



## LEGISLATIVE & REGULATORY UPDATE

Volume 12 – June 17, 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 comprise 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. ERCOT Grid Hits Peaks

Power demand hit a record high in Texas this past weekend amid a severe heat wave that has continued through this week. Demand on the power grid reached more than 75,000 megawatts on Sunday, surpassing record levels set in August 2019, as homes and businesses blast air conditioners. In May, ERCOT asked Texans to conserve power during a heat wave that coincided with some power plant outages. No such conservation request has been necessary during this most recent heat wave.

### II. TCPA Continues to Raise Concerns about Natural Gas Transparency

Since the deregulation of the interstate natural gas pipelines in the 1980's, the interstate wholesale natural gas industry has transformed into a robust market. The key drivers of this transformation include open access to pipeline capacity and market transparency. Federal regulations adopted by the Federal Energy Regulatory Commission (FERC) removed the interstate pipelines' exclusive right to system capacity by providing customers with the option to transport their own natural gas supplies for a fee on these regulated monopolies. This unbundling of the transportation service from the commodity/merchant sales function was further supported by strong transparency requirements on the interstate pipelines.



However, at the state level in Texas, intrastate pipelines still trail their interstate counterparts when it comes to market transparency. Numerous intrastate and interstate systems operate in Texas, often by affiliated companies, providing a stark contrast of the two market outcomes. The fact that intrastate pipelines do not have the same level of transparency requirements as the interstate pipelines was highlighted during Winter Storm Uri, in some instances impeding a rapid and efficient response to the situation. These inefficiencies and information asymmetries make the Texas intrastate gas market less competitive.

The Senate Business & Commerce Committee hearing on June 29<sup>th</sup> will consider differences between interstate and intrastate pipeline networks and the impacts on the electric grid.

### III. TCPA Roadshow Hosts Lawmakers, Staff, PUCT on North Texas Power Plant Tours

On May 18<sup>th</sup> & 19<sup>th</sup>, TCPA hosted several senators and representatives, their staff, and PUCT Commissioners on generation unit tours. The generators ranged from 50+ year old units to newer units with the latest state-of-the-art technology. Participants witnessed plant operations firsthand and learned about the challenges generators face in meeting the state's demand for electricity. The tours included the Mountain Creek facility in Dallas, which first began operations in 1956, the 1970s-era Handley Generating Station in Fort Worth, as well as the Wolf Hollow II unit in Granbury, which began commercial operations in 2017.

New generation technology is much more efficient, using less fuel and emitting fewer pollutants. These newer units have quick-start capability and often can run on alternative fuel. Older plants are much-needed for reliability purposes, but conservative grid operations has meant these units are running significantly more often than in the recent past, increasing wear and tear that can in turn increase the potential for outages. Making sure the correct price signals are developed through ERCOT market redesign is essential to keeping the older units operational while incentivizing new construction.





#### IV. **PUCT Proposes Emergency Response Service (ERS) Updates**

TCPA filed comments on May 18<sup>th</sup> in response to a discussion draft rule to update the ERS budget, contracting guidelines, and deployment criteria. ERS is a “capacity” payment made to energy customers in ERCOT to help mitigate an emergency on the grid. ERCOT pays participating entities to reduce energy usage or utilize backup generation when grid emergencies occur. The PUCT’s is contemplating a 50% increase in the ERS budget, allowing ERCOT to deploy ERS in advance of a grid emergency, and expanding the number of response hours that could be contracted for.

Among the key points made in TCPA’s comments was that ERS, as a reliability service, should be tied to a specific grid reliability standard, which has yet to be adopted by the PUCT. Additionally, TCPA advised that the PUCT that expanding “out-of-market” programs like ERS can undermine wholesale energy pricing signals, which could disincentivize retaining current generation resources in ERCOT and attracting new investment. TCPA also recommends eliminating the “pre-deployment” capability to ensure that ERCOT gets the actual response needed when called upon.

On June 16<sup>th</sup>, the PUCT approved a Proposal for Publication (PFP) for comment. The PFP is very similar to the Discussion Draft rule, with the addition that it also proposes ERCOT be given another discretionary 25% budget increase to replenish ERS if it is fully deployed within a season. TCPA will be filing comments in response to the PFP.

The Proposal for Publication can be read [HERE](#). To review TCPA’s full comments, click [HERE](#).

