

PROJECT NO. 53191

REORGANIZATION OF §25.505 § PUBLIC UTILITY COMMISSION
§ OF TEXAS
§

ORDER REPEALING §25.505 AND ADOPTING NEW 16 TAC §25.505, NEW 16 TAC §25.506, AND NEW 16 TAC §25.509 AS APPROVED AT THE APRIL 21 OPEN MEETING

The Public Utility Commission of Texas (commission) repeals 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 and adopts new 16 TAC §25.505 relating to Resource Adequacy Reporting Requirements in the ERCOT Power Region, new 16 TAC §25.506 relating to Publication of Resource and Load Information in the Electric Reliability Council of Texas Power Region, and new 16 TAC §25.509 relating to Scarcity Pricing Mechanism for the Electric Reliability Council of Texas Power Region. The commission adopts these rules with changes to the proposed rules as published in the March 11, 2022, issue of the *Texas Register* (47 TexReg 1161).

The adopted rules separate the provisions of repealed §25.505 into three new rules. Specifically, new §25.505 prescribes resource adequacy reporting requirements in the Electric Reliability Council of Texas (ERCOT) region and requires ERCOT to submit to the commission a biennial report on the operating reserve demand curve, new §25.506 sets forth the requirements for the publication of resource and load information in ERCOT, and new §25.509 establishes a scarcity pricing mechanism for the ERCOT market.

The commission received comments on the proposed rule from Texas Competitive Power Advocates (TCPA), Texas Public Power Association (TPPA), Texas Electric Cooperatives, Inc. (TEC), Vistra Corp. (Vistra), and South Texas Electric Cooperative, Inc. (STEC).

For reasons discussed below, the subsections of each adopted rule have been renumbered. In this preamble, provisions of the rule as proposed and published in the *Texas Register* will be referred to as “proposed,” provisions in the rule as adopted by the commission will be referred to as “adopted,” and provisions of the version of §25.505 that is being repealed will be referred to as “repealed.” This preamble is organized according to the proposed rule.

General Comments

TCPA commented that the operating reserve demand curve (ORDC) reporting requirement under proposed §25.509(c)(8) may better fit under new §25.505 along with other resource adequacy reporting requirements.

Commission Response

The commission agrees with TCPA that the ORDC reporting requirements are more appropriately placed in §25.505 with the other resource adequacy reporting requirements and relocates the provision accordingly.

Proposed §25.505(a) – General

Proposed subsection (a) contains language describing the purpose of §25.505. The commission strikes this subsection and renumbers subsequent subsections accordingly. This change is made to align this proposed rule with recent commission rulemaking trends and eliminate unnecessary rule provisions. The purpose of this section is evident from its title.

Proposed §25.505(b) – Definitions

Proposed §25.505(b) defines “generation entity” and “load entity” as an entity that owns or controls a generation resource and a load resource, respectively. “Generation resource” and “load resource” are defined within the definitions of generation entity and load entity.

TPPA recommended that for clarity the terms “generation resource” and “load resource” should be defined separately from the definitions of “generation entity” and “load entity.”

Commission Response

The commission agrees with TPPA and removes the definitions of generation resource and load resource from the definitions of generation entity and load entity as recommended. Each of the four terms has a separate definition in the adopted rule. The commission makes a corresponding change to these definitions under adopted §25.509(a).

Proposed §25.505(b)(1) – “Generation entity”

Proposed §25.505(b)(1) and §25.509(b)(1) define the term “generation entity” as an entity that owns or controls a generation resource. The definition also specifies that a generation resource is

a generator capable of providing energy or ancillary services to the ERCOT grid and that is registered with ERCOT as a generation resource.

