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PROJECT NO. 53169

REVIEW OF TRANSMISSION RATES FOR EXPORTS FROM ERCOT	§ § §	**PUBLIC UTILITY COMMISSION OF TEXAS**

OFFICE OF PUBLIC UTILITY COUNSEL'S REPLY COMMENTS ON COMMISSION STAFF'S DISCUSSION DRAFT

The Office of Public Utility Counsel ("OPUC") respectfully submits these reply comments in response to the initial comments filed regarding the discussion draft proposing amendments to 16 Texas Administrative Code (TAC) § 25.192(e), relating to transmission rates for exporting power outside the Electric Reliability Council of Texas ("ERCOT") region.[1] Comments from all parties reflect support for the proposed amendments, with various unique recommendations set forth. OPUC's reply comments are in response to those comments filed by Rainbow Energy Marketing Corporation ("REMC"), Oncor Electric Delivery Company, LLC ("Oncor"), Southern Cross Transmission, LLC ("SCT"), Texas Industrial Energy Consumers ("TIEC"), Grid United, LLC ("GU"), and AEP Texas Inc ("AEP"). The Staff of the Public Utility Commission of Texas requests reply comments on the proposed discussion draft by March 14, 2021. These comments are timely filed. OPUC makes the following reply comments:

I. EXECUTIVE SUMMARY

- OPUC believes that adoption of the proposed amendments set out in the discussion draft would result in a consistent charge for exporting power from the ERCOT region throughout the year, enabling ratepayers to pay a consistent export charge for each month of the year. OPUC believes that adoption of the proposed rule consistent with OPUC's initial and reply comments is in the public interest.
- OPUC supports comments by:
  - REMC, requesting consideration as to additional changes to (1) differentiate between Peak and Off-Peak export rates, (2) propose instruction to ERCOT for collecting the export tariff on behalf of all Transmission Service Providers ("TSP"),

[1] Staff Discussion Draft Proposed Changes to 25.192(e) (Feb. 1, 2022) ("Discussion Draft").

and (3) either reduce the export tariff from that proposed by Commission Staff or instruct ERCOT to plan for DC Tie transactions.[2]

- Oncor, asserting that the proposed elimination of on-peak rates "could encourage some market participants to engage in export transactions during the summer months of June through September that may not be economically profitable for the exporter under the current on-peak rate structure."[3] OPUC supports Oncor's position that the proposed amendments are not expected to have significant impacts on TSPs or system reliability within ERCOT.[4]
- SCT, maintaining that exporting Qualified Scheduling Entities paying to use the ERCOT transmission system "contribute revenue to the TSPs above and beyond that needing to be recovered from native load,"[5] which also holds true for the ERCOT System Administration Fee.[6] OPUC agrees that funds received from out-of-state customers for use of the ERCOT transmission system and ERCOT market systems reduces the costs of those systems to Texas ratepayers.[7]
- TIEC, noting that alignment of price incentives for transactions over DC Ties during periods of tighter grid conditions will help ensure that ERCOT's transmission system can reliably serve native load.[8] OPUC supports TIEC's position that DC Ties, as non-native loads, are not entitled to access the grid on the same terms as native ERCOT load, and that "the Commission should set DC Tie transmission charges with an eye toward incentivizing DC Ties to operate in such a way that they will not negatively impact reliability or increase transmission costs for native ERCOT customers."[9]

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[2] REMC Comments on Proposed Export Tariff Changes at 2, 3 (Mar. 2, 2022) ("REMC's Comments").

[3] Oncor Electric Delivery Company LLC's Initial Comments on the Staff Discussion Draft of Proposed Changes to § 25.192(e) at 1 (Mar. 3, 2022) ("ONCOR's Comments").

[4] *Id.* at 1, 2.

[5] Southern Cross Transmission LLC's Comments on Discussion Draft at 3 (Mar 3, 2022) ("SCT's Comments").

[6] *Id.* at 3, 4.

[7] *Id.* At 4.

[8] Texas Industrial Energy Consumers' Comments at 1 (Mar. 3, 2022) ("TIEC's Comments").

