

**PROJECT NO. 55812**

<b>TEXAS ENERGY FUND</b>	<b>§</b>	<b>PUBLIC UTILITY COMMISSION</b>
	<b>§</b>	
<b>COMPLETION BONUS GRANT</b>	<b>§</b>	<b>OF TEXAS</b>
	<b>§</b>	
<b>PROGRAM</b>		

**TCPA COMMENTS IN RESPONSE TO PROPOSAL FOR PUBLICATION OF NEW 16**

**TAC §25.511**

Texas Competitive Power Advocates (“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 electricity 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 electricity service to consumers. TCPA members provide almost fifty percent of the total generating capacity and eighty-two percent of the gas generation capacity in ERCOT. TCPA members have invested billions of dollars in the state and employ thousands of Texans.

TCPA continues to appreciate the enormous effort of the Public Utility Commission of Texas (“PUC” or “Commission”) to implement the Texas Energy Fund (“TEF”) expeditiously and appreciates the opportunity to provide feedback on the Proposal for Publication (“PfP”). TCPA hopes the following comments will provide insight into some of the issues generators believe need further discussion prior to the final adoption of 16 TAC §25.511.

**I. RESPONSE TO STAFF QUESTIONS RELATED TO ELIGIBILITY  
REQUIREMENTS**

- 1. “Should the rule require registration as a power generation company with the commission as a condition for eligibility to receive a completion bonus grant award? Why or why not?”**

The rule should require registration as a power generation company with the Commission as a condition for eligibility to receive a distribution under a completion bonus grant award, as distributions can be made only after the first year of commercial operations. However, while registration should be required to receive a grant distribution, it should not be required at the time of application for an eligibility determination, as the proposed rule appears to contemplate that applications could be made before a facility has interconnected to the grid (much less entered commercial operations).

Rather, registration should be received by the Commercial Operations Date (“COD”) as defined in the PfP, consistent with 16 TAC § 25.109, which only requires a person to register as a power generation company “before the first day it generates electricity.” Additionally, registration should be continuously maintained during the duration the recipient is eligible to receive distributions in order to retain grant eligibility.

- 2. “Should the rule require registration as a Generation Resource with ERCOT as a condition for eligibility to receive a completion bonus grant award? Why or why not?”**

The rule should require registration as a Generation Resource with ERCOT as a condition for eligibility to receive a distribution under a completion bonus grant award. As with registration with the Commission, registration with ERCOT should not be required at the time of the eligibility application, but rather by the timeframe required by ERCOT in applicable Protocols and Other Binding Documents and no later than COD. Additionally, registration should be continuously maintained during the duration the recipient is eligible to receive distribution in order to retain grant eligibility.

- 3. “How should the commission evaluate PURA § 34.0106(b)’s prohibition against providing a completion bonus grant award to an electric generating facility that will be used primarily to serve an industrial load or private use network?
  - a. Should the commission prescribe a percentage of total energy output that an electric generating facility must achieve to be eligible for a completion bonus grant award? If so, what percentage should the commission prescribe?**
  - b. Should the commission employ another method to ensure that an electric generating facility primarily serves the ERCOT grid? If so, what method is appropriate and why?”****

TCPA believes that the Legislature’s prohibition against completion bonus grant awards for a facility that is used primarily to serve an industrial load or private use network (“PUN”) demonstrates that the Commission should not use the TEF grant program to subsidize private, behind the meter generation.

As “primarily” means “for the most part” (synonymous with “chiefly”) or “in the first place” (synonymous with “originally”),<sup>1</sup> if the Commission is to permit PUNs to qualify for the TEF, it should prescribe a percentage of no less than (but could easily be much more than) 51% of total net energy output in the ERCOT wholesale market to be eligible for a grant.<sup>2</sup>

Further, the amount of the grant should be prorated based on the percentage of total net energy output in the ERCOT wholesale market. In other words, only the net export of energy to the wholesale market should be considered in a facility’s capacity calculation for the purposes of a grant or distribution under a grant.

