



Control Number: 34577



Item Number: 105

Addendum StartPage: 0

**PUC PROJECT NO. 34577**

<b>PROCEEDING TO ESTABLISH</b>	<b>§</b>	<b>PUBLIC UTILITY COMMISSION</b>
<b>POLICY RELATING TO EXCESS</b>	<b>§</b>	
<b>DEVELOPMENT IN COMPETITIVE</b>	<b>§</b>	<b>OF TEXAS</b>
<b>RENEWABLE ENERGY ZONES</b>	<b>§</b>	

**TEXAS INDUSTRIAL ENERGY CONSUMERS' COMMENTS ON QUESTIONS**

Texas Industrial Energy Consumers ("TIEC") appreciates the opportunity to submit comments on the questions posed by the Commission regarding dispatch priorities for the use of competitive renewable energy one ("CREZ") transmission lines.

**I. Introduction**

As a general policy matter, TIEC disfavors dispatch priority. Giving preference to one generator over another is directly contrary to PURA's nondiscriminatory open access requirements. It is also contrary to the competitive wholesale market, both in its current form and under the nodal design. For CREZ transmission to benefit consumers, as has been touted, consumers must have access to the lowest-cost resources and new technologies must be allowed to have access to the ERCOT grid. It is not appropriate, nor is it necessary to develop a mechanism whereby certain wind developers would receive a preference over other developers. While some wind developers may post a small amount of collateral to ensure the development of particular CREZ transmission facilities, that collateral will be returned if the developer takes transmission service within one year. Special treatment should not be afforded to these developers, despite their apparent belief that they should be entitled to preferential status because they participated in the CREZ proceeding or posted collateral. Consumers will ultimately pay for all of the transmission facilities that will allow the wind developers to get their product to market. It is in the consumers' best interest that *all* ERCOT transmission, including CREZ transmission, be utilized in the most efficient manner possible. ERCOT transmission should not be dispatched in a way that would give priority to certain generators, which will harm consumers if less efficient generators have access ahead of cheaper generators.

Additionally, TIEC submits that the development of a dispatch priority mechanism is premature as it is unclear whether there will be excess wind generation development in particular CREZs. The concern expressed by certain wind developers regarding excess development is at best, speculative. Many factors may affect the development of wind generation and it is too soon to determine if there will be over-development of certain CREZ areas. At this point, the over-development of CREZs is theoretical, and there is no need to develop solutions for a problem that does not yet exist.

Finally, TIEC submits that a dispatch priority mechanism is not needed because the nodal market structure is designed to send appropriate price signals that should work to prevent the potential “piling-on” problem. These price signals will provide a signal to the market that additional generation should be sited elsewhere. Further, as discussed briefly above, the economic dispatch in the nodal market will dispatch the lowest-cost resources first, resulting in more efficient and transparent dispatch of resources. Establishing a dispatch priority scheme would distort these market signals and harm consumers.

TIEC recommends that the Commission take no action on the development of a dispatch priority mechanism at this time. It is entirely possible that there may not be a “piling-on” problem. To the extent there is excess development, the Commission should give the nodal market the opportunity to provide locational price signals to developers that seek to install generation in CREZ areas. The Commission should balance the perceived need to protect the CREZ developers against the harmful impact that such action could have on consumers and the market.

## **II. Comments**

### **CRR Auction Proposal**

- 1. Is an auction approach like the one outlined above feasible? What processes would need to be established by ERCOT to implement this approach?**
- 2. Is an auction approach likely to protect the revenue expectations of west Texas renewable generators that own CRRs during periods in which the transmission system is congested?**

**3. Is an auction approach likely to provide a useful and timely market signal to developers about the viability of additional development in renewable generation in west Texas?**

TIEC submits that the proposal regarding the use of congestion revenue rights (“CRRs”) lacks sufficient specificity to enable TIEC to make detailed comments on the merits of the proposal. Wind developers will have the ability to participate in CRR auctions in the nodal market, and it is unclear how this proposal would differ from that already contemplated under the nodal protocols. To the extent that this proposal envisions that specific CREZ-developer CRRs would be awarded at the expense of consumers, such a proposal should be rejected. Providing advantageous financial transmission rights or revenues to certain preferred wind generators provides unneeded subsidies to these developers at the expense of consumers and other market participants (including load resources that may wish to participate in CREZs). The nodal market as designed will provide useful and timely market signals to developers about the viability of additional development in renewable generation in west Texas.

The processes needed to be established by ERCOT to implement the proposed approach are uncertain. If the proposal envisions a separate CCR auction scheme, it would appear that additional changes to the nodal protocols would be needed. This is problematic for several reasons. First, the nodal protocols were developed through countless hours of stakeholder meetings and compromise among various market participants. Ultimately, the Commission adopted the nodal protocols and authorized a comprehensive market design. It would be unwise to modify the nodal market structure—before it is even implemented—through a piecemeal process that could yield unintended consequences to the overall market design. Second, the development of additional changes to the nodal protocols could further setback the implementation of the nodal market. Because the nodal market will provide the intended market signals to wind generation developers, further delay would be counterproductive.

