

PROJECT NO. 40268

PUC RULEMAKING TO AMEND PUC	§	
SUBST. R. 25.505, RELATING TO	§	PUBLIC UTILITY COMMISSION
RESOURCE ADEQUACY IN THE	§	
ELECTRIC RELIABILITY COUNCIL	§	OF TEXAS
OF TEXAS POWER REGION	§	

**PROPOSAL FOR PUBLICATION OF AMENDMENTS TO §25.505
AS APPROVED AT THE APRIL 12, 2012 OPEN MEETING**

The Public Utility Commission of Texas (commission) proposes amendments to §25.505, relating to Resource Adequacy in the Electric Reliability Council of Texas Power Region. The proposed amendments will amend §25.505(g), relating to the scarcity pricing mechanism, by increasing the high and low system offer caps and the peaker net margin, and to remove outdated portions of the rule. Project Number 40268 is assigned to this proceeding. The amendments are competition rules subject to judicial review as specified in Public Utility Regulatory Act (PURA) §39.001(e).

Although Texas currently has an adequate and reliable supply of electricity available to meet its projected demands, the Electric Reliability Council of Texas (ERCOT) has projected that capacity reserves will decrease over the next several years. The proposed amendments allow for a structured increase in bid caps applicable in the ERCOT market and other changes to the scarcity pricing mechanism, ensuring that the ERCOT market sends the appropriate price signals to encourage development of generation resources.

Shawnee Claiborn-Pinto, Director of the Wholesale Markets Section, Competitive Markets Division, has determined that for each year of the first five-year period the amendments are in

effect, there will be no fiscal implications for state or local government as a result of enforcing or administering the amendments.

Ms. Claiborn-Pinto has determined that for each year of the first five years the amendments are in effect, the public benefit expected as a result of the amendments is greater assurance of resource adequacy in the ERCOT wholesale electricity market. In an energy-only market, like ERCOT, the economic incentive to build new capacity comes from scarcity-induced price signals rather than direct payments that are charged to all load-serving entities (LSEs), as is done in some other regions. The amendments will ensure that stronger scarcity-induced prices are sent to the ERCOT market to further incent the development of new generation resources and help ensure that there is adequate generation in the ERCOT market. The phased-in approach will give market participants time to adequately prepare for the changes. The construction of additional generation will also have the benefit of increasing the industrial base of the Texas economy and will contribute to increased employment and development in areas where new generation facilities will be located. In addition, stronger scarcity-induced price signals will provide a greater incentive for loads to voluntarily reduce their demand during times of scarcity.

Ms. Claiborn-Pinto has determined that for each year of the first five years the amendments are in effect, there are no probable economic costs to persons required to comply with the amendments, except that ERCOT may incur small costs to administer the scarcity pricing mechanism. Ms. Claiborn-Pinto has also determined that the amendments will not have an adverse economic effect on small businesses or micro-businesses as a result of enforcing the amendments.

Ms. Claiborn-Pinto has also determined that for each year of the first five years the amendments are in effect, there will be no effect on a local economy, and therefore no local employment impact statement is required under Texas Government Code §2001.022.

The commission staff will conduct a public hearing on this rulemaking, if requested pursuant to the Administrative Procedure Act, Texas Government Code §2001.029, beginning at 9:30 a.m. on Friday, June 15, 2012, at the commission's offices located in the William B. Travis Building, 1701 North Congress Avenue, Austin, Texas 78701. The request for a public hearing must be received within 30 days after publication.

Initial comments on the proposed amendments may be submitted to the Filing Clerk, Public Utility Commission of Texas, 1701 North Congress Avenue, P.O. Box 13326, Austin, Texas 78711-3326, no later than Friday, June 1, 2012. Reply comments may be submitted no later than Friday, June 15, 2012. Sixteen copies of comments on the proposed amendments are required to be filed pursuant to §22.71(c) of this title. Comments should be organized in a manner consistent with the organization of the amended rule. All comments should refer to Project Number 40268.

The commission also requests comments on the following questions:

1. Should the sequence of changing the high system-wide offer cap (HCAP) increase at a different rate and over a different period? For example, are any of the following cases preferable to that proposed in the rule? Whatever is ultimately determined to be the

appropriate HCAP, should the increase be in one or two steps, rather than three or four? Should the specific year for each increase or the specific date of June 1 for the increase each year be changed? If so, what should be the effective date of each change?

	Raise the HCAP to:	Effective before the summer of:
Proposed Rule	\$5,000	2013
	\$7,000	2014
	\$9,000	2015
Case 1	\$4,000	2013
	\$5,000	2014
	\$6,000	2015
Case 2	\$4,500	2013
	\$6,000	2014
	\$7,500	2015

2. Is the use of the peaker net margin (PNM) method described in the rule the appropriate mechanism to measure resource adequacy in an energy-only market? If not, what should replace it? Should the PNM trigger amount be the cost of new entry (CONE) or a multiple of the CONE as determined by ERCOT? Should the trigger causing the system-wide offer cap to be reset to the low system offer cap be based on a calendar year or a rolling 12-month period, or should the use of the mechanism be based on hitting the trigger for a single year, or for multiple years? Should variability in the weather be taken into consideration in determining whether the PNM trigger is met?

3. How long would it take market participants to adjust their financial exposure to the proposed amendments? Will these changes affect liquidity in the ERCOT market? If so, how? Will financial counterparties in hedging arrangements continue to be willing to participate, and if so, at what cost, if the HCAP is increased significantly? Would there be any difference if changes were made over a shorter or longer period of time?

