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The Public Utility Commission of Texas (PUC or Commission) made new law in a diverse set of matters that will impact renewable energy during the last year, and also teed up additional major decisions for the coming months. The following is a summary of recent decisions and pending matters, as well as an explanation of why these matters are relevant to those with an interest in renewable energy.

I have listed the matters not in chronological order, but in my opinion of the order of importance to renewable energy.

## I. Price Formation Project

In late May 2017, NRG Energy, Inc. and Calpine Corp., two major thermal generators in the Electric Reliability Council of Texas, Inc. (ERCOT) region, released a study of whether current ERCOT market prices were sufficiently incenting investment, maintenance, and retirement decision making among ERCOT generators.[1] The paper concluded that wholesale prices within ERCOT are at historic lows due to factors beyond the PUC's control, including "broader economic trends, such as low natural gas prices, or national policies, such as subsidies for investments in renewable resources."[2] But it also suggested six major changes to the ERCOT market design in response, three of which[3] could impact renewable energy.

- Marginal Loss Calculations: Hogan and Pope suggest that line losses for transmission be calculated on specific lengths between generation and load, instead of the averaged approach that ERCOT currently uses;[4]
- Transmission Planning Changes: Hogan and Pope posit that the current ERCOT transmission planning horizon effectively excludes what would otherwise be market-price-responsive generation solutions;[5] and

[1] *Priorities for the Evolution of an Energy-Only Electricity Market Design in ERCOT*, William W. Hogan and Susan L. Pope, May 9, 2017 (Hogan-Pope Paper), available in *Project to Assess Price-Formation Rules in ERCOT's Energy-Only Market*, Project No. 47199 (online at: http://interchange.puc.state.tx.us/WebApp/Interchange/Documents/47199_2_941113.PDF).
[2] *Id.* at i.
[3] The Hogan-Pope Paper also suggests modifying the recently adopted Operating Reserve Demand Curve (ORDC) mechanism; changing the pricing for out-of-market actions to manage local transmission constraints; and introducing local reserve requirements to revise prices when there are constraints on reserve availability in a sub-region. *Id.* at ii.
[4] *Id.* at 41-46.
[5] *Id.* at 69-73.

- Transmission Cost Recovery Changes: Finally, Hogan and Pope believe that the four-coincident-peak (4CP) method of setting annual transmission charges operates as an outside-the-market suppression on peak and near-peak energy prices, dampening recoveries to generators operating at the peak (or near it).[6]

These suggested changes are significant, and other parties are contesting whether the Hogan and Pope paper accurately diagnoses the issues and proposes ideal solutions.[7] But if they are adopted, marginal losses will typically disfavor renewable energy that is more distant from load, and altering transmission planning to favor (thermal) generation and disfavor transmission would be a clear negative for renewables. Likewise, changing the funding mechanism for transmission toward a "beneficiaries pay" model[8] would significantly alter the existing process for large transmission projects. It is also noteworthy that certain parties to the project have gone beyond Hogan and Pope and explicitly proposed direct assignment of additional costs to renewable generators in this project,[9] though the legal authority for such direct assignment is disputed.

## II. Transmission Service Rates Rulemaking

On April 6, 2017, PUC Staff filed a draft Proposal for Publication for the Commissioners to consider at the April 13, 2017 open meeting.[10] The changes proposed in the draft are extensive, and would generally tend to reduce transmission service provider (TSP) rate recoveries. The most significant change for TSPs is the proposed limitation in interim transmission cost-of-service (iTCOS) proceedings to one per year, down from the currently allowed two,[11] but several other changes to specific topics, including individual ratemaking elements, could change iTCOS proceedings in ways that limit TSP recoveries:[12]

- Denial due to earnings: If the iTCOS application would increase the TSP's rates, and the TSP is earning more than its authorized rate of return on transmission assets, the iTCOS increase would be denied;
- Recalculation of the TSP's cost of debt: The iTCOS process would apply the TSP's most recently reported cost of debt, not the cost of debt that was approved in the TSP's most recent rate case;

[6] *Id.* at 75-78.
[7] *See, e.g.*, *Project to Assess Price Formation Rules in ERCOT's Energy-Only Market*, Project No. 47199, Reply Comments of the Steering Committee of Cities Served by Oncor *passim* (Dec. 22, 2017).
[8] *See* Hogan-Pope Paper at 78.
[9] *See Project to Assess Price Formation Rules in ERCOT's Energy-Only Market*, Project No. 47199, Lower Colorado River Authority's Comments at 1, 3 (Dec. 1, 2017).
[10] *Rulemaking Proceeding to Repeal and Replace 16 Texas Administrative Code §25.192, Relating to Transmission-Service Rates*, Project No. 46393, Memorandum re Open Meeting, April 13, 2017—Agenda Item No. 5, from Mark Filarowicz, Rate Regulation Division, and Ralph Daigneault, Legal Division, to Chairman Nelson, Commissioner Anderson and Commissioner Marquez (Apr. 6, 2017).
[11] *Id.* at 2, 17 (proposing new 16 Tex. Admin. Code (TAC) § 25.192(i)(1), which would provide that "[e]ach TSP in the ERCOT region may apply to update its network transmission-service rate and its network export rate on an interim basis not more than once per calendar year to reflect changes in its invested capital.").
[12] *Id.* at 2, 17-20.

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