



LEGISLATIVE & REGULATORY UPDATE

September 21, 2021

In an effort to keep you abreast of TCPA participation in regulatory activities at the PUCT and ERCOT, as the laws passed during the 87th Legislature relating to the ERCOT electric market are implemented, we hope you find this information helpful.

I. Who We Are:

- a. **Texas Competitive Power Advocates (TCPA)** is a trade association representing eleven power generation companies and wholesale power marketers with investments in Texas and the ERCOT wholesale electric market. Here is a [LINK](#) to our website.
- b. TCPA members provide almost 90% of the total non-wind electric generating capacity in ERCOT, and more than 60% of the total ERCOT generation fleet.
- c. TCPA member companies include: Calpine, Cogentrix, EDF Trading North America, Exelon, Luminant, NRG, Shell Energy North America, Talen Energy, Tenaska, TexGen Power, and WattBridge.
- d. If you are interested in knowing what resources TCPA member companies have, fuel type and where the resources are located, here is a [LINK](#) to our interactive map. The data can be searched and sorted by company, fuel type and county.

II. TCPA Legislative “Lunch & Learn”

- a. Please join us on **Thursday, October 21st 11:30 am – 1:00 pm** in the **Capitol Legislative Conference Center**
- b. Presentation: *What Has Been Done Since Winter Storm Uri and Where Do We Go Now?*
 - i. Please [RSVP HERE](#).

III. Weatherization (Project No. 51840)

- a. TCPA filed written comments with the PUCT on September 16th. You can review our comments [HERE](#).
- b. Generally, TCPA argues that seasonally “mothballed” generation should be exempt from the rule, and filings under the rule should be confidential, since the documents may reference potential vulnerabilities of critical electric infrastructure as well as proprietary information.
- c. Fuel security is different from weatherization and should be considered as a part of market redesign, using new product offerings supported by market forces.
- d. TCPA would like to remain involved in the development of reporting and compliance documentation, including a “good cause” exception, and generators should have the opportunity to appeal ERCOT determinations and cure deficiencies.



- e. TCPA, as well as other stakeholders, recommended using the stakeholder process or other public forum to develop forms, checklists, and other components to which generators will be held to account. Industry expertise in these areas is important to effective implementation and often obtained from on-the-job experience.

IV. **Administrative Penalties (Project No. 52312)**

- a. TCPA filed written comments with the PUCT on September 16th. You can review our comments [HERE](#).
- b. Generally, TCPA members are motivated to weatherize out of a commitment to serve customers and because competitive market forces reward generation availability. Administrative penalties may add additional incentives but are only appropriate after reasonable opportunities to cure and should not be overly burdensome, which could erode financial resources that could be used to invest in plant reliability.
- c. Commission standards should align with SB3 requirements, and should require reliability *preparedness*, rather than reliability *performance*. Consistent with TCPA's comments in Project No. 51840, generators should have an opportunity to appeal ERCOT determinations and cure deficiencies

V. **Demand Response (Project 52373)**

- a. TCPA filed written comments with the PUCT on September 16th. You can review our comments [HERE](#).
- b. "Demand response," or DR, generally means consumers reducing and/or shifting their electricity usage during peak periods, reducing the chance of overloading the system and the risk of power failure. Some DR is driven by individual customer choices, while other DR is coordinated and receives out-of-market compensation.
- c. TCPA strongly believes that DR programs being deployed to ensure short-term reliability should not inadvertently erode long-term reliability. Utilizing DR for reliability MUST be reflected in pricing – otherwise, these programs could put downward pressure on pricing and signal to investors that capital investment in ERCOT is unwarranted.
- d. When consumers are being compensated to reduce electricity usage at a given time to ensure reliability, they need to actually trim usage when deployed, and in a manner commensurate with their compensation. Failure to do so should mean that payment should be clawed back.

