a stakeholder process to develop rules that comply with this section. Nothing in this section prevents the commission from taking actions necessary to protect the public interest, including actions that are otherwise inconsistent with the other provisions in this section.

**§25.508. High System-Wide Offer Cap in the Electric Reliability Council of Texas
Power Region. (REPEAL)**

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 3rd DAY OF JANUARY 2019 BY THE
PUBLIC UTILITY COMMISSION OF TEXAS
ADRIANA A. GONZALES**