

Texas Legislative and Regulatory Update

18th Annual Renewable Energy Law Institute
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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

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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.

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