**4. Should the Commission, instead, adopt a physical priority, such as limiting interconnections to the CREZ transmission system? What processes would need to be established by ERCOT to implement this approach?**

Establishing a physical priority would be contrary to PURA’s open access requirements. The ERCOT transmission system, including the CREZ transmission facilities, must be open to all generators, not just those that participated in the CREZ proceeding or that post collateral.

However, TIEC has historically supported mechanisms by which all generators would pay a portion of the transmission improvement costs associated with generation interconnections. A properly constituted system would provide additional incentives for generation to locate where transmission is available, as opposed to locating where it is not.

**5. If an auction approach were adopted, how should eligibility to participate in the auction be determined? Should any non-renewable generation facilities, such as clean coal or nuclear generation, have the opportunity to participate?**

To the extent that the Commission adopts an auction approach, TIEC submits that it should be open to all resources. This proceeding should not be used as a forum to establish dispatch priority specifically for any technology (whether fueled by clean coal, nuclear, or otherwise). The ERCOT electric market is subject to wholesale competition and establishing preferences for particular types of generation (to the exclusion of other types of resources, including load resources) would violate PURA and Commission precedent.

**6. Should any dispatch priority right be transferable from one person to another? If so, what mechanism would be needed to track changes in ownership?**

TIEC offers no comment at this time.

**7. If an auction approach is used, could it address congestion both within the CREZ and beyond its borders?**

The CRR process that is part of the nodal market design should address congestion both within a particular CREZ and through the entire state. As stated previously, a special CREZ-only CRR auction scheme is not necessary and potentially harmful to the market and consumers.

**Rule 25.174(c) Collateral Requirements**

**8. Regarding the financial commitments in P.U.C. Substantive Rule 25.174(c):**

**a. How should renewable energy developers' eligibility to post collateral in the certificate of convenience and necessity (CCN) proceedings be determined? If an auction approach is used to address dispatch priority, could the auction be conducted before the collateral is required to be posted and be used to determine eligibility to post collateral?**

Collateral should be posted prior to any auction approach that may be developed. Collateral should be sufficient to and used to protect consumers. However, if sufficient collateral is not posted, there would be no need for a dispatch priority scheme. Consistent with P.U.C. Substantive Rule 25.174(e), the Commission should first determine whether there is excess development before addressing dispatch priority.

**b. How should the total cost for CREZ transmission facilities be determined? Should it differ by CREZ? Should the cost of base-case upgrades be excluded? Should one developers' collateral amount differ from another? If so, why and how?**

If gathering facilities are ultimately determined to be CREZ facilities, the Commission should include these costs as well as the backbone transmission costs in determining the cost of the CREZ transmission facilities. This will more accurately reflect the total costs of the CREZ transmission facilities. In addition, these costs should be developed and presented by the entities filing the CCNs using the most recent cost figures. Transmission costs have continued to change. Accordingly, it would be wholly inappropriate to base collateral amounts on prior estimates.

It is reasonable and entirely possible that one developers' amount of collateral will differ from another. P.U.C. Substantive Rule 25.274 requires that a developers post 10% of its pro-rata share of the CREZ facilities. Because the pro-rata share will vary, developers' collateral amounts will vary.

**c. Should forms of collateral other than letters of credit be permitted?**

Other than cash collateral, no other form of collateral other than a letter of credit should be used to satisfy the posting requirement.

**d. If CCN proceedings are filed at different times, how should the date for posting collateral be determined?**

TIEC offers no comment at this time.

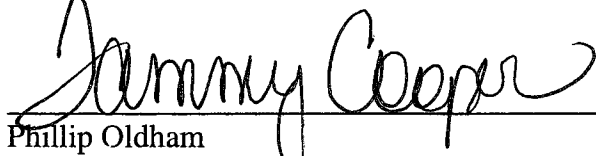
**e. What rules and procedures would apply if the total capacity for which CREZ developers post collateral exceeds 100% of CREZ transmission capacity?**

TIEC offers no comment at this time.

### III. Conclusion

TIEC appreciates the opportunity to submit comments on these questions. TIEC submits that the Commission should not establish a dispatch priority regime. The Commission should allow the nodal market to develop and assess whether "piling-on" problems actually materialize. A dispatch priority scheme is contrary to PURA and could ultimately be very harmful to the market and consumers.

ANDREWS KURTH LLP

A handwritten signature in black ink, appearing to read "Tammy Cooper", is written over a horizontal line.

Phillip Oldham

State Bar No. 00794392

Tammy Cooper

State Bar No. 00796401

111 Congress Avenue, Suite 1700

Austin, Texas 78701

(512) 320-9200

(512) 320-9292 FAX

ATTORNEYS FOR

TEXAS INDUSTRIAL ENERGY CONSUMERS