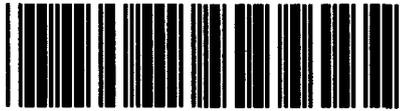


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PROJECT NO. 31852

RULEMAKING RELATING TO § PUBLIC UTILITY COMMISSION
RENEWABLE ENERGY § OF
AMENDMENTS § TEXAS

NOW COMES the Office of Rural Community Affairs (ORCA) filing comments in response to the questions on Project #31852 from the Public Utility Commission of Texas (“Commission”).

INTRODUCTION

As the state agency dedicated solely to rural Texas, ORCA strives to strengthen rural communities so they remain viable contributors to the prosperity of the state and to the rich cultural identify that is distinctly Texan.

ORCA monitors governmental actions affecting rural Texas, researches problems and recommends solutions, and distributes rural-focused state and federal resources, including the federal Community Development Block Grant non-entitlement program.

Given ORCA’s mission, we believe it appropriate for the office to respond to the Commission’s request for comments on implementation of Senate Bill 20 (79th Legislature, 1st Called Session), which relates to the state’s goal for renewable energy.

Texas has more potential than any other state to produce renewable energy, and most of that potential exists in rural Texas.

Several West Texas and Panhandle rural communities already have benefited greatly from large wind power projects. These projects have created quality new jobs, generated new school tax revenues and provided royalties for landowners with wind turbines on their property.

How the Commission chooses to implement the provisions of Senate Bill 20 will have a major impact on the ability of rural Texas to realize its great potential to benefit from the further development of renewable energy.

1. How should the commission implement the provisions of Senate Bill 20 related to the 500 MW non-wind target?

The Commission should keep in mind that the intent of the Legislature by including this 500 MW non-wind target in SB 20 was to ensure Texas develop a diverse renewable energy mix. Legislators recognized that the state’s current energy market does not currently recognize several substantial benefits of some non-wind renewable energy technologies.

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For example, the cost of electricity generated by solar panels remains relatively high. But solar panels also offer benefits that aren't generally reflected in their cost:

- Solar panels can be cost effective when power is needed in remote locations, such as a ranch or oil and gas operation, and the cost to build electric transmission lines to those remote locations is prohibitive.
- Installation of solar panels on homes and businesses in urban areas can help meet electricity demand at peak periods on hot summer afternoons and also reduce the need to build generation – and expensive new transmission – to meet demand in those urban areas.
- Solar panels, along with most other forms of renewable energy, produce no air emissions and can play a significant role in reducing air pollution – and easing the threat of federal economic sanctions – in urban areas unable to meet clean air standards.

Other forms of renewable energy also offer unique attributes with values not reflected in the current marketplace. For example, electricity produced from crop and animal waste and other forms of biomass offer new revenue streams for the state's struggling farmers and ranchers. And, utilizing manure from animal feedlots to generate electricity can also help clean up water pollution problems resulting from manure runoff.

Some other respondents to the Commission's request for comments likely will contend that SB 20's language that "the commission shall establish a target of having at least 500 megawatts of capacity from a renewable energy technology other than a source using wind energy" be interpreted to mean this "target" is not a required goal to be met.

However, there is no evidence the Legislature intended the 500 MW non-wind target to be anything less than a required goal to be met by 2015, just as the state is required to meet the new 5,880 MW renewable energy goal by 2015.

And, since the 5,880 MW goal is a requirement, and the 500 MW of non-wind is included in that 5,880 MW, then its logical to conclude the non-wind "target" is also a requirement. There's no evidence the Legislature set this target with the intention of not hitting it.

In addition, the language in PURA Section 39.904 makes it clear that the number of megawatts specified in the renewable energy legislation is to be considered a mandatory goal for the state to achieve. The Texas Utilities Code Annotated Section 39.904 (c) (1) says the Commission must "establish the minimum annual renewable energy requirement for each retail electric provider, municipally owned utility, and electric cooperative operating in this state in a manner reasonably calculated by the commission to produce, on a statewide basis, compliance with the requirement proscribed by Subsection (a)." The Commission should consider the numerical values defined in SB 20 as requirements in order to be consistent with the language of Section 39.904.

ORCA in general supports the proposal by Texas Renewable Energy Industries Association (TREIA) that the 500 MW non-wind target be divided into two segments: 300 MW for renewable generation on the utility-side of the meter and 200 MW for the customer-side of the meter. In addition, TREIA proposes that 80 MW of the 200 MW on the customer side would be dedicated to solar energy.

This segmentation of the 500 MW target is intended to help ensure greater energy diversification and to ensure that promising technologies such as solar get a fair chance to compete in the marketplace.

ORCA also supports the compliance schedule for the 500 MW non-wind target proposed by TREIA and TREIA's recommendation that an Alternative Compliance Payment be set for three separate renewable energy categories: utility wind, non-wind utility side of meter, and non-wind customer side of the meter. And, these payments should be set at high enough levels to ensure the vast majority of all retail electric providers participate either generate or purchase their share of renewable energy to meet the state's goals.

