

PROJECT NO. 53493

EMERGENCY RESPONSE
SERVICE

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BEFORE THE
PUBLIC UTILITY COMMISSION
OF TEXAS

**COMMENTS OF TEXAS COMPETITIVE POWER ADVOCATES ON PROPOSAL
FOR PUBLICATION**

TO THE PUBLIC UTILITY COMMISSION OF TEXAS:

Texas Competitive Power Advocates (“TCPA”)¹ respectfully submits the following comments concerning the Proposal for Publication (“PfP”) to 16 Tex. Admin. Code (TAC) § 25.507 regarding Emergency Response Service (“ERS”), as approved by the Commission on June 16, 2022.

COMMENTS

TCPA appreciates the opportunity to provide initial comments on the PfP. TCPA makes the following recommendations to improve the integration of ERS in a market design that is more focused on reliability to achieve participation through a market-based approach. These changes are designed to improve ERS, making it a more reliable and cost-effective program.

Recommendation 1: Instead of increasing the budget cap, set a MW target to be procured, similar to Ancillary Service (AS) procurements, that supports an established reliability standard.

TCPA believes there is merit in procuring a specific MW quantity of ERS (1) based on an established and well-reasoned objective standard for procurement; and (2) *in addition to* the fixed

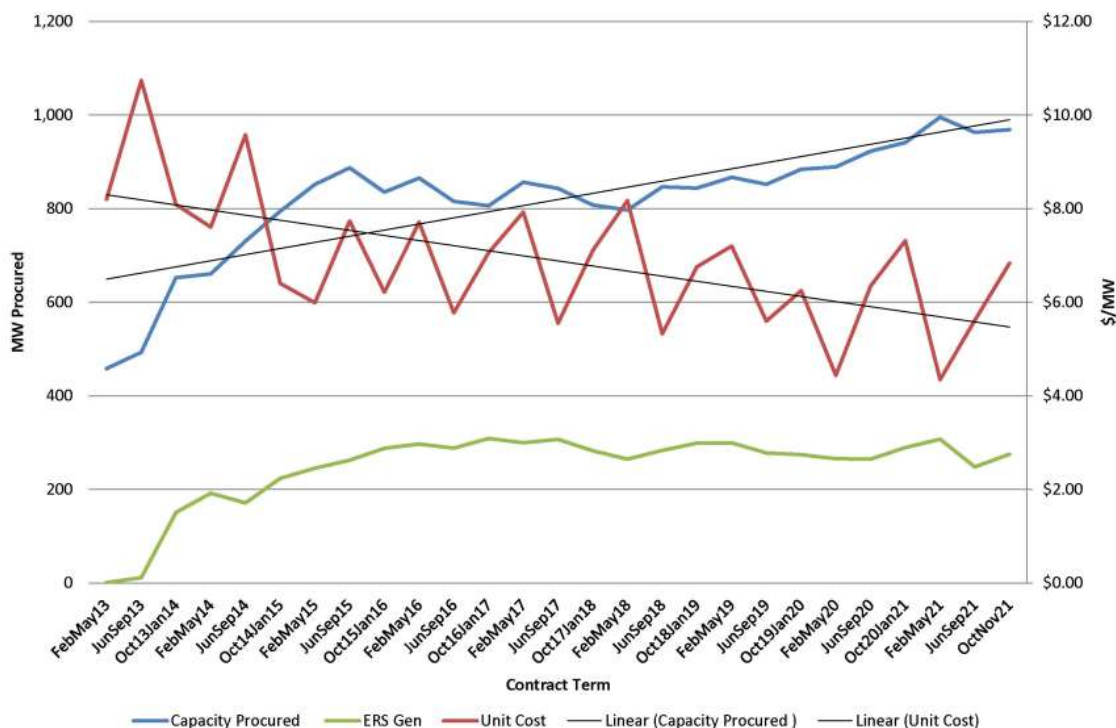
¹ TCPA is a trade association representing power generation companies and wholesale power marketers with investments in Texas and the Electric Reliability Council of Texas (ERCOT) wholesale electric market. TCPA members and their affiliates provide a wide range of important market functions and services in ERCOT, including development, operation, and management of power generation assets, power scheduling and marketing, energy management services and sales of competitive electric service to consumers. TCPA members participating in this filing provide nearly ninety percent (90%) of the non-wind electric generating capacity in ERCOT, representing billions of dollars of investment in the state, and employing thousands of Texans. TCPA member companies participating in these comments include: Calpine, Cogentrix, Constellation (formerly Exelon), EDF Trading North America, Luminant, NRG, Talen Energy, Tenaska, TexGen Power, and WattBridge.

dollar budget cap subject to a demand curve. The value of ERS is limited and it does not provide price signals integral to investment in the ERCOT market; therefore, ERS should retain its \$50M budget cap, not increase the cap to \$75 million, while ideally using a demand curve to inform decisions about when to forego ERS capacity if the unit cost is too high.