Additionally, in calculating availability for all resources (including PUNs), TCPA suggests the Commission utilize the North American Electric Reliability Corporation (“NERC”) Generator Availability Data System (“GADS”) definitions for availability, which TCPA recommends be defined based on Equivalent Unplanned Outage Factor (“EUOF”) rather than Equivalent Availability Factor (“EAF”) as detailed below. Further, for facilities that may serve both ERCOT load and PUN/industrial load simultaneously, TCPA suggests the Commission specify a proscriptive performance calculation methodology that does not allow the facility to allocate less equivalent outage hours to the portion of the facility serving ERCOT load for the purposes of capturing incremental grant monies.<sup>3</sup>

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<sup>1</sup> <https://www.merriam-webster.com/dictionary/primarily>.

<sup>2</sup> 51% would represent the most liberal interpretation of “for the most part” – but a more holistic reading of the term “primarily” could also support a higher percentage that represents industrial use of the facility to be the exception to the rule (e.g., 90+%).

<sup>3</sup> [www.nerc.com/pa/RAPA/gads/DataReportingInstructions/Appendix\\_F\\_Equations\\_2023\\_DRI.pdf](http://www.nerc.com/pa/RAPA/gads/DataReportingInstructions/Appendix_F_Equations_2023_DRI.pdf)

## II. ADDITIONAL COMMENTS REGARDING THE PROPOSAL FOR PUBLICATION

As an initial matter, TCPA recommends that the Commission utilize the NERC GADS terms and definitions for performance metrics. If the rule creates new (and different) definitions than the NERC GADS reporting, that will create confusion and may lead to unintentional reporting error.

Separate from semantics, the current language of the proposed rule could be interpreted to say that *any* equipment deratings would result in a zero EAF for the interval, which could very well prevent the receipt of a grant at all for the performance year. In other words, 1 MW of unavailability due to ambient temperature adjustments below nameplate capacity would result in zero EAF for the interval, and it seems plausible (and even likely) that a generating facility could experience small derates of that sort in more than half of the 100 hours with the lowest operating reserves, which would result in an EAF below the proposed median level required to qualify for a grant distribution for the year.<sup>4</sup> TCPA recommends at the very least that the Commission revise the language to eliminate this inequitable result, by modifying the EAF calculation to conceptually match the NERC GADS reporting framework. Specifically, if EAF is retained as the performance metric, then the rule at a minimum should clarify that the EAF will be based on the average (or “equivalent” in NERC vernacular) unit capacity that is actually available during the interval. These EAF values for each interval would then be averaged across the 100-hour period.

However, TCPA recommends that a better approach would be for the Commission to eliminate ambient derates and planned outages from the performance metric by adopting one

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<sup>4</sup> At §25.511(g) the current draft states “EAF is the fraction of a given operating period in which a generating unit is available to produce electricity *without any outages or equipment deratings...*” [emphasis added]

minus Equivalent Unplanned Outage Factor (“EUOF”) as a substitute for EAF. EUOF retains factors within the recipients’ reasonable control – i.e., forced outages, equivalent forced outages, maintenance outages, and equivalent maintenance outages, but has the benefit of excluding exogenous factors that are difficult or impossible for the generator to mitigate – i.e., ambient derates, planned outages, and equivalent planned outages. Excluding planned outages from the performance calculation is also appropriate given that at least some of the 100 hours with lowest operating reserves during a year likely will occur during a shoulder season when most generators prudently take planned outages, with ERCOT’s advanced approval.

### III. CONCLUSION

TCPA appreciates the opportunity to submit comments on the completion bonus grant program PfP and looks forward to collaborating with the Commission on a final rule. TCPA remains committed to helping craft a program that will maintain a competitive market and improve reliability.

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Respectfully submitted,



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**TCPA COMMENTS IN RESPONSE TO THE PROPOSAL FOR PUBLICATION**

**Executive Summary**

- Registration as a power generation company with the PUC and as a generation resource with ERCOT should be required as a condition for eligibility to receive a grant, but not until the commercial operations date. Once received, registrations should be maintained for the period of grant eligibility.
- To be eligible for a grant, the Commission should require an electric generating facility to provide no less than 51% of its total energy output in the ERCOT wholesale market.
- For a facility serving a PUN or industrial load, any grant amount should be prorated to the percentage of its total net output in ERCOT.
- Costs associated with the portion that serves the PUN or industrial load should not be eligible for state funding.
- The final rule should be revised to avoid the possibility that *any* equipment deratings during the 100-hour period would prevent the receipt of a grant.
- The Commission should eliminate ambient derates and planned outages from the performance metric by adopting one minus Equivalent Unplanned Outage Factor (“EUOF”) as a substitute for EAF.