In addition, ORCA joins TREIA in calling for Alternative Compliance Payments collected from utilities that don't meet their renewable energy obligations be designated for programs providing incentives for renewable energy installations. Such programs include the Solar for Schools Program administered by the State Energy Conservation Office.

2. How should the Commission implement the provisions of Senate Bill 20 relating to determining competitive renewable energy zones?

The Commission should initially designate a few competitive renewable energy zones based on available data indicating where most development is occurring or projected to occur and where the best wind resources are located. (Wind power, in reality, is the only technology right now that merits consideration for competitive renewable energy zones.)

The designation of subsequent renewable energy zones in the future likely will necessitate the Commission to utilize a more comprehensive, objective method of selecting candidates for these zones.

But in order to expedite the development of renewable energy in Texas, the Commission should initially consider the following candidates for competitive renewable energy zones.

The Sweetwater/Abilene area currently is the most active area in the state for wind power development. This is due in part to the presence of good wind resources in that area, but also because there still exists adequate transmission capacity to move wind power from that area to urban markets. However, that transmission capacity soon will be maxed out, if it isn't already.

The Texas Panhandle contains some of the best wind resources in the entire U.S. But because the Panhandle is in the Southwest Power Pool, and not ERCOT, there is a limited Texas market for wind power produced in the Panhandle right now.

One solution would be to build a transmission line that extends from ERCOT into the Panhandle and brings power directly back into ERCOT. The Commission should strive to get a line built that allows development in areas both west and east of Amarillo.

Two other areas that merit consideration are the McCamey area and the south Texas Gulf Coast. While there is some existing transmission capacity along the south Texas Gulf Coast, there is strong interest in wind power development there and more transmission may be needed there in the near future.

Much new transmission has been built to McCamey to move existing wind power generation out of that area. However, there remain several good undeveloped sites in the McCamey area that may warrant building even more transmission into that area.

In evaluating candidates for competitive renewable energy zones, we urge the Commission to consider factors other than those utilized in a traditional cost benefit analysis. Designating competitive renewable energy zones based solely on initial costs might not prove the best investment for Texas in the long run.

Other factors to be considered include economic impact on local communities, generation of new school tax revenues that benefit not only local communities but the entire state, impacts on natural gas demand and prices, and alleviation of air quality problems in Texas urban areas.

3. With respect to new subsection (l) of PURA Section 39.904, should the commission's substantive rules require renewable power facilities to have reactive power control capabilities or any other technology designed to reduce the facilities' effects on system reliability? If so, how specific should such requirements be in the rule, and to what extent should the commission delegate to the ERCOT stakeholder process the task of determining specific requirements for the ERCOT power region?

ORCA offers no comment on this question.

4. With respect to new subsection (m) of PURA Section 39.904, how should the commission's substantive rules be amended to ensure that all renewable capacity installed in this state and all renewable energy credits awarded, produced, or sold from renewable capacity in this state are counted toward the goal in PURA Section 39.904(a)?

The Commission already has appropriate rules for counting all renewable energy capacity and all renewable energy credits that are eligible to be counted toward the state's

renewable energy goal. As such, there is no need to amend the Commission's substantive rules to accommodate new subsection (M) of PURA Section 39.904.

Other respondents likely will provide exhaustive comments regarding the intent of subsection (m) and whether all renewable energy credits bought on the "green" or voluntary market should count toward the state's renewable energy goal.

However, the Legislature clearly did not intend for the Commission to interpret subsection (m) in a manner that would undermine the overall intent of Senate Bill 20, which is to increase the required amount of renewable energy utilities in the state must sell to consumers.

That intent of Senate Bill 20 would be undermined if the Commission concludes all purchases of renewable energy on the voluntary market should count toward the 5,880 MW by 2015 goal electric retailers are required to meet. Such a conclusion would mean that every amount of renewable energy bought voluntarily by cities, businesses and individuals would lessen the amount retail utilities are required to sell.

In effect, those who bought renewable energy voluntarily would be subsidizing the obligations of retail electric utilities. This likely would prove a disincentive for potential buyers of "green" power, with an overall result of less renewable energy being bought in Texas, rather than more.

The Commission should interpret subsection (m) as being a mechanism for collecting data to gauge the success of its policies furthering renewable energy development in the state.

5. With respect to new subsection (n) of PURA Section 39.904, should the commission cap the price of renewable energy credits? Does the current administrative penalty of \$50 per REC sufficiently fulfill the role of a price cap?

ORCA supports TREIA's position that the current administrative penalty has functioned well as a price cap. However, that penalty may not be large enough to spur the development of a diverse portfolio of renewable technologies that was the intent of the Legislature in creating the 500 MW set aside. The Commission should consider creating price caps that vary with technology.

6. What other amendments to Subst. R. 25.173 should the commission consider in conjunction with its implementation of Senate Bill 20? Please include a brief rationale for each proposed amendment.

No response.