



LEGISLATIVE & REGULATORY UPDATE

Volume 6 – November 23, 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 generation resources TCPA member companies have, here is a [LINK](#) to our interactive map. The data can be searched by company, fuel type and county.

I. Federal Electric Reliability Council (FERC) Report on Winter Storm Uri

On November 16th, FERC filed the final report examining the causes and impact of the February 2021 winter freeze on ERCOT and the surrounding electric system. Some key findings:

1. Freezing issues (44%) and fuel issues (31%) caused 75% of the unplanned generation outages.
2. 87% of the unplanned generation outages that were due to fuel issues were related to natural gas availability, chiefly related to production and processing issues.
3. Nearly half (43%) of the natural gas fuel supply issues were largely due to freezing weather, with another 21% cause by power losses during processing.
4. FERC issued 28 recommendations, including that generators should increase weatherization of critical components, improve training and mitigation planning, changes to the calculations related to generation reserve margins, and addressing natural gas supply shortfalls and real-time monitoring of gas production, as well as developing guidance for identifying critical natural gas infrastructure.
5. The full report can be read [HERE](#).

II. TCPA Meetings

TCPA continues to hold meetings with lawmakers, regulators, and stakeholders about a variety of issues. Among the conversations:

1. While establishing tiers for shedding electric load in times of scarcity is critical, TCPA is also focused on making certain that weatherization efforts continue and are aligned for both the electric and natural gas industries, ensuring that terminology parity in regards



to definitions of “firm fuel” and “firm transport” between industries to minimize confusion, augmenting transparency on intrastate pipeline filings to be able to determine root causes for outages or other limitations on fuel availability, and inclusion of electric generators in the definition of “human needs” for the RRC prioritization of fuel.

2. Regarding market design: Generally, our key message has been that merely addressing the “low hanging fruit” (like scarcity pricing models and ancillary services) without simultaneously outlining a path for significant market design through an enforced reliability standard and an obligation to ensure dispatchable resources will not create the revenue stability needed to finance new investment in ERCOT.
3. PUCT Chairman Peter Lake’s “straw man” proposal, while not perfect, is a meaningful step in the right direction that will be thoroughly vetted over the next several months while also sending a strong and very much needed signal to the market that the PUCT is going to implement an ERCOT redesign that marries appropriate market prices with the desired reliability.

III. TCPA Supplemental Comments to the RRC Filed 11/17/21

- a. The RRC proposed a new 16 TAC §3.65 and amendments to 16 TAC §3.107 to implement HB 3648 and SB 3, regarding prioritizing and mapping of critical natural gas infrastructure. TCPA filed initial comments on November 1st ([HERE](#)).
- b. In our latest filing, TCPA suggests kinds of data needed to correctly map the supply chain and determining prioritization tiers for specific elements gas production, processing, and delivery. We also proposed an interim prioritization solution for winter 2021-2022 as well as a more holistic solution for subsequent winters.
- c. TCPA’s latest comments can be reviewed [HERE](#). Additionally, TCPA developed a two-page document for consideration by RRC Commissioners and staff – it is attached to this email.

IV. TCPA Intervention in Joint TDU Contested Case

- a. In October, 2021, several Transmission & Distribution Utilities (TDUs) filed an expedited petition requesting approval from the PUCT of certain electric load management programs. TCPA filed an intervention on November 9th, not to stand in the way of the addressing the proposal, but to ensure that the proposal be adopted with minimal disruption to the wholesale and retail electric markets, and without undermining generation resource adequacy goals.
- b. Generally, the TDUs would propose to make out-of-market payments to electricity users to voluntarily shed load during times of scarcity. TCPA’s concern is that the proposed payments are far more generous than other measures related to the price of electric power at times of peak demand.
- c. If TDUs (which are not subject to market forces and recover their expenses entirely from captive rate payers) can unilaterally pay extraordinarily high prices to load-shedding



entities, it will meaningfully and irreparably harm the price signals that wholesale generators rely upon to attract additional generation to the ERCOT market.

- d. The TCPA filing can be read [HERE](#).

