

PROJECT NO. 53191

REORGANIZATION OF §25.505

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**PUBLIC UTILITY COMMISSION
OF TEXAS**

**PROPOSAL FOR PUBLICATION TO REPEAL 16 TAC §25.505 AND REPLACE IT
WITH NEW 16 TAC §25.505, NEW 16 TAC §25.506, AND NEW 16 TAC §25.509 AS
APPROVED AT THE FEBRUARY 25, 2022, OPEN MEETING**

The Public Utility Commission of Texas (commission) proposes repealing 16 Texas Administrative Code (TAC) §25.505, relating to Reporting Requirements and the Scarcity Pricing Mechanism in the Electric Reliability Council of Texas (ERCOT) Power Region. This proposed rulemaking would split the current 16 TAC §25.505 into three sections, creating new 16 TAC §25.505, relating to Resource Adequacy Reporting Requirements in the Electric Reliability Council of Texas 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, Scarcity Pricing Mechanism for the Electric Reliability Council of Texas Power Region. Additionally, the proposed new rules would decouple the value of lost load from the system-wide offer cap in effect and require ERCOT to submit to the commission a biannual report on the operating reserve demand curve.

Growth Impact Statement

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

- (1) the proposed rules will not create a government program and will not eliminate a government program;
- (2) implementation of the proposed rules will not require the creation of new employee positions and will not require the elimination of existing employee positions;
- (3) implementation of the proposed rules will not require an increase and will not require a decrease in future legislative appropriations to the agency;
- (4) the proposed rules will not require an increase and will not require a decrease in fees paid to the agency;
- (5) the proposed rules will effectively not create a new regulation, because this is primarily a reorganization of a rule into three separate rules;
- (6) the proposed rules will effectively not expand, limit, or repeal an existing regulation, because this is primarily a reorganization of a rule into three separate rules;
- (7) the proposed rules will effectively not change the number of individuals subject to the rules' applicability, because this is primarily a reorganization of a rule into three separate rules; and
- (8) the proposed rules 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 rules. 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 rules 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, Senior Market Economist, Market Analysis Division, has determined that for the first five-year period the proposed rules 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

Mr. Roth has also determined that for each year of the first five years the proposed sections are in effect, the anticipated public benefits expected as a result of the adoption of the proposed rule will be increased clarity on the specific information contained in each section and improved administrative efficiency for amending the proposed new rules going forward. There will be no probable economic cost to persons required to comply with the rules under Texas Government Code §2001.024(a)(5).

Local Employment Impact Statement

For each year of the first five years the proposed sections are 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 if requested in accordance with Texas Government Code §2001.029. The request for a public hearing must be received by **March 18, 2022**. If a request for public hearing is received, commission staff will file in this project details on the time and location of the hearing and instructions on how a member of the public can participate in the hearing.

Public Comments

Comments may be filed through the interchange on the commission's website or by submitting a paper copy to Central Records, Public Utility Commission of Texas, 1701 North Congress Avenue, P.O. Box 13326, Austin, Texas 78711-3326 by **March 18, 2022**. Comments should be **limited to five pages** and 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 53191.

Each set of comments should include a standalone executive summary as the last page of the filing. This executive summary must be clearly labeled with the submitting entity's name and should list each substantive recommendation made in the comments. Citations to detailed discussion in the comments are permissible but not required. This executive summary does not count toward the five-page limit.

Statutory Authority

These new rules 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. 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) **General.** The purpose of this section is to prescribe resource adequacy reporting requirements for the Electric Reliability Council of Texas (ERCOT) and market participants.

(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. 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.

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

(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 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.

(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.

(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) 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.
- (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) **Purpose.** This section sets forth the requirements for the publication of resource and load information in the Electric Reliability Council of Texas (ERCOT) markets.

(b) **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; and
- (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.

(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.

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

(a) **General.** The purpose of this section is to establish a scarcity pricing mechanism for the Electric Reliability Council of Texas (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. 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.

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

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

(c) **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.

(8) 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.

(d) 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.

**ISSUED IN AUSTIN, TEXAS ON THE 25th DAY OF FEBRUARY 2022 BY THE
PUBLIC UTILITY COMMISSION OF TEXAS
ANDREA GONZALEZ**