Both provisions are important because ERS is a system-wide capacity procurement for demand response and certain generation resources that impact the energy market, so it must be carefully scoped to minimize the negative impacts to the wholesale electricity market that ERCOT depends upon to retain existing resources and to attract new generation and load resources. A specified MW procurement will help ensure the forces of competition reduce the costs of providing ERS. The current practice of spending the maximum annual ERS budget of \$50 million without a corresponding procurement target only ensures that \$50 million is spent every year on ERS, regardless of the value provided by the program or impacts to the wholesale market.

Defining ERS to procure a rational MW amount would be consistent with how ERCOT procures other services, such as energy and ancillary services, would improve the economic efficiency of the procurement, and provide incentive for ERS providers to bid based on their costs. Retaining an overall budget cap (either in aggregate or through a demand curve) would serve as a cost control backstop, helping to limit the ERS cost uplift to loads. This is a reasonable expectation, as ERS unit costs have declined over time as ERS supply has increased.

Emergency Response Service Trends



PUBLIC

ERS Annual Report

7

ERS is an out-of-market capacity payment to large loads and certain generation that does not provide price signals integral to investment in the ERCOT market, and there is nothing to demonstrate that expanding the budget to \$75 million would yield positive net benefits. Rather than substantially increasing the cost of ERS, the Commission should instead establish a principled MW procurement target, based on a reliability standard, and cleared against a downward-sloping demand curve that retains and reflects the current \$50M annual budget cap.

Furthermore, as an out-of-market reliability program, it is critical that Texans actually realize reliability benefits when needed. Accordingly, an ERS resource that has received payment for a previous contract period should be prohibited from participating in the future if it fails to

deploy its contracted capacity when called upon. Therefore, the rule should specify that ERCOT must reject an offer from a resource that has previously failed to deploy.

(b) ERS procurement. ERCOT must procure ERS, a special emergency response service to be deployed by ERCOT to help prevent or alleviate an actual or anticipated Energy Emergency Alert (EEA) event.

(1) [no change]

(2) ERCOT may spend a maximum of ~~\$75~~ \$50 million in a 12-month period on ERS, unless otherwise determined by the commission. During that 12-month period, ERCOT must determine the megawatt (MW) quantity necessary to cost-effectively support the reliability standard established by the Commission and may procure additional MWs exceed the \$75 million maximum by up to an additional \$25 million for ERS contract renewals under paragraph (d)(9) of this section during a period where ERS has been exhausted if ERCOT determines ERS renewals are necessary to meet the reliability standard for the remainder of the ERS standard contract term. ERCOT may determine cost limits for each ERS standard contract term in order to ensure that the ERS cost cap is not exceeded. To minimize the cost of ERS, ERCOT may reject any offer that ERCOT determines to be unreasonable or outside of the parameters of an acceptable offer. ERCOT may also reject any offer placed on behalf of any ERS resource if ERCOT determines that it lacks a sufficient basis to verify whether the ERS resource complied with ERCOT-established performance standards in an ERS deployment event during the preceding ERS standard contract term. ERCOT must reject an offer from any ERS resource that has failed to deploy its contracted capacity when called upon during a previous contract period.

Recommendation 2: ERS impacts on wholesale energy price formation should be fully accounted for.

The Commission should direct ERCOT to implement NPRR 1006, passed by the ERCOT Board in June 2020, which partially addresses the use of ERS and load management programs in energy price formation through the Reliability Deployment Price Adder (RDPA). ERS is an out-of-market capacity reduction, and must be accounted for in energy prices to prevent undermining the competitive market.

(d) Participation in ERS. In addition to requirements established by ERCOT, the following requirements apply for the provision of ERS:

(...)

(12) ERCOT must ensure that pricing impacts of ERS testing and deployments are accounted for in price formation.

Recommendation 3: The rule should specify that deployment of ERS is for system-wide issues and prohibit self-deployment of ERS resources.

ERS is intended to be a system-wide capacity product and should not be used “as necessary” on a locational basis. Use of a local ERS: (1) has significant operational challenges and has therefore been rejected by the Commission in a prior ERS rulemaking;² and (2) undermines locational marginal prices.³ The Commission should preclude dispatch of ERS for non-emergency localized transmission issues as this stifles appropriate price formation consistent with the energy-only nodal market. Additionally, ERS deployments are out of market capacity procurements and must be accounted for to ensure minimal disruption to the wholesale market. Therefore, the following changes to the proposed rule are recommended:

(d) Participation in ERS. In addition to requirements established by ERCOT, the following requirements apply for the provision of ERS:

(...)