[9] *Ibid.*

- GU, pointing out that "reducing export charges will bolster the economic viability of potential DC Tie projects by allowing more efficient transfer of power during times when ERCOT is unconstrained, therefore making it more likely that new DC Tie projects are constructed and available to import to ERCOT when ratepayers most need power."[10]

- OPUC recognizes TIEC's concern that a flat rate might weaken the disincentive to serve non-native loads during times of scarcity, impacting system reliability. However, in actuality, should ERCOT determine there is inadequate system capacity to allow for a requested export transaction, ERCOT will curtail or deny the transaction, alleviating such concern.[11]

II. REPLY COMMENTS ON PROPOSED REVISIONS TO 16 TAC § 25.192(e)

OPUC offers these reply comments to the parties' responses to the discussion draft for proposed changes to 16 TAC § 25.192(e). As a representative for residential and small commercial consumers, OPUC supports those comments addressed in the executive summary.[12]

OPUC notes the discussion draft's amendments to TAC § 25.192(e) mirror the export tariff rule strawman presented within Commissioner Jimmy Glotfelty's January 26, 2022, Memorandum to the Commission.[13] Commissioner Glotfelty notes that "HVDC/DC tie projects are different than the AC transmission lines [and] can interconnect our system to neighboring systems without the risk of FERC jurisdiction. Furthermore, they can allow us to share energy in both directions

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[10] Grid United's Comments on Staff's Discussion Draft Proposing Changes to § 25.192(e) at 2 (Mar. 3, 2022) ("GU's Comments").

[11] ERCOT Nodal Protocols, Section 4 Day-Ahead Operations, Subsection 4.4.4, DC Tie Schedules (Jan. 1, 2022).

[12] Insofar as the discussion draft proposes modification of TAC § 25.192 (e)(2) to read, "(2) The monthly ~~on peak transmission rate will be one fourth the TSP's annual rate, and the monthly off-peak~~ transmission rate will be one-twelfth <u>the TSP's</u> ~~its~~ annual rate. ~~The peak period used to determine the applicable transmission rate for such transactions shall be the months of June, July, August, and September.,~~" OPUC notes that it does not necessarily support consideration by the Commission in this matter as to whether the language in subsection (e)(2) should reflect an hourly billing interval in lieu of a monthly interval. *See* AEP Texas Inc.'s Comments on the Discussion Draft Proposing to Amend 16 TAC § 25.192(e) ("AEP's Comments").

[13] Oversight Proceeding Regarding ERCOT Matters Arising out of Docket No. 45624 (Application of the City of Garland to Amend a Certificate of Convenience and Necessity for the Rusk to Panola Double-Circuit 345-KV Transmission Line in Rusk and Panola Counties), Docket No. 46304, Memorandum (Jan. 26, 2022).

in times of emergency and can solely offer a ‘user pays’ model rather than socializing all costs . . . [which] will benefit consumers in ERCOT.”[14] The Commissioner points out the export tariff that is currently in effect was developed prior to Texas's competitive electric marketplace deregulation and that “the transmission planning process in ERCOT . . . does not fit for DC ties, [which] should be given a fair opportunity to participate in the ERCOT market.”[15] OPUC believes that those issues raised within the Commissioner's Memorandum are remedied, in part, by the proposed amendments set out in the discussion draft. The modified amendment will encourage DC Tie endeavors that are vital to resolving traffic congestion problems in order to continue meeting consumer energy demands.

