



## LEGISLATIVE & REGULATORY UPDATE

October 4, 2021

**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. 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.

TCPA member companies include: Calpine, Cogentrix, EDF Trading North America, Exelon, Luminant (Vistra), NRG, Shell Energy North America, Talen Energy, Tenaska, TexGen Power, and WattBridge. Here is a [LINK](#) to our website.

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.

### I. **TCPA Legislative “Lunch & Learn”**

a. **REMINDER!** Please join us on **Thursday, October 21<sup>st</sup> 11:30 am – 1:00 pm** in the **Capitol Legislative Conference Center**

b. Presentation: *Ensuring Reliability in ERCOT Through Competitive Markets*

i. Please [RSVP HERE before October 19](#).

### II. **TCPA Supports Reliability in ERCOT Through Competitive Markets**

TCPA supports a reliable electric market in ERCOT through competitive markets, free from subsidies and regulated cost recovery or guaranteed rate of return. You can review our core principles [HERE](#).

TCPA **SUPPORTS** the following core principles for ERCOT and takes positions on all legislative and regulatory proposals based on adherence to the following:

- a. Reliability goals should be achieved through a competitive market.
- b. A competitive market should value reliable, dispatchable resources.
- c. Market prices should provide a stable and consistent revenue stream to reliable resources.
- d. Energy companies should bear market investment risks - not consumers.
- e. Prices must reflect competitive outcomes in the market, and should be adjusted to offset out-of-market actions.



TCPA **OPPOSES** any proposals that would further destabilize or reregulate any portion of ERCOT's competitive market such as the following:

- a. Any regulated generation that receives cost recovery and a guaranteed rate of return.
- b. Any generation subsidies.

**III. Senate Business & Commerce Committee Hearing**

- a. The Committee met on Tuesday, September 28<sup>th</sup> to discuss actions taken to ensure grid reliability and examine options to increase the availability of dispatchable electric generation. The priority is to provide reliable low-cost energy to Texans and to reduce reliance on scarcity pricing to incent new generation.
- b. PUCT Chairman Peter Lake discussed weatherization, designation of critical natural gas fuel supply, electric supply chain mapping, over-reliance on scarcity pricing, the PUCT and ERCOT governance structures, and ancillary services.
- c. Senators expressed significant concern that natural gas suppliers are not sufficiently weatherizing facilities, that increased communication and coordination between the PUCT and the Railroad Commission is necessary, and RRC field inspector enforcement must be increased.
- d. Chairman Schwertner discussed the need to incent new dispatchable generation. TCPA member Vistra testified that any incentive program must work in tandem with market design to support existing dispatchable generation. Vistra is investing \$50 million in weatherization and back-up fuel options.
- e. TCPA member WattBridge discussed its plans to bring several new "peaker" units online in ERCOT. These natural gas-fired plants are anticipated to run approximately 1,000 hours per year, producing 288 MW of power. WattBridge has a unique vertically-integrated business structure that allows it to raise capital and invest in generation under current pricing mechanisms, but acknowledges that each company faces different challenges and opportunities in responding to market forces.
- f. TCPA member NRG discussed the need for market structures that value reliability and dispatchable power. TCPA filed comments with the PUCT (see below) recommending the PUCT adopt market-based reliability models that require market participants to secure back-up generation so they can provide power to their customers according to contracted terms, in the manner that best suits their business model and customer base.
- g. TCPA member Calpine discussed the need for continued investment in reliable electricity and referenced California as a cautionary example of how subsidized generation has stifled competitive market investments resulting in reduced reliability.

**IV. TCPA Proposed Market Design Changes (PUCT Project No. 52373)**

- a. TCPA filed written comments with the PUCT on September 30<sup>th</sup>. You can review our comments [HERE](#).
- b. TCPA supports six market design concepts to increase ERCOT grid reliability, provide a more predictable pricing structure and allow generation resource owners to earn a



competitive return on their investment without the need for emergency conditions on the system. TCPA's market design recommendations should signal to the market that existing generation and new resource investments are needed. These recommendations are:

1. The PUCT must adopt a reliability standard for ERCOT and enforce it. A reliability standard, that values dispatchable resources, is essential for planning and operating the grid to meet ERCOT's reliability objectives.
2. The energy market and ancillary services markets must continue to serve as the foundation of the competitive market, allowing generation resources to make a reasonable return outside of emergency conditions.
3. The PUCT must adopt holistically redesign the Operating Reserve Demand Curve (ORDC) pricing mechanism (which automatically increases the price of power as reserve margins tighten, to incent generators to bring all available power online to meet demand), in conjunction with lowering the High System-Wide Offer Cap (HCAP). Changes to the ORDC should increase the value placed on generation reserves and incent investment in dispatchable resources. Requiring a percentage of reserves to come from dispatchable generation could further promote reliability.
4. The PUCT must adopt one or more reliability service products to ensure reliability through market forces. Individual TCPA members are offering several different ideas to fulfill this need.
5. Direct ERCOT to adopt a fuel resiliency service as a market design change, to ensure that generators have access to a supply chain of fuel resources during emergency circumstances.
6. Develop a voluntary, forward market for existing ancillary services, to help reduce volatility and provide additional certainty for investors, generators and consumers.

**V. TCPA Comments on PUCT Proposal to Lower the System-Wide Offer Cap to \$4,500 (PUCT Project No. 52631)**

- a. TCPA filed written comments with the PUCT on September 30<sup>th</sup>. You can review our comments [HERE](#).
- b. Currently, in times of significant scarcity, the current ORDC allows power prices to peak at \$9,000/MWh – much higher than the average price of power, which presently is in the \$20-\$40 MWh range. Regulators were highly criticized during Winter Storm Uri that the HCAP was maximized for too long – well past when all available generation was online, resulting in immense energy costs. Some stakeholders argue that the \$9,000 per MW/hour cap should be reduced, to \$4,500 or some multiple of the incremental cost of fuel.
- c. TCPA cannot determine whether \$4,500 is an appropriate price cap without evaluating the entirety of pricing reforms. Lowering the HCAP without implementing broader reforms with regard to the ORDC would undercut the Legislature's goal to align the



competitive market with the reliability requirements discussed during the 87<sup>th</sup> Legislature. This would be a step backwards in providing the necessary investment signals to existing and new generation resource owners. TCPA recommends addressing the ORDC in its entirety, including the cap.

VI. **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 14<sup>th</sup>. RRC Staff will hold a workshop on October 5<sup>th</sup> and comments are due November 1<sup>st</sup>.
- b. [HERE](#) is a link to the proposed PUCT rule that was approved for public comment at the Open Meeting on September 16<sup>th</sup>. Comments are due October 7<sup>th</sup>.
- c. TCPA will file comments with both the RRC and the PUCT, and has engaged external counsel to assist in that effort. We will keep you apprised of those filings and our positions on the proposed rules.

VII. **Additional TCPA Legislative Activities**

- a. Meetings: TCPA met with several members of the Senate Business & Commerce Committee and continues to schedule conversations with lawmakers interested in updates on regulatory activities in the electric industry.
- b. TCPA "Lunch & Learns": TCPA anticipates hosting additional "Lunch & Learns" at the Capitol in March and June 2022. If there are topics you would like to see addressed, please don't hesitate to contact [Michele Richmond with TCPA](#).
- c. TCPA Roadshow: Projected to include meetings with legislators in Houston (November 2021), San Antonio and South Texas (February 2022), and Dallas (May 2022)
- d. Plant Tours: TCPA is considering scheduling plant tours at member company generation facilities. If you or your staff are interested in receiving 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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