TCPA and Vistra commented that the definition of “generation entity” under proposed §25.505(b)(1) and §25.509(b)(1) should include language regarding energy storage resources for clarity and to be consistent with the definition of “generation entity” under §25.55 (relating to Weather Emergency Preparedness) which incorporates the term energy storage resource. TCPA and Vistra stated that, as proposed, the rule risks excluding energy storage resources because the defined term “Resource” has several different meanings under the ERCOT Protocols and could mean a resource other than an energy storage resource such as a generation resource or load resource. Accordingly, TCPA recommended adding “or an energy storage resource” to the end of the definition of “generation entity”.

TCPA also commented that proposed §25.505(b) should incorporate the definition of “non-dispatchable resources” established by Senate Bill 3 (SB 3) under PURA §39.159 for clarity as the term is utilized in proposed subparagraph 25.505(e)(4)(B). TCPA provided draft language consistent with its response, defining “non-dispatchable resources” as “a resource for which the facility’s output is controlled primarily by forces outside of human control” which paraphrases PURA §39.159.

Commission Response

The commission declines to define non-dispatchable resources or address energy storage resources in the definition of generation entity. Each of these resource categories are important and merit fuller consideration than is appropriate for this limited rulemaking project. The commission does not share the concern of commenters asserting that energy storage resources need to be addressed in the adopted rule to avoid potential confusion or because of the different resource categories in the ERCOT Nodal Protocols. The repealed version of §25.505 did not address energy storage resources. The substantive provisions of the three new rules apply to the same resources that the equivalent provisions of repealed §25.505 applied to previously. The commission will further address these issues, as appropriate, in future rulemaking proceedings.

Proposed §25.505(c) and (d) – Resource adequacy reports and daily assessment of system adequacy

Proposed §25.505(c) requires ERCOT to publish annually a resource adequacy report containing a five-year projection of existing and planned electric generation and load resources in the ERCOT power region and prescribe requirements for generation, transmission service providers, and load entities to report plans to add, upgrade, or retire existing facilities or resources.

Proposed §25.505(d) requires ERCOT to publish daily an hour-by-hour forecast of system-wide load and resource availability by ERCOT load zone, including load resources.

TPPA recommended that the five-year resource adequacy report and daily assessment of system reliability required by ERCOT under proposed §25.505(c) and (d) should be made publicly available and easily accessible.

TEC supported enhancements to resource adequacy reporting. In their comments, TEC elaborated on several potential report enhancements, including incorporating trends around peak net load, better reflecting how the changing resource mix implicates reliability on a seasonal basis, refining the relative capacity contributions of different resource types, evaluating impacts of the impending integration of large loads, formatting of the reports for better ease-of-use, and continuing ERCOT's efforts to employ probabilistic analysis of resource adequacy. TEC also commented that due to the inherent limitations of forecasts, the five-year resource adequacy report required by ERCOT under proposed §25.505(c) should be "properly contextualized" via discussion in the ERCOT stakeholder process or in Project No. 53298.

Commission Response

The commission declines to make changes in response to these comments. Changes to resource adequacy reporting are beyond the limited scope of this rulemaking project. TEC and TPPA may re-urge their comments in the commission's upcoming project on resource adequacy reporting.

Proposed §25.505(f) – Development and implementation

Proposed §25.505(f) requires ERCOT to use a stakeholder process in consultation with commission staff to develop and implement rules that comply with §25.505.

TCPA commented that the phrase “in consultation with commission staff” as used in proposed §25.505(f) should be revised to avoid confusion. Specifically, TCPA stated that the rule should clarify that ERCOT’s consultation with staff will be as a stakeholder.

TPPA requested that the rule indicate the timeline and process by which consultation with commission staff under §25.505(f) will occur. TPPA argued that ERCOT should be required, before developing a revision request to be implemented under this rule, to consult with commission staff.

TEC argued that formalizing commission staff’s role in rules under §25.505(f) creates some ambiguity and requires clarification on how consultation with commission staff will take place. TEC stated that further clarification in the ERCOT Protocols may be required to clarify staff’s role in the process. TEC commented that it is not aware of any other commission rules that require ERCOT consultation with commission staff and noted that limiting “the consultation function to [proposed §25.505(f), §25.506(c), and §25.509(d)]” could be construed to mean that ERCOT is only required to consult commission staff on issues related to those sections.

