



LEGISLATIVE & REGULATORY UPDATE

Volume 8 – February 11, 2022

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, Constellation (formerly 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. Welcome Constellation to TCPA

Earlier this month, Constellation announced the completion of its separation from Exelon, and its launch as a standalone company and the nation's largest carbon-free energy producer. Please note that Constellation has replaced Exelon as a member of TCPA, and is now reflected on our website and association documents. Constellation maintains a fleet of nuclear, hydro, wind and solar generation facilities, and has put forth an aggressive agenda to reduce carbon emissions. [HERE](#) is a link to Constellation's website with more information.

II. Power Grid Meets the First Winter Weather Challenge of 2022

Texas faced its first significant winter weather of 2022 last week, and the ERCOT electric grid performed admirably, without any widespread loss of power. Electric demand did not reach the peaks predicted by ERCOT (topping at 68,000MW but not reaching the demand predictions of 74,000MW), and while natural gas companies reduced some power plant fuel supply, broad disruptions were avoided. Losses of power were largely related to fallen trees and ice knocking out power lines, which is typical during winter weather events.

Ahead of this winter, generators diversified fuel supply by adding interconnections with multiple pipelines, increasing storage, and adding dual fuel capability. However, even with these modifications, some companies received notices of gas curtailments. Our biggest concern was ensuring that natural gas gets to electric generators so they can continue to produce power. The Railroad Commission curtailment rule proposal requires that gas pipelines make adjustments to ensure gas deliveries to meet human needs; but it does not require adjustments to ensure gas



delivery to electric generation that is required to meet human needs, even during emergencies. Home heaters, whether gas or electric, cannot operate without power.

TCPA members took proactive measures ahead of the winter by installing wind breaks, additional heat tracing and insulation, and enclosing equipment in temperature-monitored specialized instrument enclosures. Additionally, companies brought in extra staff to sequester onsite as well as additional supplies ahead of the storm last week. Our companies participated in multiple coordination calls each day with ERCOT, PUC, TDEM, and suppliers to ensure synchronization.

III. **ERCOT Endorses Power Grid Readiness**

In January, ERCOT filed its final winter weatherization readiness report with the PUCT. The report showed that 321 out of 324 (99%) electric generation units and transmission facilities passed inspection for the new winterization regulations. Onsite inspections were conducted at 302 generation units to ensure the grid is prepared for the winter. TCPA members have invested more than \$120 million to winterize the generation fleet against severe weather.

In addition, TCPA members have spent many millions of dollars in diversifying their fuel supply to ensure their availability. None of these expenses are compensated in the competitive electric market design, and TCPA is continuing to work with the PUC and ERCOT on still-needed market changes to provide revenue stability and the opportunity to recover these important but costly capital expenditures.

IV. **Electric Generation and Gas Face Very Different Regulatory Requirements for Transparency, Accountability and Pricing**

TCPA members serve human needs by providing electricity. Home heating is more than 60% electric in Texas, but even gas heaters require electricity to function. Nevertheless, the electric generation and natural gas industries face very different state requirements related to pricing, accountability and transparency. Among the most significant examples of this disparate treatment:

- Electric generators see their prices capped at \$5,000 per MegaWatt Hour (down from \$9,000 during Winter Storm Uri); The gas industry is not subject to state-imposed price caps or guardrails to prevent gouging, regardless of emergency conditions.
- Generators must replace the energy they were financially committed to provide customers at real-time prices if it fails to provide power; Gas providers face no such requirement.
- After disruptions, ERCOT, the Independent Market Monitor and the PUCT can issue detailed RFIs to generators to monitor and enforce against market manipulation; There is no similar independent or third party oversight mechanism on the intrastate gas system.

TCPA will be scheduling meetings to discuss these asymmetries, as well as recommendations to address them. Please feel free to contact [Michele](#) or [Eric](#) to schedule at your convenience.



V. Generation’s Reliability Successes During Winter Weather Also Impacts Market Signals

TCPA members are pleased that the ERCOT market performed so admirably during last week’s winter weather. A big part of that reliability success is due to ERCOT’s conservative approach to storm preparations, which involved an over-procurement of power reserves and directing generation resources to remain on call (a requirement referred to as “Reliability Unit Commitment,” or “RUC.”) These regulatory directives, as well as highly conservative load and weather forecasting, meant that power reserves were huge – well beyond peak demand.

