



## LEGISLATIVE & REGULATORY UPDATE

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**Texas Competitive Power Advocates (TCPA)** is a trade association representing fourteen power generation companies and wholesale power marketers with investments in Texas and the ERCOT wholesale electric market. TCPA members comprise approximately half of the total ERCOT generation fleet, including more than 82% of the natural gas generating capacity in ERCOT. Member companies include publicly traded entities, privately held companies, and private equity funded entities. Some companies have retail affiliates; however, the majority do not.

TCPA member companies include: Calpine, Cogentrix, Constellation (formerly Exelon), EDF Trading North America, Hull Street Energy, Luminant (Vistra), LS Power, NRG, Rockland Capital, 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 searchable by company, fuel type, and county.

### **TCPA Welcomes New Member Companies Hull Street Energy and LS Power**

TCPA is proud to announce the addition of two new members to TCPA – Hull Street Energy and LS Power. Both members recently acquired natural gas generation assets in the ERCOT market and bring a wealth of knowledge and experience on electric market issues.

#### **Hull Street Energy**

Hull Street Energy, a Maryland-based investor in energy assets, recently purchased the Bastrop Energy Center and the Paris Energy Center power plants. Located in the cities of Bastrop and Paris, Texas, the two natural gas-fired power plants generate a total of 855 MW of critical power to the state grid.

More information about Hull Steet and their Texas assets can be found [HERE](#).



## LS Power

Founded in 1990, LS Power is a development, investment and operating company focused on the power and energy infrastructure sector. LS Power recently acquired three natural gas generation projects in the ERCOT North region totaling 2,145 MW from the Brazos Electric Power Cooperative. The three generation projects are:

- Jack County – Two baseload combined cycle blocks totaling 1,297 MW located in Jack County, TX
- Johnson County – A 280 MW combined cycle plant located in Johnson County, TX
- RW Miller – Four peaking units totaling 568 MW located in Palo Pinto County, TX

More information about LS Power and their Texas assets can be found [HERE](#).

### Alleged Gas Pipeline Manipulation

In a series of recent articles, the *Houston Chronicle* has highlighted allegations that some gas pipeline operators in Texas triggered the blackouts during Winter Storm Uri by purposefully restricting the supply of natural gas ahead of the forecasted weather event. A series of lawsuits allege that these companies, “withheld natural gas to raise prices and created an artificial fuel shortage.”

CirclesX, a pipeline data firm, has alleged, “Defendants’ intentional and manipulative withholding of supply caused prices to increase more than 500-fold.”

Texas has over 36,000 miles of intrastate pipelines or pipelines that do not cross state lines. These pipelines are not subject to federal oversight. While the Railroad Commission of Texas (RRC) requires metering of intrastate pipelines, the data is aggregated monthly making transparency into gas flows difficult.

Further, unlike other states, Texas allows pipeline operators to own the gas in their pipelines. Well owners often have no choice in which pipeline takes their gas and likewise, generators usually only have one pipeline that serves them.

The CirclesX suit alleges that pipeline companies routinely move and withhold gas to inflate prices because the operators are allowed under Texas law to buy the gas at a confidential price from the wells and sell it at a confidential price to customers.



The suit further alleges that pipeline companies systematically reduced gas flows in the days ahead of Winter Storm Uri leading to skyrocketing costs in Texas. Gas in Texas ranged between \$200 to \$1,200 per million British Thermal Units, while prices were between \$5 and \$12 at the federally regulated Henry Hub in Louisiana.

Following the storm, the RRC determined they did not have the authority to investigate potential market manipulation. Subsequently, Attorney General Ken Paxton announced an investigation into potential wrongdoing, but has not given a [status update since March 2021](#). Attorneys General in Oklahoma and Kansas have also alleged market manipulation.

The *Houston Chronicle's* series of articles can be found below:

[Part One](#)

[Part Two](#)

[Part Three](#)

[Part Four](#)

### **NAESB Gas Electric Harmonization (GEH) Forum Report**

The electricity industry has become more reliant on natural gas over the last two decades with natural gas' fuel share accounting for nearly 40 percent of total resources. Therefore, the harmonious operation of these systems is increasingly vital to the future of Texas and the nation.

Following "the natural gas sector's failure to perform for power generation during the most recent two winters 2021's Winter Storm Uri and 2022's Winter Storm Elliott)," the Federal Energy Regulatory Commission (FERC) and the North American Electric Reliability Corporation (NERC) requested the North American Energy Standards Board (NAESB) establish the GEH to improve the reliability and coordination of the natural gas and electric industries and address the interdependency of natural gas and electric infrastructure.

The GEH "comprise a broad cross section of natural gas and electric markets – state and federal regulators, pipelines, generators, producers, distribution, marketing, transmission, end users, independent system operators and technology experts." Together, over 700 stakeholders participated in a nearly yearlong process of developing 20 recommendations for harmonizing the natural gas and electric markets.

Among the recommendations were several aimed at increasing transparency in the natural gas market and improving weatherization of critical infrastructure.