Commission Response

The commission declines the request from commenters to modify the “in consultation with commission staff” language. Language that specifies when and how commission staff will participate in the development and implementation of these rules is unnecessarily prescriptive. This requirement reflects the commission’s general expectation that ERCOT keep commission staff informed as ERCOT develops and implements rules and that ERCOT takes any feedback provided by commission staff into consideration.

The commission disagrees that this provision creates a presumption that ERCOT is only required to consult with commission staff regarding these particular rules. ERCOT and commission staff regularly meet on a wide variety of topics and this provision merely acknowledges and codifies this existing relationship. The commission may modify other rules, as appropriate, to reflect this consultation process in future rulemaking projects.

The commission also disagrees that this consultation requirement does not exist in other rules. For example, §25.503 (relating to Oversight of Wholesale Market Participants) contains several similar provisions. Under §25.503(f)(12), all market participants must cooperate with the ERCOT subcommittees, ERCOT staff, and commission staff to develop Protocols that are clear and consistent. Similarly, under §25.503(i)(3) and (4), ERCOT must provide copies of protocol clarification requests to commission staff, upon request, and “may decide, *in consultation with commission staff*, that the language for which clarification is requested is ambiguous or for other reason beyond ERCOT’s ability to clarify... [emphasis added].”

Proposed §25.506(a) – Purpose

Proposed subsection (a) contains language describing the purpose of §25.506. The commission strikes this subsection and renumbers subsequent subsections accordingly. This change is made to align this proposed rule with recent commission rulemaking trends and eliminate unnecessary rule provisions. The purpose of this section is evident from its title.

Proposed §25.506(c) – Development and implementation

Proposed §25.506(c) requires ERCOT to use a stakeholder process in consultation with commission staff to develop and implement rules that comply with §25.506.

TCPA commented that the phrase “in consultation with commission staff” as used in proposed 25.506(c) should be revised to avoid confusion. Specifically, TCPA stated that the rules should clarify that ERCOT’s consultation with staff will be as a stakeholder.

TPPA requested that the rule indicate the timeline and process by which consultation with commission staff under §25.506(c) will occur. TPPA argued that ERCOT should be required, before developing a revision request to be implemented under this rule, to consult with commission staff.

TEC argued that formalizing commission staff's role in rules under proposed §25.506(c) creates some ambiguity and requires clarification on how consultation with commission staff will take place.

Commission Response

The commission declines the request from commenters to modify the “in consultation with commission staff” language for the reasons provided in the commission’s response to comments made to proposed §25.505(f).

Proposed §25.509(a) – General

Proposed subsection (a) contains language describing the purpose of §25.509. The commission strikes this subsection and renumbers subsequent subsections accordingly. This change is made to align this proposed rule with recent commission rulemaking trends and eliminate unnecessary rule provisions. The purpose of this section is evident from its title.

Proposed §25.509(b) – Definitions

Proposed §25.509(b) defines “generation entity” and “load entity” as an entity that owns or controls a generation resource and a load resource, respectively. “Generation resource” and “load resource” are defined within the definitions of generation entity and load entity.

TPPA recommended that for clarity the terms “generation resource” and “load resource” should be defined separately from the definitions of “generation entity” and “load entity.”

Commission Response

The commission agrees with TPPA and removes the definitions of generation resource and load resource from the definitions of generation entity and load entity as recommended. Each of the four terms has a separate definition in the adopted rule. The commission makes a corresponding change to these definitions under adopted §25.505(a).

Proposed §25.509(b)(1) – “Generation entity”

Proposed §25.509(b)(1) defines the term “generation entity” as an entity that owns or controls a generation resource. The definition also specifies that a generation resource is a generator capable of providing energy or ancillary services to the ERCOT grid and that is registered with ERCOT as a generation resource.

