PRESENTED AT

19th Annual

RENEWABLE ENERGY LAW INSTITUTE

January 30-31, 2024

Austin, TX

Texas Regulatory Update: ERCOT & PUCT

Carlos Carrasco

Carlos Carrasco
Haynes and Boone, LLP
San Antonio, TX
carlos.carrasco@haynesboone.com
210.978.4716

I. Introduction

This update examines and summarizes recent developments regarding matters before the Public Utility Commission of Texas (PUCT or Commission) and the Electric Reliability Council of Texas, Inc. (ERCOT) including ERCOT market design initiatives and PUCT proceedings, projects, and rulemakings of note.

II. PUCT/ERCOT Developments and Market Design Initiatives

A. Phase II Firm Fuel Supply Service

In 2023, the Commission directed ERCOT to proceed with the implementation of Phase II Firm Fuel Supply Service (FFSS), a reliability product that compensates generation resources for fuel security and availability during extreme cold weather conditions and fuel shortage events. The Commission directed ERCOT to move forward with Phase II FFSS implementation after a fuel survey conducted by ERCOT identified approximately 60 generation resources that have the capability to run on natural gas stored off-site and also meet the following requirements: (i) the off-site natural gas will be owned by the resource or an affiliate; (ii) the resource, or an affiliate, owns the storage facility or is willing to enter into a firm gas storage agreement with sufficient contracted capacity for the resource to deliver an amount of MW equal to or greater than the resource's Low Sustained Limit (LSL) for at least 48 hours; (iii) the resource or affiliate has, or would be willing to, enter into one or more firm transportation agreements with one or more qualifying pipelines or pipeline segments that do not that provide firm service to human needs customers and local distribution companies; and (iv) a complete path exists for the firm transportation of natural gas from the storage facility to the resource.

The Commission also established the Phase II program framework, including the program's procurement quantities, budget caps, offer caps, and minimum duration requirements for participating resources. The Commission maintained the $54 million budget cap, 48-hour deployment duration, and the use of a single clearing price from the Phase I FFSS program. The Commission also reduced the FFSS offer cap to $9,000/MW from $18,000/MW and declined to set a MW procurement limit. In addition, the Commission instructed Staff to evaluate innovative technologies for inclusion in future phases and allow resources that use fuel other than natural gas (e.g., oil or renewable diesel that can be stored on site) to participate if such resources meet all other participation requirements. The Commission clarified that this would not include coal or nuclear resources.

In late September 2023, ERCOT provided the Commission with the results of ERCOT's procurement of Phase II FFSS. ERCOT received (and awarded) offers from five different QSEs, offering 32 resources to provide a total of 3,319.9 MW of FFSS capacity from November 15, 2023 to March 15, 2024. However, ERCOT reported that none of these resources were offered under the FFSS Phase II qualifications; instead, each of these resources were offered under the FFSS Phase I qualifications.

In addition, ERCOT reported that all 32 resources were awarded at a clearing price of $9,000/MW and all but one utilizes fuel oil as its reserve fuel. ERCOT estimated that its total cost of FFSS procurement was $29,879,100. ERCOT reported that its procurement of FFSS awarded approximately 13% more FFSS capacity at an estimated cost of 43% less than its 2022 procurement of FFSS.

B. Performance Credit Mechanism

In 2023, the Commission voted to move forward with the development of the Performance Credit Mechanism (PCM), subject to Legislative direction and/or approval, as its preferred long-term solution to address resource adequacy in ERCOT. The PCM establishes a requirement for Load Serving Entities (LSEs) to purchase performance credits that are earned by generators based on a generator's ability to perform during the hours of highest reliability risk, at a centrally determined clearing price. House Bill 1500, passed by the 88th Legislature, enacted certain guardrail measures that the Commission must adhere to should the Commission continue with the development and implementation of the PCM.

The Commission has adopted a set of principles for the PCM and identified decision points that are being evaluated by Commission Staff, ERCOT, and the Independent Market Monitor (IMM). These decision points include the definition of the highest reliability risk hours, the number of hours, performance requirements and penalties, resource eligibility, the design of the demand curve, and the success metric(s) to measure the ultimate performance of the PCM.

The Commission has communicated to Commission Staff that the PCM needs to be designed to ensure that performance credits are only awarded to generators that are able to perform in real-time during the tightest intervals of low supply and high demand on the grid, and only for the quantities offered into the forward market, in accordance with HB 1500. In addition, the Commission clarified that the PCM design needs to be self-correcting to ensure that performance credits revenues are not paid to generators when the reliability standard is met.

ERCOT will present a strawman PCM design proposal to the Commission in early 2024 and work with Commission Staff to host workshops on the design proposal. ERCOT plans to present a final proposal for the Commission's consideration in mid-2024. ERCOT will subsequently conduct a PCM cost analysis, likely before the Commission issues a Proposal for Publication to adopt a PCM rule. The Commission has asked both ERCOT and the IMM to conduct separate and independent studies on the cost of the PCM to help inform the Commission before it publishes a rule.

C. PCM Bridge Solution: Operating Reserve Demand Curve Price Floors

In August 2023, the Commission approved enhancements to the Operating Reserve Demand Curve (ORDC), as previously approved by the ERCOT Board of Directors in April 2023, as the preferred bridge option to the PCM. The modifications to the ORDC include a two-tiered price floor for the on-line ORDC price adders. A price floor of $10/MWh will be effective when operating reserve levels are equal to or less than 7,000 MW and greater than 6,500 MW. The second price floor of $20/MWh will be effective when reserves are equal to or less than 6,500 MW. The Commission approved the modifications to the ORDC to incentivize generation to self-commit, reduce ERCOT's reliance on the use of Reliability Unit Commitment (RUC), and provide stable revenue streams to retain existing dispatchable generation while the market awaits a long-term resource adequacy solution. In approving the ORDC price floors, the Commission also

Title search: Texas Regulatory Update: ERCOT & PUCT

Also available as part of the eCourse
Answer Bar: Navigating a Renewable Energy Project

First appeared as part of the conference materials for the
19th Annual Renewable Energy Law Institute session
"Texas Regulatory Update: ERCOT & PUCT"