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PUC PROJECT NO. 40000

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PUC PROCEEDING RELATING TO
RESOURCE ADEQUACY &
SCARCITY PRICING ALTERNATIVES

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BEFORE THE
PUBLIC UTILITY COMMISSION
OF TEXAS

COMES NOW, Public Citizen in response to the Texas Public Utility Commission request for comments in Project number 40,000.

I. Introduction

Public Citizen is a national, nonprofit consumer advocacy organization founded in 1971 to represent consumer interests. Public Citizen has over 3,000 dues paying members in Texas and over 10,000 Texans who regularly respond to our action alerts. Public Citizen seeks to promote a good foundation to provide, support for diversity in our generation supply, encouraging a reliable and low emission efficient source of electricity while providing the residents of Texas a safe and healthy environment to live, grow and work in.

II. Comments

We wish to take this opportunity register these additional comments in Project 40000 Commission Proceeding to Insure Resource Adequacy.

While we support the “energy only market” we believe the recent actions the commission has taken acknowledges that there are more and more signs of a market failure. Since the market has failed to respond by building fast acting peaking new plants after the many steps the commission has taken to encourage new generation such huge increases in the market cap, and the many protocol changes that have taken place at ERCOT to increase reserves, to prevent price reversal and programs to encourage load participation. We wonder if the solutions such as the Hogan plan B+ will fix the problem facing the state’s energy market. We will propose the in the following a pages a potential solution.

The commissions recently requested during an open meeting for comments on the following topics:

1. Should there be a required reserve margin?
2. What should the reliability standard for outages be?
3. Should ERCOT's present load growth model used to calculate the Capacity, Demand and Reserves report be changed?
4. What is the most effective way to meet any standard that would be adopted?

We do believe that there should be a required reserve margin and that the current margin target of 13.75% is an appropriate place to start.

We believe that having the right types of reserves would be more important than the total reserve value in measured against our overall capacity. As ERCOT is a peaking system having the fast acting reserves that would meet this requirement are critical and should form the basis of the decision that the commission makes to ensure long term reliability.

Public Citizen believes, based on the opinion, the state climatologist, that the long term drought we are in will become the norm, temperature will continue to rise and the weather patterns that we experienced in the summer of 2011 are likely to become normal. We will have shorter, warmer winters. Our need for peak power will continue to rise. The temptation is to increase the reserve margin, but what makes sense is to select incentives to assure incentives or adequate revenues just for the just the types of plants we really need in reserve - and not to prop up old inefficient inflexible plants by increasing the reserve margin.

As presented in the comments filed earlier by the Regulatory Assistance Project, the high variability and rapid changes that we see as our grid continues to mature and become more affected by the climate, consumer control of their loads and increasing penetration of renewable energy make it necessary to have reserves that have can use technology provide or reduce energy during peak such as; a very rapid ramp rate, flexibility in coming on and off the system as needed, low emissions and low water consumption are all criteria that should be in the requirements to participate in the mandated reserves.

We believe that the industry standard of 1 outage in in 10 years is an appropriate event criteria to be standardized of the event.

As the CDR is now being considered to be used as a mechanism to establish mandatory market requirements additional rigor and performance standards will need to be put in place to avoid unintended market outcomes. The ERCOT Long Term Study Task Force has recently released data and modeling that shows that the CDR can be improved and using the tools and techniques developed will improve the outcome and provide more accurate results. Continual improvement and frequent analysis of the procedures used as well as verification of validity of predictions, adjustments to the methodology and periodic review by outside third parties as to these practices are necessary to keep the market, the commission and all other stakeholders with accurate data to base critical market decisions on. Sierra Club has analyzed the flaws with CDR and we support their analysis.

Our solution: We believe that the current ancillary services product market, having many conditions that participant's must meet could be easily modified to meet the requirements and to add the additional specifications required to meet the needs we face.

We would envision a longer term "reserve" product than currently exists in the ancillary market to acquire these additional needs and that a series of products that are made available for bid three years out to fill the needs determined by the CDR a five year commitment award for those that can provided the needed services.

We want to pick the technology that meets the problems that we are facing and thus we should choose our criteria carefully and adjust it regularly and periodically to meet tomorrow's emerging needs. Yes, we realize that this may pick winners and losers but with the market failure that we are seeing it is necessary. A sports analogy is appropriate. Those athletes that get professional rewards are the winners among competitors in meeting select criteria that change over a series of seasons as performance improves. They are often the athletes with the best "reaction" time. Those that win in any race or sporting event outperform others and are appropriately rewarded. So should the participants that are allowed to participate in a reserves market. Just the top 10 or 15 percent of those than have the best reaction times should be awarded reserve contracts. This would provide a place for appropriate

generation, demand side products, energy storage, and other new and emerging technologies that can provide these services as needed going forward.

We do not think that a general capacity market would be suitable to meet these needs; Public Citizen has hired industry experts Anna Sommer and David Schlissel to do extensive analysis¹. We do not think that a general capacity market would be suitable to meet these needs, and they have determined, that a forward general capacity construct would take too long, cost too much and do too little.