TCPA and Vistra commented that the definition of “generation entity” under proposed §25.505(b)(1) and §25.509(b)(1) should include language regarding energy storage resources. TCPA also commented that proposed §25.505(b) should incorporate the definition of “non-dispatchable resources” established by Senate Bill 3 (SB 3) under PURA §39.159 for clarity as the term is utilized in proposed subparagraph 25.505(e)(4)(B). The arguments made in support of these positions are more fully outlined in the summary of comments made to proposed §25.505(b) above.

Commission Response

The commission declines to define non-dispatchable resources or address energy storage resources in the definition of generation entity for the reasons discussed in the commission’s response to comments made to proposed §25.505(b).

Proposed §25.509(b)(6) – System-Wide Offer Caps

Proposed §25.509 establishes a scarcity pricing mechanism for the ERCOT market. Proposed paragraph 25.509(c)(6) prescribes the system wide offer cap (SWOC), which is a sub-component of the scarcity pricing mechanism. The proposed rule does not include a provision of repealed §25.505 that set the value of lost load (VOLL) at the SWOC, effectively decoupling the two values.

STEC opposed decoupling VOLL from the SWOC until the commission performed a comprehensive study on the SWOC, VOLL, and the ORDC. Specifically, STEC recommended the commission perform a larger holistic study of ERCOT’s “energy-only market, scarcity pricing, and the impact on dispatchable generation, part of which would be an evaluation of the consequences of decoupling the SWOC from the VOLL.” STEC emphasized that studies from the time VOLL was set, and information available today continue to demonstrate that the true VOLL is significantly greater than \$9,000/MWh and that “the \$9,000/MWh value was never a reasonable estimation of VOLL in the ERCOT market.” Lastly, STEC urged the commission to holistically evaluate VOLL and the SWOC to “promote consistent and meaningful revenue streams to existing and new dispatchable generation.”

TCPA requested the commission clarify in the preamble that SWOC calculations do not consider the VOLL and therefore should not be interpreted as an estimate of or proxy for VOLL. TCPA further recommended the commission expand the rule language to ensure that the ORDC reporting by ERCOT provides holistic context to the commission by considering interactions between the ORDC and other activities.

Vistra and TEC expressed support for decoupling VOLL from the SWOC. TEC also urged the commission to continue with the decoupling effort within the wholesale electric market design implementation in Project Number 53298 and further consider its potential market-enhancing effects as it is an important upcoming market design feature.

Commission Response

While the commission acknowledges the need for further analysis to establish a new VOLL long-term, the commission disagrees with STEC's perspective that VOLL and SWOC should not be decoupled before such a study is conducted. As TEC pointed out, the commission's market design blueprint includes a directive to establish a new VOLL. The adopted language will not itself change VOLL from the current \$5,000 per MWh, but will permit future changes. Such future changes to VOLL will be guided by a more comprehensive study.

The commission disagrees with TCPA that language is needed to explicitly state that VOLL is not coupled with the calculation of SWOC.

TPPA argued that the rule should require VOLL to be clearly posted and available to market participants and the public. TPPA elaborated that codifying VOLL in §25.509 would improve regulatory certainty and clarity to the market and investors, and that “simply removing the reference to VOLL equaling the SWOC creates uncertainty about what the VOLL is and what it will be going forward.”

TPPA expressed understanding that a future rulemaking will address the decoupling of VOLL from the SWOC but argued that, as an intermediate step before that rulemaking, the commission should reinstate a modified version of repealed subsection §25.505(g)(6)(E). TPPA stated this modified provision would explicitly set the VOLL at \$5,000 per MWh and therefore “accomplish the commission’s immediate goal of decoupling VOLL from SWOC while otherwise maintaining the status quo.”

TEC stated that §25.509, not §25.505, is the appropriate rule for implementing PURA §39.160, which establishes an emergency pricing program, and requested that the commission move forward with a project implementing the requirements of that section.