4. Should the HCAP ultimately go to \$12,000 or \$15,000, and if so over what time period? If the HCAP is raised to these levels, should the energy from the various ancillary services deployed by ERCOT be priced at the same amount, should there be a slope for the prices for these services, or should ERCOT procure different amounts of these services?

The amendments are proposed under the Public Utility Regulatory Act, Texas Utilities Code Annotated §14.002 (West 2007 and Supp. 2011) (PURA), which provides the commission with the authority to make and enforce rules reasonably required in the exercise of its powers and jurisdiction, and specifically, §35.004, which requires that the commission ensure that ancillary services necessary to facilitate the transmission of electric energy are available at reasonable prices with terms and conditions that are not unreasonably preferential, prejudicial, discriminatory, predatory, or anticompetitive, §39.001, which establishes the Legislative policy to protect the public interest during the transition to and in the establishment of a fully competitive electric power industry, §39.101, which establishes that customers are entitled to safe, reliable, and reasonably priced electricity, and gives the commission the authority to adopt and enforce rules to carry out these provisions; §39.151, which grants the commission oversight and review authority over independent organizations such as ERCOT.

Cross Reference to Statutes: PURA §§14.002, 35.004, 39.101, 39.151, and 39.151.

§25.505. Resource Adequacy in the Electric Reliability Council of Texas Power Region.

(a) - (f) (No change.)

(g) Scarcity pricing mechanism (SPM). ERCOT shall administer the SPM. ~~The SPM shall take effect on January 1, 2007, unless the commission by order changes this date.~~ The SPM shall operate as follows:

- (1) The SPM shall operate on an annual resource adequacy cycle, starting on January 1 and ending on December 31 of each year.
- (2) For each day of the annual resource adequacy cycle, the peaking operating cost (POC) shall be 10 times the daily Houston Ship Channel gas price index for the previous business day. The POC is calculated in dollars per megawatt-hour (MWh).
- (3) For the purpose of this section, the real-time energy price (RTEP) shall be measured as the price at an ERCOT-calculated ERCOT-wide hub.
- (4) In the annual resource adequacy cycle, the peaker net margin (PNM) shall be calculated as: $\sum((RTEP - POC) * (\text{number of minutes in a settlement interval} / 60 \text{ minutes per hour}))$ for each settlement interval when $RTEP - POC > 0$.
- (5) Each day ERCOT shall post at a publicly accessible location on its website the updated value of the PNM, in dollars per megawatt (MW).
- (6) The system-wide offer caps shall be as follows:
 - (A) The low system offer cap (LCAP) shall be set on a daily basis at the higher of:
 - (i) ~~\$2,000~~\$500 per MWh and ~~\$2,000~~\$500 per MW per hour; or

(ii) 50 times the daily Houston Ship Channel gas price index of the previous business day, expressed in dollars per MWh and dollars per MW per hour.

(B) ~~The Beginning March 1, 2007, the~~ high system-wide offer cap (HCAP) shall be:

(i) ~~Beginning on June 1, 2013, \$5,000\$1,500~~ per MWh and ~~\$5,000\$1,500~~ per MW per hour.

(ii)~~(C)~~ Beginning ~~on June 1, 2014, March 1, 2008~~, the HCAP shall be ~~\$7,000\$2,250~~ per MWh and ~~\$7,000\$2,250~~ per MW per hour.

(iii)~~(D)~~ Beginning ~~on June 1, 2015, \$9,000~~ ~~two months after the opening of the nodal market, the HCAP shall be \$3,000~~ per MWh and ~~\$9,000\$3,000~~ per MW per hour.

~~(C)(E)~~ At the beginning of the annual resource adequacy cycle, the system-wide offer cap shall be set equal to the HCAP and, except for increases authorized in this section, maintained at this level as long as the PNM during an annual resource adequacy cycle is less than or equal to ~~\$262,500~~ ~~\$175,000~~ per MW. During an annual resource adequacy cycle, the system-wide offer cap shall be increased in accordance with the schedule authorized in this section unless the PNM has been exceeded by that date. If the PNM exceeds ~~\$262,500\$175,000~~ per MW during an annual resource adequacy schedule, the system-wide offer cap shall be reset at the LCAP for the remainder of that annual resource adequacy cycle.

~~(D)(F)~~ The Independent Market Monitor, as part of its responsibilities pursuant to Public Utility Regulatory Act §39.151(h), may conduct an annual review of the effectiveness of the SPM.

~~(G) — ERCOT, through its stakeholder process, may adopt protocols setting the HCAP at a level below that specified in subparagraphs (C) and (D) of this paragraph. — Protocols adopted pursuant to this subparagraph shall terminate no later than the 45th day after ERCOT begins to use nodal energy prices for resources pursuant to §25.501(f) of this title (relating to Wholesale Market Design for the Electric Reliability Council of Texas). Protocols adopted pursuant to this subparagraph shall not set the HCAP so low that a resource would be required to offer service to the market below its marginal cost, unless the protocols provide a mechanism allowing the resource to recover such costs.~~

(h) (No change.)

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

**ISSUED IN AUSTIN, TEXAS ON THE 16th DAY OF APRIL 2012 BY THE
PUBLIC UTILITY COMMISSION OF TEXAS
ADRIANA A. GONZALES**

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