



LEGISLATIVE & REGULATORY UPDATE

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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. **TCPA Files PUCT Comments on 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. ERCOT verified generator compliance with Phase I requirements via onsite inspections.

Under the proposed Phase II rule, by December 1st of each year, generators would be required to complete winter weather emergency preparations to ensure the sustained operation of all cold-weather critical components by 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 1st of each year, generators make summer weather emergency preparations for each unit, by 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 developed in coordination with the state climatologist



that continuously updates every five years, though the proposal also included an alternative “[minimum/maximum] ambient temperature at which the resource has experienced sustained operations” (whichever is lower).

In June, TCPA filed comments with the PUCT regarding the Phase II proposal. TCPA noted that the alternative “minimum ambient temperature” would render the ERCOT weather study unnecessary, and should therefore be struck from the final rule (retaining only the ERCOT weather study-driven requirement). TCPA also proposed specific changes to proposed definitions of “major” and “repeated” weather-related forced interruptions of service in order to ensure that they are not discriminatory towards certain larger resources and include reasonable controls to ensure that any interruptions that trigger such definitions are truly “weather-related” and meaningful.

The Commission could help generators recover weatherization costs by requesting funds from the Legislature, as contemplated by recently proposed federal legislation. The U.S. Department of Energy (“DOE”) has issued a draft allocation of funds for preventing outages and enhancing the resilience of the electric grid as part of its implementation of the Infrastructure and Jobs Act, which proposes to allocate \$30.3 million to Texas ([LINK](#)). Electric generators are included in the entities eligible to receive the funds and “weatherization technologies and equipment” are in the list of resilience investments included. The funds will require a fifteen percent (15%) match from the state; accordingly, TCPA requests that the Commission include a request for state matching funds in its Legislative Appropriations Request (LAR), as well as a special appropriation for the state to access the funds during the current fiscal year.

TCPA also urges the Commission to limit required weatherization measures to those that are feasible given the design limitations of certain plants.. Ultimately, not all facilities are the same, which is especially relevant with respect to the proposed Phase II requirements that address resource hardening to accommodate increasingly hot temperatures. While heat tracing can be added to address increasingly cold temperatures in winter months, there is a limit to how much heat stress a generator can handle, regardless of hardening measures. The weatherization requirements that the Commission adopts should not require generation owners to effectively rebuild generators so that they can withstand all possible heat stress scenarios beyond existing plant capabilities.

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

II. TCPA Files PUCT Comments on Proposed Emergency Response Service Rules Proposal for Publication



In June, the PUCT issued a Proposal for Publication (PFP) to address changes to the Emergency Response Service (ERS). ERS is a “capacity” payment made to large energy customers in ERCOT to help mitigate a system-wide emergency on the grid. ERCOT pays participating entities to reduce energy usage or utilize backup generation when grid emergencies occur. The PUCT is contemplating the following: (1) a 50% to 100% increase in the ERS budget, (2) ERCOT deployment of ERS *in advance* of a grid emergency, and (3) expansion of the ERS contract term based on the number of response hours. This week, TCPA filed comments and recommendations on the PFP.

When deployed, ERS can negatively impact the wholesale electric market, because it is an out-of-market action that does not provide the needed price signals to incentivize investment in generation. The current practice of spending the maximum annual ERS budget of \$50 million without a corresponding megawatt (MW) procurement target only ensures that \$50 million is spent every year, regardless of the value provided by the program or the impact on the wholesale market. Furthermore, providers of ERS often “pre-deploy” in response to price signals and therefore do not actually provide incremental reliability value when ERCOT calls upon them. TCPA recommended that instead of merely increasing the ERS budget, the PUCT should set a MW target to be procured, similar to other reliability services, and that the ERS impacts on wholesale energy prices should be fully considered and accounted for, and that ERCOT should actually get the reliability benefits customers have paid for through ERS by precluding pre-deployments.

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

III. TCPA Testifies at House State Affairs Hearings

On June 22nd, the House State Affairs Committee received an update on the continued progress of the proposed changes to the ERCOT market design and discussed gas pipeline transparency concerns. On June 23rd, the Committee discussed the implementation of SB 2, governing the PUCT, ERCOT and OPUC, the efforts of power generation companies to weatherize facilities, and the status of projects to reduce transmission congestion.

On both days, TCPA Executive Director Michele Richmond provided requested testimony on behalf of TCPA regarding the committee agenda items, and responded to questions about intrastate natural gas pipeline system transparency in Texas. Michele’s June 22nd pipeline transparency testimony can be read [HERE](#), and her comments on weatherization and market design is available [HERE](#).



IV. 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.

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:

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.

- 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.

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