The report notes a "profoundly disturbing" divergence of support for the GEH Forum Report's recommendations, specifically highlighting push back from the NAESB Wholesale Gas Quadrant on recommendations to modify standard force majeure contract language, leading the GEH



Forum chairs to recommend the creation of a natural gas reliability organization like NERC which is currently responsible for electric reliability.

The final report can be found [HERE](#).

### **Public Utility Commission (PUC) Rulemaking**

The heavy rulemaking load at the PUC on electric market issues of the past few years will continue given the breadth of legislation passed by the 88<sup>th</sup> Legislature. To assist in this effort, Commission Staff held an Implementation and Policy Priority Workshop on July 11, 2023, to discuss their plan for interim rulemaking and receive input from stakeholders.

Commission Staff began by discussing the “first wave” of rules they believe should be addressed. Many of these were recommended for prioritization due to statutory deadlines or issues related to other Commission objectives.

Commission Staff then solicited feedback from stakeholders on other issues that should be prioritized. Michele Richmond, Executive Director of TCPA, highlighted the need to adopt a reliability standard as soon as possible because many other policy decisions will be influenced by the standard. Richmond also noted the need for clarity on how various PUC directives will be handled based on changes made in HB 1500 so that stakeholders can properly engage in the process. Lastly, Richmond requested that when the Emergency Pricing Program (EPP) is implemented it allows resource owners to recoup verifiable operating costs, consistent with the statutory language.

Following the workshop, Commission Staff released a memo of rulemakings to be prioritized which incorporated feedback received at the workshop. That memo can be found [HERE](#). Additionally, a list of the rulemakings related to legislation from the 88<sup>th</sup> Session can be found [HERE](#) and a proposed rulemaking calendar can be found [HERE](#).

### **Emergency Pricing Program (EPP)**

As noted above, the PUC is currently working towards implementing an emergency pricing program for the wholesale electric market as required by SB 3 (87R). To help comply with this requirement, Commission Staff issued several questions in July to solicit stakeholder comments. These comments were due August 15, 2023, and TCPA was among the stakeholders who submitted comments.

Following review of the comments filed, TCPA finds 3 areas that should be the primary focus:



1. There should be no subjectivity in the triggering and ending of EPP use. The trigger should be automatic based on a Commission-determined formula and should be discontinued automatically once conditions have ended. Those should be hard-coded into ERCOT's systems to remove the need for a person or entity to manually intervene.
2. South Texas Energy Cooperative (STEC) raised important points regarding fuel recovery and the need to ensure there is not a regulatory takings consequence.
3. Support for a uniform price under the EPP for both energy and ancillary services to ensure there is no disincentive for resources to provide either type of service during the program.

TCPA's comments and an executive summary can be found in their entirety at this [LINK](#).

### **Dispatchable Reliability Reserve Service (DRRS)**

During the 88<sup>th</sup> Legislative Session, language was included in HB 1500, the PUC Sunset bill, requiring ERCOT to develop an ancillary services program to procure DRRS. The legislation also required that DRRS be implemented by December 1, 2024.

ERCOT is currently considering two potential options to implement DRRS – repurpose the current Non-Spinning Reserve ancillary service or create a new ancillary service. ERCOT believes the first option could be ready by November 2024, but the second option would likely not be ready until 2025. Given the December 1, 2024, statutory deadline for implementation, ERCOT is likely to pursue the first option.

Questions remain over how much DRRS will be procured and how it will be dispatched. [A report](#) commissioned by DRRS supporters<sup>1</sup> during the legislative session, however, suggested that ERCOT needs to procure at least 9,491 MW of DRRS to account for increased net load forecast uncertainty.

ERCOT filed a [memo](#) with the Commission on August 21, 2023, outlining the framework and timeline for market enhancement initiatives, including DRRS, the Performance Credit Mechanism (PCM), the Operating Reserve Demand Curve (ORDC), and Real-Time Co-Optimization.

### **Reliability Unit Commitments (RUC)/Verifiable Costs (VC) Workshop**

ERCOT Staff held a workshop with stakeholders on August 14, 2023, to discuss issues related to RUC and VC.

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<sup>1</sup> Texas Association of Manufacturers, the Texas Oil & Gas Association, the Texas Chemical Council, and the Texas Industrial Energy Consumers



ERCOT Staff noted that reliance on RUC has been reduced compared to prior years but indicated a willingness to consider ways to further reduce RUC via forecasting improvements, RUC engine optimization, and better alignment of market incentives for generators to “self-commit” with ERCOT’s conservative operating posture.

The implementation of DRRS is required by statute to reduce RUC in some way. However, it was noted that DRRS is not designed to be a cure-all for RUC.

Following concerns from stakeholders that older units are frequently selected for RUC, ERCOT Staff seemed open to considering generation unit age when selecting resources for RUC.

ERCOT Staff noted that verifiable cost criteria is dynamic and may warrant additional changes. Much of the discussion focused on fuel costs and the potential need for a new method to calculate the fuel adder. ERCOT Staff seemed open to considering additional changes to better reflect real world costs incurred by generators and committed to holding additional workshops to address this issue in the future.

Please feel free to reach out to TCPA with any questions or comments you may have.

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