

**PROJECT NO. 51871**

**REVIEW OF THE ERCOT SCARCITY  
PRICING MECHANISM**

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**PUBLIC UTILITY COMMISSION  
OF TEXAS**

**PROPOSAL FOR PUBLICATION OF AMENDMENTS TO §25.505  
AS APPROVED AT THE MAY 6, 2021 OPEN MEETING**

The Public Utility Commission of Texas (commission) proposes amendments to 16 Texas Administrative Code (TAC) §25.505, relating to Reporting Requirements and the Scarcity Pricing Mechanism in the Electric Reliability Council of Texas Power Region. These proposed amendments will modify the value of the low system-wide offer cap (LCAP) by eliminating a provision that ties the value of LCAP to the natural gas price index and replacing it with a provision that ensures resource entities are able to recover their actual marginal costs in scarcity pricing situations.

***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 not expand, limit, or repeal an existing regulation;

(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***

Werner Roth, Market Economist, Market Analysis Division, has determined that for the first five-year period the proposed rule is 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***

Mr. Roth 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 more price certainty in scarcity situations while ensuring that resource entities are able to recover their marginal costs. 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 commission is expressly excluded under subsection §2001.0045(c)(7).

***Public Hearing***

The commission staff will conduct a public hearing on this rulemaking on June 10, 2021, if requested in accordance with Texas Government Code §2001.029. In light of the pending public emergency related to the coronavirus disease (COVID-19), this public hearing will be conducted remotely. The request for a public hearing must be received by June 3, 2021. If no request for public hearing is received and the commission staff cancels the hearing, it will file in this project a notification of the cancellation of the hearing prior to the scheduled date for the hearing. If a

request for public hearing is received, commission staff will file in this project instructions on how a member of the public can participate in the hearing remotely.

### ***Public Comments***

At the time of this filing, the commission's rules requiring that pleadings or documents be physically filed are suspended. *See* Project Number 50664, *Issues Related to the State of Disaster for Coronavirus Disease 2019*, Second Order Suspending Rules filed on July 16, 2020. As long as this suspension remains in effect, comments may be filed through the interchange on the commission's website. If the suspension of these rules is lifted during the pendency of this project, comments may be filed by submitting 16 copies to the Filing Clerk, Public Utility Commission of Texas, 1701 North Congress Avenue, P.O. Box 13326, Austin, Texas 78711-3326 by June 3, 2021. Comments should be organized in a manner consistent with the organization of the proposed rules. 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 modify the proposed rules on adoption. All comments should refer to Project Number 51871.

### ***Statutory Authority***

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; 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: PURA §14.002, 39.101, and 39.151.

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

(a)-(f) (No change.)

(g) **Scarcity pricing mechanism (SPM).** ERCOT will administer the SPM. The SPM will operate as follows:

(1)-(5) (No change.)

(6) **System-Wide Offer Caps.**

(A) The low system-wide offer cap (LCAP) will be set ~~at 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 until the peaker net margin during a calendar year exceeds a threshold of three times the cost of new entry of new generation plants.

(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 continue to apply the operating reserve demand curve and the reliability deployment price adder for the remainder of that calendar year.

Energy prices, exclusive of congestion prices, will not exceed the LCAP plus \$1 for the remainder of that calendar year.

- (E) The value of the lost load will be equal to the value of the system-wide offer cap in effect.

(7) Reimbursement for Operating Losses During an Event when the LCAP is in Effect. During an event when the system-wide offer cap is set to the LCAP, ERCOT must reimburse resource entities for any actual marginal costs in excess of real-time revenues. ERCOT must utilize existing settlement processes to the extent possible to verify the resource entity's costs for reimbursement.

- (h) (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 6th DAY OF MAY 2021 BY THE  
PUBLIC UTILITY COMMISSION OF TEXAS  
ANDREA GONZALEZ**