Regarding REMC's Comments, OPUC is generally in accord. REMC recognizes that the current system of transmission charges for DC Tie exports creates a significant barrier to exporting off-peak energy and DC Tie imports during times of scarcity and emergencies provide significant benefit to consumers in ERCOT and the grid.[16] OPUC agrees that adoption of the proposed amendments would not only benefit energy exports, but, by virtue of the addition of DC Ties, will also serve as an aid to energy imports in times of scarcity. However, OPUC does not support REMC's position that the Commission should change Planning Guide language to plan for DC Tie transactions.[17]

With respect to Oncor's Comments, OPUC agrees with Oncor's assessment that the proposed changes are not anticipated to impact system reliability.[18] As Oncor rightly points out, “ERCOT currently evaluates . . . requests to engage in export transactions to determine whether there is adequate system capacity before approving the requests. If ERCOT determines that there is inadequate system capacity to allow for a requested export transaction, ERCOT curtails or denies the transaction.”[19]

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[14] *Ibid.*

[15] *Ibid.*

[16] REMC's Comments at 2 (Mar. 2, 2022).

[17] *Id.* at 3.

[18] ONCOR's Comments at 3 (Mar. 3, 2022).

[19] *Ibid.*

Concerning SCT's Comments, OPUC finds that the proposed amendments could likely encourage some market participants to engage in export transactions where, under the current statutory framework, they would otherwise have not. OPUC believes this will be financially beneficial to ratepayers and is supportive.

TIEC conveys that with higher Four Coincident Peak ("4CP") pricing, based on the four coincident peaks of energy usage recorded during the four summer months, there will be reduced exporting in Summer or peak demand time lessening any potential threat to the grid, which is partially correct. However, per the ERCOT Independent Market Monitor ("IMM") report for ERCOT market improvement, "customer demand during the peak summer hours is no longer the main driver of transmission build in ERCOT," meaning that summer peaks no longer present the same capacity concerns within ERCOT.[20]

Lastly, OPUC is in general accord with GU's Comments. OPUC agrees that additional DC Ties would allow ERCOT to import power to address shortages, and that, in times of excess generation capacity within ERCOT, the same infrastructure could be used by Texas power producers to export their power to the West.[21]

III. CONCLUSION

OPUC believes that adoption of the proposed amendments set out in the discussion draft would result in a consistent charge for exporting power from the ERCOT region throughout the year, enabling ratepayers to pay a consistent export charge for each month of the year. OPUC also asks Commission to take precaution while changing these rules such that grid reliability for

[20] Potomac Economics' 2020 State of the Market Report for the ERCOT Electricity Markets at xiii, xiv (May 2021), https://www.potomaceconomics.com/wp-content/uploads/2021/06/2020-ERCOT-State-of-the-Market-Report.pdf (stating "Current method of allocating transmission costs provides incentives for load to behave in ways that do not necessarily forestall the construction of new transmission equipment and that do not apply transmission costs equitably to all loads. Currently, transmission costs are allocated based on an entity's maximum 15-minute demand in June through September. This method was approved in 1996 and intended to allocate transmission costs to the drivers of transmission build. Today, however, customer demand during the peak summer hours is no longer the main driver of transmission build in ERCOT. Rather, decisions to build transmission are based on transmission congestion patterns throughout the year and an analysis of whether generation can be delivered to serve customer reliably. Additionally, the method of billing these costs provides a price signal to non-opt-in entities and transmission-level customers, both of which can artificially reduce their total customer demand in anticipation of a peak demand day to avoid transmission charges. The IMM continues to recommend that transmission cost allocation be changed such that the resulting incentive better reflects the true drivers for new transmission.").

[21] GU's Comments at 3 (Mar. 3, 2022).

ERCOT is maintained at all times. OPUC appreciates the opportunity to provide these reply comments on the discussion draft and looks forward to working with Commission Staff and other stakeholders on this project

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Respectfully submitted,

Chris Ekoh
Interim Chief Executive and Public Counsel
State Bar No. 06507015

Justin Swearingen
Assistant Public Counsel
State Bar No. 24096794
Nabaraj Pokharel
Director of Market & Regulatory Policy

OFFICE OF PUBLIC UTILITY COUNSEL
1701 N. Congress Avenue, Suite 9-180
P.O. Box 12397
Austin, Texas 78711-2397
512-936-7500
512-936-7525 (Facsimile)
justin.swearingen@opuc.texas.gov (Service)
nabaraj.pokharel@opuc.texas.gov (Service)
opuc_eservice@opuc.texas.gov (Service)