Commission Response

The commission disagrees with TPPA that intermediate language explicitly setting the VOLL at \$5,000 should be included in the rule. The VOLL is currently set at \$5,000 and will remain so until a change is authorized by the commission. Codifying the VOLL in rule

would be contrary to the commission's discretion to adjust the VOLL through other means as a part of its market redesign process, as it can do with other ORDC inputs.

The commission will address the requirements of PURA §39.160 in a future rulemaking project.

Proposed §25.509(c)(7) – Reimbursement for operating losses when the LCAP is in effect

Proposed §25.509(c)(7) requires ERCOT to reimburse resource entities for any actual marginal costs in excess of the larger of the LCAP or the real-time energy price for the resource. Proposed §25.509(c)(7) further requires ERCOT to use existing settlement processes to the extent possible to verify the resource entity's costs for reimbursement.

TCPA and Vistra commented that the commission should replace the phrase "actual marginal costs" with "reasonable, verifiable operating costs" in proposed §25.509(c)(7) to properly reflect the statutory language of PURA §39.160. TCPA explained that during extreme operating events, "generators regularly incur additional operating expenses in support of grid reliability that may not be strictly considered to be 'marginal costs.'" TCPA argued that PURA §39.160(g) is clear that, when generators are operating to support grid reliability in extreme events, generators should not be forced to operate at a loss. TCPA further stated that preventing generators from operating at a loss during extreme events is "critical to maintaining the economic viability of the market."

Vistra additionally urged the commission to develop its emergency pricing program and publish a timeframe to adopt the rule governing the program.

Commission Response

The changes to this subsection proposed by TCPA and Vistra are beyond the limited scope of this project. The commission’s current LCAP formula is not intended to implement the emergency pricing program required by PURA §39.160, and the requirements of that provision do not apply to the LCAP formula. Moreover, the commission adopted the current LCAP formula *after* the legislature adopted PURA §39.160 and, accordingly, already considered whether it should base the LCAP formula on the provisions of that section.

The commission will address PURA §39.160, and may reconsider the LCAP formula, in a future rulemaking project.

Proposed §25.509(c)(8) – Operating reserve demand curve report

Proposed §25.509(c)(8) requires ERCOT to publish by November 1 of each even numbered year, a report analyzing the efficacy, utilization, related costs, and contribution of the ORDC to grid reliability in the ERCOT power region.

TPPA commented that §25.509(c)(8) should include a requirement for ERCOT to publicly publish its biennial ORDC report.

TEC commented that ERCOT's biennial ORDC report required under §25.509(c)(8) should include an analysis of the ORDC's contribution to wholesale prices and price volatility. TEC stated that "recent changes to the ORDC may be shown to reduce volatility in certain intervals and future adjustments could consider how modifying the curve impacts this aspect of market outcomes." Accordingly, TEC explained, an analysis of wholesale prices and price volatility would aid stakeholders and the commission in assessing the impact of the ORDC on risk and risk management in ERCOT.

TCPA requested that the report take into account any interactions between the ORDC and other ERCOT activities, such as ancillary service procurements and out-of-market actions including reliability unit commitments, emergency response service deployments, and use of transmission and distribution utility load management programs.

Commission Response

As discussed previously, the commission relocates this provision to §25.505 as recommended by TCPA.

The commission declines to modify the rule to specify a location for publication of the ORDC report. Commission staff and ERCOT will determine an appropriate location for the publication of this report.

The commission declines to implement changes recommended by TEC and TCPA to the language around the biennial ORDC report. The current language captures the requirement established in the commission’s Phase I market design blueprint. Alterations to the biennial ORDC report may be considered in a future rulemaking project.

Proposed §25.509(g) – Development and implementation

Proposed §25.509(g) requires ERCOT to use a stakeholder process in consultation with commission staff to develop and implement rules that comply with §25.509.

TCPA commented that the phrase “in consultation with commission staff” as used in proposed 25.509(g) should be revised to avoid confusion. Specifically, TCPA stated that the rules should clarify that ERCOT’s consultation with staff will be as a stakeholder.