However, these conservative ERCOT operations are not without costs. Repeated RUCs reduce the longer-term reliability of the state’s generation fleet, because of increased wear-and-tear on facilities and an escalated likelihood of forced outages and retirements. RUCs also impose costs on generators that are unlikely to be recovered, because the process fails to take into the account the cost of buying “same day” gas and doesn’t sufficiently cover risks associated with repeated starts on older units. Moreover, RUCs depress real-time prices for electricity, which results in a depressed day-ahead market, because the market anticipates that ERCOT is going to RUC units and factors that into bidding strategies. Depressed prices will, over time, likely disincentivize additional investment in dispatchable generation in ERCOT.

It is understandable that in the near term, reliability is a paramount concern. However, as ERCOT market re-design is considered, thought should be given to some alternative compensation method for generation if policymakers want to retain dispatchable power resources that allow ERCOT to exercise this conservative approach in the future.

VI. PUCT Commissioners McAdams and Cobos file Firm Fuel Comments

ERCOT is in the midst of implementing the PUCT “blueprint” for market reforms, and Commissioners Will McAdams and Lori Cobos filed separate documents offering suggested approaches regarding Firm Fuel Products. Legislators and regulators are eager to ensure that fuel disruptions like those incurred during Winter Storm Uri are not repeated.

Comm. Cobos encouraged ERCOT to prioritize the development and implementation of a Firm Fuel Product to provide additional grid reliability for next winter. Comm. McAdams suggested that ERCOT should implement these products in two phases – the first targeting natural gas generation with existing on-site storage or dual-fuel capability, and a second phase with an implementation goal of winter 2024 to answer larger questions around the targets for Firm Fuel requirements and how to handle transport of fuel from off-site storage. ERCOT held a workshop on February 9th and TCPA members provided feedback about the implementation as well as issues that could be a barrier to generators offering in to such a product.

Read the full memo from the Commissioners [HERE](#).



- VII. **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. In addition to the information provided in these newsletters regarding ongoing implementation and actions already undertaken by generators, here are details 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. Already generators and transmission & distribution utilities are required to be weatherized to greater standards and 99% passed the inspections performed by ERCOT ahead of this winter.
 - 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 51871 – Review of the ERCOT Scarcity Pricing Mechanism
 - ii. PUCT Project 51825 – Investigation Regarding the February 2021 Winter Weather Event
 - iii. PUCT Project 51840 – Weatherization
 - iv. PUCT Project 52312 – Administrative Penalties
 - v. PUCT Project 52691 – ERCOT Weather Study
 - vi. PUCT Projects 52785 & 52787 – ERCOT Comprehensive Checklist Forms for Weatherization Inspections
 - vii. PUCT Project 52786 – ERCOT Compliance Reports of Generation Resource Winter Readiness
 - viii. PUCT Project 51841 – Emergency Operations Plans
 - ix. PUCT Project 51888 – Review of Critical Load Standards and Processes
 - x. PUCT Project 52287 – Power Outage Alert
 - xi. PUCT Project 52345 – Critical Infrastructure Designation & Mapping
 - xii. PUCT Project 52373 – Market Design
 - xiii. PUCT Project 52631 – Review of HCAP
 - xiv. ERCOT NPRR 1087 – Critical Loads
 - xv. ERCOT NPRR 1086 – Systemwide Offer Cap
 - xvi. ERCOT NPRRs 1084 & 1097 – Outage Reporting



- xvii. RRC – Critical Designation of Natural Gas Infrastructure
- xviii. RRC – Weatherization of Natural Gas Components
- xix. RRC – Penalty Guidelines for Violations
- xx. 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
 - ii. ERCOT has a new interim CEO, new board members and new staff
 - iii. The recently formed Texas Energy Reliability Council has met regularly to discuss the intricacies of the electric and natural gas industries and find areas for improvement. A report with legislative recommendations will be issued prior to the 2023 legislative session.
- e. TCPA members are undertaking weatherization and other projects to ensure reliability, such as installing additional heat tracers and additional 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. In October 2021, the PUCT adopted Phase One of the weather emergency preparedness plan, which requires generators to implement weather readiness recommendations. ERCOT conducted inspections of plants during December and reported that 99% of resources were in compliance and ready for winter.
 - 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 last 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.



VIII. Additional TCPA Legislative Activities

- a. TCPA Roadshow: Having concluded the Houston-area tours, the Roadshow is projected to include meetings with legislators in Dallas/North Texas at the end of April and in San Antonio and South Texas during the Summer of 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.

Michele Richmond, Executive Director
Texas Competitive Power Advocates
michele@competitivepower.org
cell: 512-653-7447
www.competitivepower.org

Eric Woomer
Eric Woomer / Policy Solutions
eric@ericwoomer.com
cell: 512-845-9552
www.ericwoomer.com