

Texas Legislative and Regulatory Update

18th Annual Renewable Energy Law Institute
January 31, 2023

**Storage made
strategic**

1



Texas Legislative Update

- The Texas Legislature is back in session, and the Texas electric market is expected to receive significant attention again. A discussion of key legislative issues that are expected to be addressed this session, including market redesign, proposals related to renewable energy, energy storage, and much more.
- Moderator:
 - Caitlin Smith, Jupiter Power, Austin, TX
- Panelists:
 - Michael J. Jewell, Jewell & Associates, PLLC, Austin, TX
 - Michael J. Nasi, Jackson Walker LLP, Austin, TX

2



Background: 87th Legislative Session

- During 87th Legislative Session in 2021, in response to Winter Storm Uri, Governor Abbott added several ERCOT related items as emergency items for legislative consideration:
 - February 16th – ERCOT Reform
 - February 18th – Power System Winterization and Related Funding
 - March 9th – ERCOT billing error correction
- The Legislature enacted multiple bills, following intense debates:
 - [SB 3](#) – Relating to preparing for, preventing, and responding to weather emergencies, power outages, and other disasters.
 - Generation and gas supply weatherization
 - Electric supply chain mapping
 - Critical Load Designations
 - Emergency Pricing Program
 - Key provisions on ERCOT Market Design from SB3 (next page)
 - SB 3 Section 14 (Ancillary Services):
 - PUCT shall review the type, amount, and cost of ancillary services to determine whether those services will continue to meet the needs of the electricity market in the ERCOT region; and evaluate whether additional services are needed for reliability in the ERCOT region while providing adequate incentives for dispatchable generation; and
 - PUCT shall require ERCOT to modify the design, procurement, and cost allocation of ancillary services for the region in a manner consistent with cost-causation principles and on a non-discriminatory basis



Background: 87th Legislative Session

SB 3 Section 18 (Dispatchable Generation):

- Definition: Generation facility is considered to be non-dispatchable if the facility's output is controlled primarily by forces outside of human control.
- PUCT must ensure ERCOT:
 - establishes requirements to meet reliability needs of the power region;
 - determines the quantity and characteristics of ancillary or reliability services necessary to ensure appropriate reliability during extreme weather and during times of low non-dispatchable power production;
 - procures ancillary or reliability services on a competitive basis to ensure appropriate reliability during extreme weather and during times of low non-dispatchable power production;
 - develops appropriate qualification and performance requirements, including penalties, for providing ancillary and reliability services referenced above; and
 - sizes the services procured above to prevent prolonged rotating outages due to net load variability in high demand and low supply scenarios.
- Resources that provide services described above must be dispatchable and able to meet continuous operating requirements for the season in which the service is procured;
 - Winter qualifications for the services include on-site fuel storage, dual fuel capability, or fuel supply arrangements to ensure winter performance for several days;
 - Summer qualifications for the services include facilities or procedures to ensure operation under drought conditions.



Background: 87th Legislative Session

- Other 87th Legislative Session Bills
 - ERCOT Short Pay, Wholesale Market Repricing & Securitization
 - [SB 1580](#) – Securitization for electric cooperatives.
 - [HB 4492](#) – Securitization for ERCOT region (Subchapters M and N).
 - [HB 1510](#) – Securitization non-ERCOT utilities.
 - [HB 1520](#) – Securitization for natural gas utilities.
 - PUCT, ERCOT, and OPUC Governance
 - [SB 2](#) – ERCOT governance.
 - [SB 2154](#) – PUCT Governance.
 - [HB 2586](#) – Annual audit of the independent organization certified for the ERCOT power region.
 - Retail Market
 - [HB 16](#) – Prohibits sale of wholesale indexed products by retail electric providers.



Background: 87th Legislative Session

- 87th Legislative Session Bills
 - Natural Gas & Electric Coordination
 - [HB 17](#) – Probits limits on energy sources (namely, natural gas) for end use customers.
 - [HB 3648](#) – Critical Natural Gas facilities and entities.
 - Utility Ownership and use of Generation
 - [SB 415](#) – Use of electric energy storage facilities on the distribution grid for reliability.
 - [HB 2483](#) – Utility facilities for restoration of service after widespread power outage.
 - Transmission
 - [SB 1281](#) – Changes to CCNs for certain utilities lines and increasing tests for evaluating potential new transmission projects.

Find the full text of this and thousands of other resources from leading experts in dozens of legal practice areas in the [UT Law CLE eLibrary \(utcle.org/elibrary\)](https://utcle.org/elibrary)

Title search: Texas Legislative and Regulatory Update

First appeared as part of the conference materials for the
18th Annual Renewable Energy Law Institute session
"Texas Legislative and Regulatory Update"