V. **What to Say When Asked “Why Haven’t You Fixed the Grid???”** TCPA understands you may get questions from constituents about what is being done to ensure electric reliability and improve the ERCOT grid. Here is a short response that could help your office respond to these inquiries, and a few bullet points to support your message:

- a. **RESPONSE:** Numerous bills were passed by the 87th Legislature to address the challenges experienced during Winter Storm Uri. This legislation results in comprehensive changes to the entire energy industry and they are being implemented as quickly as possible to help lower the risk to Texans.
- b. Among the bills passed by the Legislature are:
 - i. HB 16 (Hernandez) — Elimination of Wholesale Indexed Products
 - ii. HB 3648 (Geren) — Mapping Critical Infrastructure
 - iii. SB 2 (Hancock)— ERCOT Reform
 - iv. SB 3 (Schwertner) — Market Design, Weatherization, Tx. Energy Reliability Council
 - v. SB 1281 (Hancock) — Transmission Reform
 - vi. SB 2154 (Schwertner) — PUCT Reform
- c. The PUCT, ERCOT & the RRC are undertaking dozens of rulemakings to implement these directives, including:
 - i. PUCT Project 51840 – Weatherization
 - ii. PUCT Project 52312 – Administrative Penalties
 - iii. PUCT Project 52691 – ERCOT Weather Study
 - iv. PUCT Project 52345 – Critical Infrastructure Designation & Mapping
 - v. PUCT Project 52373 – Market Design
 - vi. ERCOT NPRR 1087 – Critical Loads
 - vii. ERCOT NPRR 1086 – Systemwide Offer Cap
 - viii. ERCOT NPRRs 1084 & 1097 – Outage Reporting
 - ix. RRC - Critical Designation of Natural Gas Infrastructure
 - x. RRC - Weatherization of Natural Gas Components
 - xi. RRC - Penalty Guidelines for Violations
 - xii. RRC - Prioritization of Gas in Emergencies
- d. New leadership at the PUCT and ERCOT, as well as key advisory bodies, have been named, including:
 - i. PUCT expanded from three to five members, with four members named
 - ii. ERCOT has a new interim CEO, new board members and new staff



- iii. The recently formed Texas Energy Reliability Council has been named, with appointees from the Governor, Lt. Governor, Speaker of the House, RRC and PUCT, and held its first meeting on Monday, October 25.
- e. TCPA members are undertaking weatherization projects to ensure reliability, such as installing additional heat tracers and insulation, making fuel storage enhancements, diversifying pipeline suppliers, investing in additional fuel storage capacity, and training personnel on lesson learned.
- f. The PUCT and ERCOT have taken administrative actions to ensure grid stability, including:
 - i. On October 21st, the PUCT adopted Phase One of the weather emergency preparedness plan, which requires generators to implement weather readiness recommendations and address acute issues by December 1, 2021. ERCOT will conduct inspections of plants during December and report resources not in compliance to the PUC.
 - ii. Phase Two will implement more comprehensive, year-round reliability standards, and will be developed pending a weather study currently being conducted by ERCOT in consultation with the Office of the Texas State Climatologist.
- g. New generation construction is underway, with some TCPA member companies having broken ground this quarter and others beginning the interconnection and siting process for additional dispatchable investment in ERCOT.
- h. TCPA has issued recommendations for reliability in ERCOT through competitive markets, including:
 - i. Set a reliability standard and enforce it.
 - ii. Value reliable dispatchable resources.
 - iii. Market prices should provide a stable & consistent revenue stream to reliable resources.
 - iv. Investment risks should be placed on energy companies & not on consumers.
 - v. Prices must reflect competitive outcomes in the market & prices should be adjusted to offset out-of-market actions.
 - vi. No segment of generation should be subsidized or provided cost recovery & guaranteed rate of return.

VI. **Additional TCPA Legislative Activities**

- a. TCPA Roadshow: Projected to include meetings with legislators in Houston (January, 2022), San Antonio and South Texas (February 2022), and Dallas (May 2022)
- b. Plant Tours: TCPA is 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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