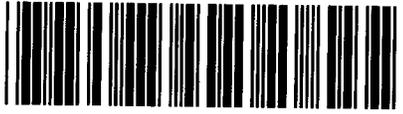




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PUC DOCKET NO. 40000

COMMISSION PROCEEDING TO § BEFORE THE
ENSURE RESOURCE ADEQUACY § PUBLIC UTILITY COMMISSION
IN TEXAS § OF TEXAS
§

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COMMENTS OF
ENVIRONMENTAL DEFENSE FUND, INCORPORATED

Environmental Defense Fund Comments Regarding ‘Composite’ Policy Options

Environmental Defense Fund (EDF) is concerned about the state of resource adequacy in Texas and believes that demand side resources (DSR) are necessary to solve the problem. We cannot build new fossil power plants in time to deal with the reserve margin gap in 2014. In addition, DSR provide benefits to consumers and the environment that traditional generation sources do not. Several markets have demonstrated the reliable operation of DSR and the contribution of those resources to system reliability, notwithstanding the challenges that Brattle’s cites regarding the deployment of DSR.

1. Demand Sided Resources Should be a Focus Regardless of Policy Option

EDF agrees with the original Brattle Group findings that regardless of what policy option is chosen by the PUC, demand response must play a key role. To date, efforts to grow demand response participation in Texas have not been very successful in growing demand response in Texas as rapidly as demand side resources have grown in other markets. Additionally, although the commission has requested occasional rough estimates of average increases in retail rates the ultimate customer impacts of these policy options is not well documented. In any event, we should work hard to limit those impacts to customers. For these reasons EDF feels that regardless of the policy option chosen, the PUC needs to act swiftly and decisively on the recommendations presented by Brattle regarding demand side resources (DSR). Such decisive action will help customers plan for the impacts of the Commission’s decision while increasing competition in ERCOT’s markets.

2. Avoid a Misguided Focus on Dispatchability

Several comments submitted to the Commission over the past few months have recommended an exclusive focus on “dispatchable resources,” but that position ignores the fundamental objective of this proceeding: reliability. The best example of the risks we incur by focusing only on dispatchability occurred during the rolling blackouts of early February, 2011. During that reliability event, more than 8,000 MW of dispatchable fossil-fueled energy resources unexpectedly tripped offline¹, while non-dispatchable generation performed as expected, providing much needed reliability across ERCOT.

¹ http://www.ercot.com/content/news/presentations/2011/Senate_EEA_Presentationfinaltg.pdf

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This dichotomy can be found in customer sided resources as well, where several reliable, yet non-dispatchable resources exist, namely customers responding to dynamic prices, energy conservation and on-site solar generation. The inclusion of these resources has key advantages, which have often been cited by stakeholders as critical in the development of policy options under this docket. By including non-dispatchable but reliable resources we can:

- Ensure those resources do not erode price formation
- Broaden the available suite of options for growing customer sided resources, which reduces overall cost of this policy option
- Improve the ability of smaller customers to participate in ways that improve system reliability even if they are not considered dispatchable

3. The Commission Should set a Goal for DSR to Ensure Reliability and Protect Customers

Whether the PUC ultimately settles on an energy only market with support for DR or a capacity market, the PUC should aggressively support DSR. In the former case, Brattle makes it clear that 3,500 MW of additional customer sided capacity is needed to solve the resource adequacy problem. In either case the PUC's decision is likely to affect customer rates, and by aggressively encouraging DSR the PUC can give customers the tools necessary to reduce their bills. If a capacity market or similar policy option is chosen, the assumption has been that growth of DSR will follow regardless of the details of the market design. This is a faulty assumption as the differences in DSR levels in the various regions with capacity markets clearly demonstrate.

As a result, EDF encourages the Commission to establish a goal for DSR to ensure that a reliable electric supply is maintained and that customers have the ability to reduce their own costs by participating in competitive DSR programs. EDF is also generally supportive of other recommendations made by Brattle Group regarding growth in different DR sectors, particularly the need for greater effort in engaging residential and small commercial markets. EDF recommends the Commission begin implementing these changes immediately through an expedited rulemaking because the lead time needed to develop DSR and need for increased DSR regardless of the policy option selected.

EDF also recommends broadening the scope of stakeholders beyond simply including ERCOT's TAC. There has been a push for expanded use of DSR through this stakeholder process for several years. Although well intentioned, these efforts have failed to produce any meaningful increase in DSR within ERCOT. It makes little sense to expect a different result from an identical process without a meaningful inclusion of stakeholders specifically focused on DSR and clear guidance from the Commission on expected outcomes.

4. EDF agrees that a Minimum Offer Price Rule (MOPR) is Not Necessary in a Forward Capacity Market

EDF agrees with the rationale provided by the Brattle Group that a MOPR would not be needed in a forward capacity market for a single region. EDF also agrees that a

strong statement of principles regarding out-of-market additions is necessary. However EDF cautions against the Commission's tendency to focus their concerns exclusively on renewable energy policies despite clear evidence that those policies are not meaningfully affecting the ERCOT market.

EDF encourages the Commission to incorporate the conclusions of the Brattle Group report that consistently low natural gas prices combined with the "hockey stick" nature of our supply stack are the fundamental causes of current resource adequacy concerns. We need reforms that address this problem. While the report discusses the out-of-market impact of the Production Tax Credit (PTC) for wind energy, Brattle notes that this impact is minor since it is only present outside of the Western Zone 0.4% of the time. The non-West Zone regions represent 90% of ERCOT's current non-wind generating capacity, therefore if future patterns follow historical precedent, 90% of the power plants in ERCOT will face negative pricing only 0.4% of the time, hardly a determining factor in the face of the other impacts discussed above.

Further, the exclusive focus on renewable energy belies existing out-of-market subsidies for thermal generators, such as the Price-Anderson Nuclear Industries Indemnity Act, Texas' high cost gas exemption and the large subsidies that result from externalizing the health costs associated with fossil fuel emissions.

5. Other Recommendations:

- **Recommendations for Supply-Side DR**

EDF believes the definition of supply-side DR should be expanded to include non-dispatchable resources, which Brattle notes have value. Otherwise, EDF agrees with the recommendations specific to "Supply-Side DR." Specifically EDF supports improved measurement and verification, and allowing the participation of third party curtailment providers.

- **Avoiding double payment for DSR**

4CP Load Management already occurs and should not qualify for any DSR incentives. In general customers participating in existing DR programs should either be excluded from new DSR programs or existing programs should be subsumed over the long term into a more comprehensive suite of DSR options.

Thank you for the opportunity to comment on this important matter.

Sincerely,



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