During their analysis they determined that the cost to PJM consumer customers was \$140 per year and provided little in the way of new generation. Less than 12% of the billions of dollars collected have gone to new resources, providing what amounts to corporate welfare for old outdated generation. This is not in the best interests of the ratepayers or the problem we are facing.

As shown in their analyses “Capacity revenues flow primarily to existing generators in part because few new generators have participated in RPM. In fact, if the success of RPM is measured by new generation commitments, then RPM’s chief success has been in incenting the participation of demand response (DR) measures.” We do wish to bring on more demand response but not at the cost of subsidizing old resources. “Demand response has clearly made up the majority of cleared megawatts. There was a jump in new generation clearing in the 2015/2016 Delivery Year, but two-thirds was from plants supported by state government initiatives. For example, New Jersey and Maryland, out of frustration with RPM’s inability to incent new generation, issued RFPs for capacity and required the winning respondents to bid their capacity into RPM starting with the 2015/2016 auction.”

This is noteworthy in that it shows that even with capacity payments new generation is not being built.

“In its Second Performance Assessment of PJM’s Reliability Pricing Model, the Brattle Group noted a large number of areas of disagreement between stakeholders. A few examples include:²

RPM Prices - “End-users and state commissioners in eastern PJM stated that RPM prices were too high and may not be commensurate with the value of reliability to customers.” However,

¹ <http://www.citizen.org/documents/A%20Texas%20Electric%20Capacity%20Market.pdf>

² Pfeifenberger, J., et al. *Second Performance Assessment of PJM’s Reliability Pricing Model*. August 26, 2011 by the Brattle Group. Available at: <http://www.pjm.com/~media/committees-groups/committees/mrc/20110818/20110826-brattle-report-second-performance-assessment-of-pjm-reliability-pricing-model.ashx>

“generation and transmission owners stated that eastern prices were not high enough to attract new investments, while western prices are too low and are creating retirement incentives.”³

Lack of Capacity Additions - “Concerns about a lack of new generation entry were expressed by eastern state commissions, electric distributors, end use customers, some generators and some transmission owners. Other generators and transmission owners stated that fears of a capacity shortage were overstated and that new investments can be financed when prices are high enough.”

Interestingly, the one area of agreement between stakeholders was “that RPM prices are volatile and too difficult to predict.” This alone suggests that RPM offers a weak incentive to construct new generation.”

“On the issue of regulatory stability and investor risk, the Brattle Group argues that there is “no long-term price guarantee for investors” and that there is “ongoing uncertainty in administrative parameters, such as [the] load forecast.” These concerns are substantiated by PJM stakeholders. Both buyers and suppliers of capacity agree that the former is a problem in PJM.⁴ And there is vociferous debate among PJM stakeholders on whether PJM overstates load requirements.”

During the analysis performed it was determined that the cost to PJM consumer customers was \$140 per year and provided little in the way of new generation. Providing what amounts to corporate welfare for old outdated generation is not in the best interests of the ratepayers or the problem we are facing.

“Capacity markets in other jurisdictions have had mixed results at best. Their success has been primarily in allowing demand response resources to participate in wholesale energy markets, but that participation has come at the cost of billions of dollars flowing to existing generators with no evidence that those payments result in new generation.”

“Because ERCOT is an intrastate market it falls outside of the jurisdiction of the Federal Energy Regulatory Commission (FERC) so the disputes and controversies that would inevitably develop would fall within the purview of the PUCT.” This could put long delays in reaching our goal of grid stability and resource adequacy.

³ RPM prices vary by location under the presumption that this will send signals to build generation in deficit or congested areas.

⁴ Page 53 of *Second Performance Assessment of PJM's Reliability Pricing Model*.

We can do better by using the ancillary service market by building on the investments smart meters and in the nodal energy only market with by developing a new ancillary services product that meets the we have need to provide for a safe, reliable, clean and efficient electrical supply are before us. We just need the regulators that are willing to make the same tough choices as every professional football coach does—and pick the best players that meet the need of the team and give them contracts to become the a the right tools in the right places to meet our energy future needs. As professional coaches find the teams needs may vary from season to season, and must make decisions on what would be the most appropriate to fill the needs in subsequent seasons. We need to have a system that will do the same.

We do however wish to register our complaint with the commission on the procedures used to ask for these comments. The standards in the Open Meetings Act that require notice published and filed in the project and posting with the Secretary of State were not followed. We believe that the commission should follow the proper procedural notices and that requesting the comments verbally in an open meeting are inappropriate a do not follow the guidelines of the Open Meetings Act and Texas Register requirements and does not supply the market, and the citizens of Texas with proper notice on a topic of this magnitude. I have spoken to several market participants at meetings at ERCOT and with the media that were not aware of this opportunity. Failures like this could lead to litigation because of insufficient notice to market participants.

Respectfully submitted September 23, 2013 on
behalf of Public Citizen



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