VI. **Improvement to Reporting of Resource Outages and Derates (ERCOT NPRR 1084)**

- a. TCPA, along with a broad cross-section of stakeholders, filed joint written comments with ERCOT on September 15th. You can review our comments [HERE](#).
- b. This protocol change is meant to help ERCOT improve processes to communicate accurate information about outages to the public during times of electric scarcity. However, there are a variety of issues for generators to consider.
- c. The suggested edits from TCPA and other joint commenters will help ERCOT provide up-to-date outage information to the public while still preserving confidentiality where



needed. Inappropriate information sharing would compromise generators' ability to procure energy from other resources.

- d. Moreover, outages can present safety concerns for personnel at a generation facility-protecting staff well-being must be the primary concern, followed immediately by the protection of the generation resource itself. The ERCOT reporting requirements and timelines must accommodate these concerns.

VII. **Ensuring Continuous Validity of Physical Responsive Capability (PRC) and Dispatch through Time Changes to Resource Telemetry and Current Operating Plans (COPs) (ERCOT NPRR 1085)**

- a. TCPA, along with a broad cross-section of stakeholders, filed joint written comments with ERCOT on September 15th. You can review our comments [HERE](#).
- b. ERCOT's goal with this NPRR is to modify deadlines for reporting the ability of units to respond when called upon. However, the timelines in the filed NPRR are not realistic, particularly for generators with multiple resources. The longer timelines proposed by TCPA will give ERCOT the best information available instead of trading down information quality for increased expediency.
- c. When a resource is experiencing an outage issue, it is not always able to be immediately discerned or reported. The cause of the issue must be identified, investigated, and relayed to the operator, all of which takes time. Meanwhile, during this process, the safety of personnel and protection of the generation resource must take precedence.
- d. Due to these constraints, TCPA and other joint commenters propose that the reporting requirements be extended to provide accurate and timely information while ensuring personnel and resource safety.

VIII. **PUCT and Railroad Commission (RRC) Proposed Critical Natural Gas Infrastructure Designation Rules; RRC Proposed Modification to Penalty Guidelines to Oil & Gas Violations**

- a. [HERE](#) is a link to the proposed RRC rule that was approved for public comment at the Open Meeting on September 14th. RRC Staff will hold a workshop on October 5th and comments are due November 1.
- b. [HERE](#) is a link to the proposed PUCT rule that was approved for public comment at the Open Meeting on September 16th. Comments are due October 7th.
- c. H.B. 3648 requires the RRC to collaborate with the PUCT to adopt rules and processes to designate certain natural gas facilities in the state as critical customers or critical gas suppliers during emergencies.
- d. The RRC's proposed rule defines "energy emergency" and "weather emergency" and lists criteria for "critical" designation and ensures that electric entities have the information they need to prioritize power delivery and power restoration to critical facilities.
- e. The PUCT's proposed rule works in conjunction with the RRC's proposed rule to require critical natural gas facility operators to provide relevant information to electric utilities



and requires electric utilities to incorporate those facilities (as well as end-stage renal disease treatment facilities) into their load shed and restoration plans.

- f. TCPA will be reviewing the proposed rules in the coming weeks and plans to participate in the RRC workshop on development of these important rules. TCPA intends to file comments on the proposed rules.

IX. **Additional TCPA Legislative Activities**

- a. Beyond our October 21st event, TCPA anticipates hosting additional “Lunch & Learns” at the Capitol in March 2022, and June 2022. Details and presentations to be determined. If there are topics you would like to see addressed, please don’t hesitate to contact [Michele Richmond with TCPA](#).
- b. TCPA Roadshow – projected to include meetings with legislators in Houston (November 2021), San Antonio and South Texas (February 2022), and Dallas (May 2022)
- c. Plant Tours – TCPA is considering scheduling tours at member company generation facilities. If you or your staff is interested in such a tour, please [contact TCPA](#) to let us know.

Please feel free to reach out to TCPA with any questions or comments you may have.

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