#### V. **TCPA to Testify at Upcoming Legislative Hearings**

TCPA and member companies will participate in upcoming legislative hearings reviewing the status of the ERCOT grid reforms. These include:

- On June 22<sup>nd</sup>, the House State Affairs Committee will receive an update on the continued progress of the proposed changes to the ERCOT market design.
- On June 23<sup>rd</sup>, the House State Affairs Committee will review the implementation of SB 2, governing the PUCT, ERCOT and OPUC, and will receive an update on the efforts of power generation companies to weatherize facilities and the status of projects to reduce transmission congestion.



- On June 29<sup>th</sup>, the Senate Business & Commerce Committee will meet to consider issues impacting the Texas electric grid, including weather preparedness and the natural gas supply chain. The Committee will also evaluate potential benefits of real-time intrastate gas market transparency and the roles of ERCOT and the Texas Energy Reliability Council.

**VI. PUCT Staff Proposes Updates Electric Weather Preparedness Standards for Phase II (Project No. 53401)**

In May, PUCT Staff issued proposed Phase II weatherization requirements for review and public comment. The PUCT adopted Phase I of the SB 3-required weatherization standards last year, which addressed the acute impacts of Winter Storm Uri and other historical lessons learned from winter weather events, which ERCOT verified via onsite inspections.

Under the proposed Phase II rule, by December 1<sup>st</sup> of each year, generators must complete winter weather emergency preparations to ensure the sustained operation of all cold-weather critical components, including installing wind breaks, enclosing critical components, inspecting thermal insulation and waterproofing, and ensuring the availability of chemicals, fuels, and other materials. The proposed Phase II rule similarly would require that by June 1<sup>st</sup> of each year, generators make summer weather emergency preparations for each unit, including identifying limitations of cooling capacity, water withdrawal and water rights, ensuring adequate water supplies for cooling, reservoirs and heat exchangers, and availability of equipment to remove heat and moisture from hot weather critical components. Both weather preparation standards would be tied to an ERCOT weather study that continuously updates every five years.

PUCT Staff will hold a public meeting on the rulemaking on July 1<sup>st</sup> in the Commissioner's Hearing Room in the Travis Building. The Staff Memo can be read [HERE](#). TCPA is finalizing comments to be filed on June 23.

**VII. TCPA Roadshow:**

We anticipate concluding the TCPA Roadshow in Coastal/South Texas during the Fall of 2022. If you or your staff are interested in joining a tour, please [contact TCPA](#) to let us know.

**VIII. 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:

**RESPONSE:** Numerous bills were passed by the 87<sup>th</sup> 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.

- a. 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
- b. The PUCT, ERCOT & the RRC have been undertaking rulemakings since June 2021 to implement all of the changes and directives passed last session. Collectively, these activities number well over 50 and encompass market design changes in multiple phases, weatherization rules in multiple phases, weather studies to guide weatherization, mapping the supply chain between natural gas facilities and electric generating resources, creating a power outage alert system, creating new electric products for fuel resiliency, and many others that will be ongoing for the next couple of years.
- c. 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 (TERC) 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.
- d. TCPA members undertook weatherization and other projects to ensure reliability through the installation of additional heat tracers and insulation, fuel storage enhancements, pipeline supplier diversification, investment in additional fuel storage capacity, and personnel training regarding lessons learned. Members continue to work on issues of gas transparency, market design, and other areas in the regulatory arena, to align the market with the reliability Texans expect.
- e. 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 was just proposed by PUCT staff in May of this year.
- f. New peaking generation construction is underway, with some TCPA member companies having broken ground at the end of 2021 and others beginning the interconnection and siting process for additional dispatchable investment in ERCOT, should market design indicate the need for new dispatchable resources. New generation is not always a new baseload power plant, but may be a smaller peaking plant in the 200-300MW range, an expansion of existing plants, or incremental investment in current resources to get additional megawatts, known as “uprates”, from them.
- g. Many companies are spending capital, so the goal is to design a market in ERCOT that will attract these companies to invest in dispatchable generation in ERCOT, rather than in another type of generation resource or in another part of the country. Phase II market design will hopefully provide a comprehensive solution that incentivizes investment in current infrastructure as well as provide for new investment in dispatchable generation resources.
- 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.

A one-pager on achieving reliability through competitive markets can be accessed [HERE](#).

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](mailto:michele@competitivepower.org)  
cell: 512-653-7447  
[www.competitivepower.org](http://www.competitivepower.org)

Eric Woomer  
Eric Woomer / Policy Solutions  
[eric@ericwoomer.com](mailto:eric@ericwoomer.com)  
cell: 512-845-9552  
[www.ericwoomer.com](http://www.ericwoomer.com)