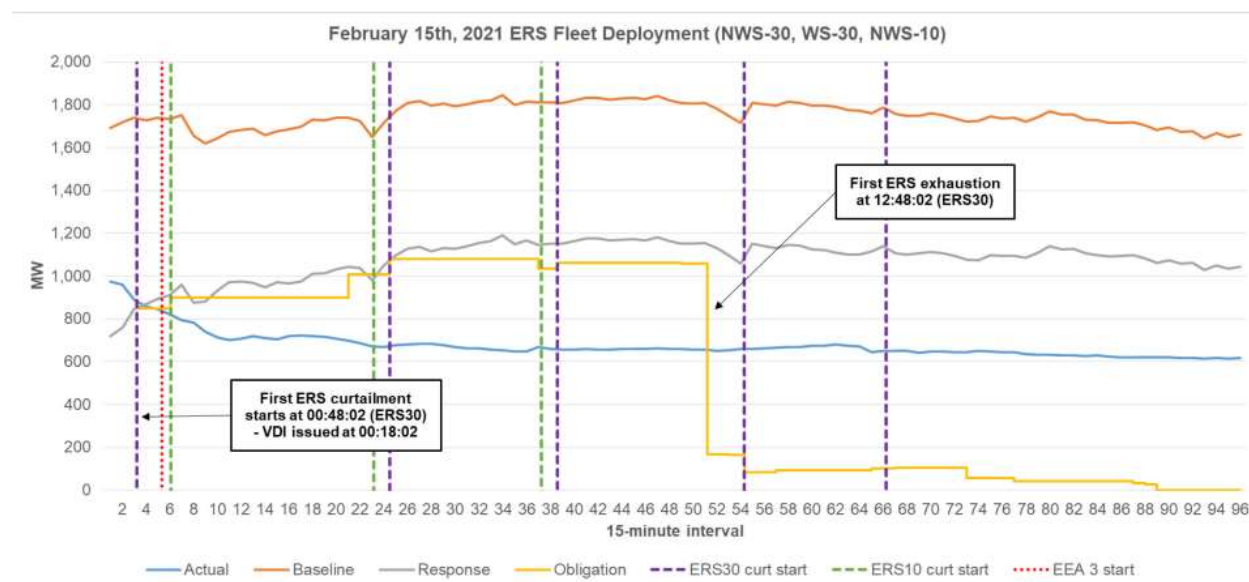
(7) ERCOT may deploy an ERS resource as necessary, except that ERCOT may not deploy ERS resources to address local transmission constraints, subject to the annual expenditure cap. Deployment of an ERS resource shall be limited to a maximum of eight cumulative hours in an ERS contract period. However, if an instruction causes the cumulative total ERS deployment time to exceed eight hours within a contract period, each ERS resource shall remain deployed until permitted by ERCOT procedures or by ERCOT instructions to return from deployment.

² See e.g. *Rulemaking Regarding Emergency Response Service*, Project No. 45927, Order Adopting Amendments to § 25.507 at 8 (Mar. 30, 2017) (“The commission understands the concern expressed by the IMM that the creation of a separate local deployment product for ERS is a complex undertaking, and agrees with ERCOT that the existing ERS program is not well-suited to local deployment to address transmission emergencies”).

³ See *id* at 9 (“Several parties pointed to the potential for localized price suppression when ERS is deployed to address local congestion issues, and argued that this effect would not be addressed through existing mechanisms, such as the Reliability Deployment Price Adder. The commission agrees that the effects of out-of-market reliability actions on local price formation is a concern, and the effects on nodal prices of the deployment of ERS to forestall local transmission emergencies would not be addressed through existing pricing mechanisms”).

Similarly, allowing self-deployment of ERS resources undermines the effectiveness and value of ERS – if an ERS resource would already self-deploy prior to ERCOT’s deployment and the ERS clearing price does not otherwise provide investment signals for the ERCOT market, then the ERS payment did not provide any incremental reliability value. Especially during or in efforts to avoid an EEA event, it is critical that ERCOT actually receive the reliability value contracted for when called upon. For example, in ERCOT’s 2021 Annual ERS Report, ERCOT shows that on February 15, 2021 the vast majority of the ERS curtailment had already occurred at the time the ERS Verbal Dispatch Instruction was given:⁴

ERS Fleet Performance – Loads and Generators



Note: the ERS fleet performance depicted above is a representation of the aggregate megawatts for all obligated ERS Resources and does not reflect how they were individually assessed for performance.

⁴ ERCOT 2021 ERS Report at 8.