TPPA requested that the rule indicate the timeline and process by which consultation with commission staff under §25.509(g) will occur. TPPA argued that ERCOT should be required, before developing a revision request to be implemented under this rule, to consult with commission staff.

TEC argued that formalizing commission staff’s role in rules under proposed §25.509(g) creates some ambiguity and requires clarification on how consultation with commission staff will take place.

Commission Response

The commission declines the request from commenters to modify the “in consultation with commission staff” language for the reasons provided in the commission’s response to comments made to proposed §25.505(f).

These rules are adopted under PURA §14.002, which provides the commission with the authority to adopt and enforce rules reasonably required in the exercise of its powers and jurisdiction. These rules are also adopted under 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 PURA §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. Resource Adequacy and the Scarcity Pricing Mechanism in the Electric Reliability Council of Texas Power Region.

[repeal]

§25.505. Resource Adequacy Reporting Requirements in the Electric Reliability Council of Texas Power Region.

- (a) **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) **Generation resource** -- a generator capable of providing energy or ancillary services to the ERCOT grid and that is registered with ERCOT as a generation resource.
 - (3) **Load entity** -- an entity that owns or controls a load resource.
 - (4) **Load resource** -- a load capable of providing ancillary service to the ERCOT system or energy in the form of demand response and is registered with ERCOT as a load resource.
 - (5) **Resource entity** -- an entity that is a generation entity or a load entity.
- (b) **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 to reliably meet the projected system demand in the ERCOT power region. ERCOT may publish other resource adequacy reports or forecasts as it deems appropriate. ERCOT must prescribe

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

- (c) **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.
- (d) **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 (c) of this section. 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.
- (e) **Operating Reserve Demand Curve (ORDC) report.** ERCOT must publish, by November 1 of every even numbered year, a report analyzing the efficacy, utilization, related costs, and contribution of the ORDC to grid reliability in the ERCOT power region.
- (f) **Development and implementation.** ERCOT must use a stakeholder process, in consultation with commission staff, to develop and implement 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.

§25.506. Publication of Resource and Load Information in the Electric Reliability Council of Texas Power Region

- (a) **General Requirements.** To increase the transparency of the ERCOT-administered markets, ERCOT must post the information required in this section at a publicly accessible location on its website. In no event will ERCOT disclose competitively sensitive consumption data. The information released must be made available to all market participants.
- (1) ERCOT will post the following information in aggregated form, for each settlement interval and for each area where available, two calendar days after the day for which the information is accumulated:
 - (A) quantities and prices of offers for energy and each type of ancillary capacity service, in the form of supply curves;
 - (B) self-arranged energy and ancillary capacity services, for each type of service;
 - (C) actual resource output;
 - (D) load and resource output for all entities that dynamically schedule their resources;
 - (E) actual load; and
 - (F) energy bid curves, cleared energy bids, and cleared load.
 - (2) ERCOT will post the following information in entity-specific form, for each settlement interval, 60 calendar days after the day for which the information is accumulated, except where inapplicable or otherwise prescribed. Resource-specific

offer information must be linked to the name of the resource (or identified as a virtual offer), the name of the entity submitting the information, and the name of the entity controlling the resource. If there are multiple offers for the resource, ERCOT must post the specified information for each offer for the resource, including the name of the entity submitting the offer and the name of the entity controlling the resource. ERCOT will use §25.502(d) of this title (relating to Pricing Safeguards in Markets Operated by the Electric Reliability Council of Texas) to determine the control of a resource and must include this information in its market operations data system.

