



LEGISLATIVE & REGULATORY UPDATE

Volume 9 – March 15, 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. **Senate Business & Commerce Hearing on Electric Market – March 9, 2022**

This week, the Senate Business & Commerce Committee met to discuss the state of the ERCOT electric market and the current trajectory for regulatory reforms. Appearing were PUCT Chairman Peter Lake, ERCOT Chairman Brad Jones, and RRC Chairman Wayne Christian, among several others.

Part of the conversation was ERCOT's significantly increased directives to generation resources to remain on call (a requirement referred to as "Reliability Unit Commitment," or "RUC.") Prior to Winter Storm Uri, RUCing was an infrequent imposition on generators, but ERCOT has increased RUC'd units 1800% over 2020. These units tend to be older, less efficient, and with greater emissions – precisely why they are seldom run. For reliability purposes, ERCOT may direct these units to come online, but 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.

Senators also suggested additional legislation may be needed to ensure price transparency in the oil and gas market in Texas. Chairman Christian indicated that the RRC may not have the needed regulatory authority to intervene in disputes when gas supplies are not delivered. Lawmakers discussed that while gas markets generally perform as expected, questions about price manipulation by suppliers and concerns about monopoly power by pipelines may merit further conversations. Requiring more data transparency from intrastate pipelines (similar to interstate



pipelines) and the prospect of an independent market monitor for the gas industry were also discussed.

Chairman Christian recommended that generators wanting options for gas supply but having only one pipeline to their plants could either build a new pipeline or retire the resource – leading Senators to observe that his suggestion ran counter to their goals of increasing dispatchable generation resources and reliability. Likewise, concerns about a geographic monopoly over gas distribution and the unlevel playing field generators experience in negotiations would remain unresolved.

II. **ERCOT NPRR 1092 Comments – RUC Offer Floor and Opt-Out Provision**

Last week, TCPA filed comments related to ongoing ERCOT workshops on RUCing. TCPA shared with regulators a unanimous concern about RUC, not as a reliability tool, but as a frequent out-of-market action ERCOT takes as part of its conservative post-Uri operations. RUCing, particularly when coupled with certain other requirements and programs, moves away from Texas’ energy-only market design and inappropriately suppresses prices, which sends a market signal that additional investment in generation in Texas is unwarranted.

TCPA recommends ERCOT to return to the prior practice, and only use RUC for instance of true generation scarcity. Additionally, TCPA suggests that other compensated capacity and demand-response tools (like Emergency Response Service, or ERS) be utilized prior to RUC, and that pricing outcomes reflect all aspects of ERCOT’s operation and reserve requirements, to paint a full picture of how each of these reliability tools affect electric prices. TCPA continues to urge stakeholders and ERCOT to avoid making piecemeal market design changes and focus on increasing reliability through holistic market design changes being undertaken by the PUCT.

You can read TCPA’s full comments [HERE](#).

III. **Electric Grid Substantially Shored Up, But Work Remains**

TCPA members participated with regulators on a panel at the CERAweek conference in Houston this week. Thad Hill, CEO of Calpine, joined PUCT Commissioner Lori Cobos and former PUCT and FERC Chairman Pat Wood III discussing reliability and market design. The key takeaways from the discussion include:

- The first phase of shoring up the grid (weatherization efforts) is largely complete, but what remains - redesigning the state’s power market – is a massive challenge;
- Reliability without investing in “standby generation” for when electricity is in short supply becomes difficult under the current market design, where generators are only paid for the power they produce, not for having power ready to go if needed.

You can read about the panel discussion [HERE](#).



IV. House Interim Charges Released

This week, House Speaker Dade Phelan released interim charges for House committees to review during the remainder of 2022. Among the key energy charges:

- **H. State Affairs** is tasked with reviewing the implementation of SB 2 (relating to the governance of the PUCT, OPUC and ERCOT) and SB 3 (relating to preparing for, preventing, and responding to power outages). Additionally, the Committee will examine the efforts of power generation facilities to weatherize, and to review the status of projects to reduce electric transmission congestion.
- **H. Energy Resources** is tasked with overseeing the implementation of SB 1520 (financial securitization for costs related to Winter Storm Uri), HB 3648 (designating certain natural gas facilities as critical during a weather emergency) and is joining H. State Affairs in the review of SB 3. Also, the committee will assess ongoing efforts by the RRC and the TERC to weatherize infrastructure and ensure reliability of the natural gas delivery system during times of disaster.

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. 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.

VI. 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 beginning of May 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.

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