Because the proposed rule adds several provisions related to deployment expectations and obligations under the ERS contract, TCPA recommends adding a specific provision to ensure ERCOT consumers receive the reliability value they pay to achieve through this out-of-market tool:

(d) Participation in ERS. In addition to requirements established by ERCOT, the following requirements apply for the provision of ERS:

(...)

(6) When dispatched by ERCOT, an ERS resource must deploy consistent with its obligations and must remain deployed until recalled by ERCOT. ERS resources must achieve their obligations subsequent to ERCOT's deployment of ERS.

Recommendation 4: The rule should require a cost effectiveness comparison between ERS and utility load management programs to ensure consumers are not paying twice for a reliability service that is duplicative.

As an emergency reliability product, ERS serves the same purpose as the existing utility load management programs. A key difference between the two is the method of cost recovery for each. Utility load management program costs are evaluated for prudence and then approved by the Commission in energy efficiency cost recovery factor ("EECRF") proceedings. The Commission should have an opportunity to analyze the effectiveness in improving or preserving reliability during emergency events between ERS and the load management programs to evaluate the need for further reforms. Accordingly, the Commission should receive reports on these load management programs similar to those contemplated in subsection (g). Therefore, the following addition to the draft language in subsection (g) is recommended:

(g) Reporting. Prior to the start of an ERS standard contract term, ERCOT must report publicly the number of megawatts (MW) procured per ERS time period, the number and type of ERS resources providing the service, and the projected total cost of the service for that ERS standard contract term. ERCOT must review the effectiveness and benefits of ERS and report its findings to the commission annually by April 15 of each calendar year. The report must contain, at a minimum, the number of MW procured in each period, the total dollar amount spent, the number and duration of deployments and the circumstances

that led to each deployment. The report must also include the number of MW sited in each electric utility territory and corresponding number of MWs and total dollar amounts spent on load management programs each calendar year for each electric utility. Electric utilities shall provide any information necessary to ERCOT to assist in this analysis. The Commission must periodically review the joint cost effectiveness of ERS and load management programs, including negative impacts on the wholesale electricity market.

TCPA Supports Retaining Provisions Regarding Non-Compliance

TCPA applauds the Commission for retaining the requirements for suspension, reduction of payment, and criteria for reinstatement for those ERS participants who fail to meet their deployment obligations. Since ERS is a reliability tool designed to prevent the need for firm load shed, it is important that ERS resources show up when called upon by ERCOT. With the capacity payment to these resources for being available when needed, it is crucial that the Commission claw back payments from those ERS participants who fail to perform and penalize egregious failures by prohibiting future participation or placing conditions on such future participation. Generators who fail to perform can face substantial financial and administrative penalties and do not receive advanced payments for their capacity availability. ERS resources that are specifically contracted for reliability and do receive advanced payment for their capacity availability should face commensurate consequences when they fail to perform.

Conclusion

TCPA appreciates the Commission's consideration of these comments and looks forward to working with other interested parties in this rulemaking.

Dated: July 5, 2022

Respectfully submitted,

A handwritten signature in black ink that reads "Michele Richmond". The script is cursive and fluid, with the first name and last name clearly distinguishable.

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EXECUTIVE SUMMARY OF TCPA COMMENTS

- **Instead of increasing the budget cap, set a MW target to be procured, similar to Ancillary Service (AS) procurements, that supports an established reliability standard.**
 - Modify proposed §25.507(b)(2) to:
 - Retain the current \$50 million budget
 - Require ERCOT to determine an ERS procurement target that cost-effectively supports an objective reliability standard established by the Commission
 - Condition ERS contract renewals on an ERCOT determination that doing so is necessary to meet the Commission's reliability standard for the remainder of the ERS standard contract term
 - Require ERCOT to reject offers from ERS resources that have failed to deploy their contracted capacity when called upon in a prior ERS contract
- **The rule should specify that deployment of ERS is for system-wide issues and prohibit self-deployment of ERS resources; ERS impacts on wholesale energy price formation should be fully accounted for.**
 - Modify proposed §25.507(d) to:
 - Specify in §25.507(d)(6) that ERS resources must achieve their obligations relative their status at the time ERCOT deploys ERS
 - Prohibit deployment for local transmission constraints in §25.507(d)(7)
 - Add a provision in new §25.507(d)(12) requiring that pricing impacts of ERS testing and deployments are accounted for in price formation
- **The rule should require a cost effectiveness comparison between ERS and utility load management programs to ensure consumers are not paying twice for a reliability service that is duplicative.**
 - Modify proposed §25.507(g) to require ERCOT's report to compare ERS payments and results with TDU load management programs, and require the Commission to periodically review the cost-effectiveness of the programs, including any negative impacts to the wholesale electricity market