- (A) Offer curves (prices and quantities) for each type of ancillary service and for energy in the real time market, except that, for the highest-priced offer selected or dispatched for each interval on an ERCOT-wide basis, ERCOT will post the offer price and the name of the entity submitting the offer three calendar days after the day for which the information is accumulated.
- (B) If the clearing prices for energy or any ancillary service exceeds a calculated value that is equal to 50 times a natural gas price index selected by ERCOT for each operating day, expressed in dollars per megawatt-hour (MWh) or dollars per megawatt per hour, during any interval, the portion of every market participant's price-quantity offer pairs for balancing energy service and each other ancillary service that is at or above a calculated value that is equal to 50 times a natural gas price index selected by ERCOT for each operating day, expressed in dollars per megawatt-hour (MWh) or dollars

per megawatt per hour, for that service and that interval must be posted seven calendar days after the day for which the offer is submitted.

- (C) Other resource-specific information, as well as self-arranged energy and ancillary capacity services, and actual resource output, for each type of service and for each resource at each settlement point.
- (D) The load and generation resource output, for each entity that dynamically schedules its resources.
- (E) For each hour, transmission flows, voltages, transformer flows, voltages and tap positions (i.e., State Estimator data). Notwithstanding the provisions of this subparagraph and the provisions of subparagraphs (A) through (D) of this paragraph, ERCOT must release relevant State Estimator data earlier than 60 days after the day for which the information is accumulated if, in its sole discretion, it determines the release is necessary to provide a complete and timely explanation and analysis of unexpected market operations and results or system events, including but not limited to pricing anomalies, recurring transmission congestion, and system disturbances. ERCOT's release of data in this event must be limited to intervals associated with the unexpected market or system event as determined by ERCOT. The data released must be made available simultaneously to all market participants.

- (b) **Development and implementation.** ERCOT must use a stakeholder process, in consultation with commission staff, to develop and implement 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.

§25.509. Scarcity Pricing Mechanism for the Electric Reliability Council of Texas Power Region.

- (a) **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) **Generation resource** -- a generator capable of providing energy or ancillary services to the ERCOT grid and that is registered with ERCOT as a generation resource.
 - (3) **Load entity** -- an entity that owns or controls a load resource.
 - (4) **Load resource** -- a load capable of providing ancillary service to the ERCOT system or energy in the form of demand response and is registered with ERCOT as a load resource.
 - (5) **Resource entity** -- an entity that is a generation entity or a load entity.
- (b) **Scarcity pricing mechanism (SPM).** ERCOT will administer the SPM. The SPM will operate as follows:
- (1) The SPM will operate on a 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) will be measured as an average system-wide price as determined by ERCOT.

- (4) Beginning January 1 of each calendar year, 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) System-Wide Offer Caps.
- (A) The low system-wide offer cap (LCAP) will be set at \$2,000 per MWh and \$2,000 per MW per hour.
- (B) The high system-wide offer cap (HCAP) will be \$5,000 per MWh and \$5,000 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.

- (7) **Reimbursement for Operating Losses when the LCAP is in Effect.** When the system-wide offer cap is set to the LCAP, ERCOT must reimburse resource entities for any actual marginal costs in excess of the larger of the LCAP or the real-time energy price for the resource. ERCOT must utilize existing settlement processes to the extent possible to verify the resource entity's costs for reimbursement.
- (c) **Development and implementation.** ERCOT must use a stakeholder process, in consultation with commission staff, to develop and implement 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.

This agency certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority. It is therefore ordered by the Public Utility Commission of Texas that §25.505, relating to Resource Adequacy Reporting Requirements in the Electric Reliability Council of Texas Power Region; §25.506, relating to Publication of Resource and Load Information in the Electric Reliability Council of Texas Power Region; and §25.509, relating to Scarcity Pricing Mechanism for the Electric Reliability Council of Texas Power Region, are hereby adopted with changes to the text as proposed.

Signed at Austin, Texas the _____ day of April 2022.

PUBLIC UTILITY COMMISSION OF TEXAS

PETER LAKE, CHAIRMAN

WILL MCADAMS, COMMISSIONER

LORI COBOS, COMMISSIONER

JIMMY GLOTFELTY, COMMISSIONER

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