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PUC PROJECT NO. 53169

REVIEW OF TRANSMISSION RATES
FOR EXPORTS FROM ERCOT

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BEFORE THE
PUBLIC UTILITY COMMISSION
OF TEXAS

TEXAS INDUSTRIAL ENERGY CONSUMERS' REPLY COMMENTS
ON THE PROPOSAL FOR PUBLICATION

I. INTRODUCTION

Rather than abandoning the Commission's longstanding policy of requiring higher transmission rates for DC Tie exports in the summer months, Texas Industrial Energy Consumers (TIEC) proposes refining that approach to limit the increased transmission charges to the on-peak hours of 2-7 PM on weekdays in the summer. Creating a time-of-use rate for DC Tie exports in the summer is a reasonable approach that will balance the Commission's obligation to ensure reliability for native ERCOT load at times of peak demand against some parties' desire to develop additional DC Tie capacity. Importantly, the parties' comments reveal that these goals are not in direct conflict. As explained in comments from DC Tie developers Southern Cross and Grid United, DC Tie exports occur primarily during low-load periods when ERCOT has an excess of renewable energy,¹ and those conditions only occur at night when TIEC's proposed time-of-use export charges would not be in effect. In contrast, the DC Tie developers claim that DC Ties generally import during on-peak hours when demand is high.² If that is the case, then DC Tie economics should not be significantly impacted by continuing to require higher transmission rates

¹ Grid United's Comments on Staff's Proposal for Publication at 3 ("[I]n times of high ERCOT demand, the DC ties import power. *In times of low ERCOT demand, the DC ties export power.*") (emphasis added); Southern Cross Transmission LLC's Reply Comments on Discussion Draft at 1 ("[T]he proposed change would improve ERCOT system reliability by *increasing exports of surplus renewable energy during low load conditions*, while DC ties would import power rather than export during scarcity conditions.") (emphasis added); Southern Cross Transmission LLC's Initial Comments on Proposal for Publication at 3 (claiming that reducing export charges will mitigate the effect of renewables "on price formation in an energy only market and on system operations *during periods of high renewable penetration and steep net load ramps.*") (emphasis added).

² Grid United's Comments on Staff's Proposal for Publication at 3 ("*I]n times of high ERCOT demand, the DC ties import power.*") (emphasis added); Southern Cross Transmission LLC's Reply Comments on Discussion Draft at 1 ("[T]he proposed change would improve ERCOT system reliability by increasing exports of surplus renewable energy during low load conditions, while *DC ties would import power rather than export during scarcity conditions.*") (emphasis added).

for exports across peak hours in the summer.³ Additionally, time-of-use export transmission charges will align exporting QSEs' incentives with the interests of native load by increasing the cost of using the ERCOT grid to export power at times of peak demand. So adopting time-of-use rates will further the interests of all of the stakeholders involved in this rulemaking.

II. COMMENTS

A. **Limiting higher export charges to on-peak hours in the summer is a targeted solution that will achieve the goal of improving DC Tie economics.**

TIEC recognizes that the existing rule's approach to "on-peak" transmission charges for DC Tie exports is overbroad because higher charges apply in all hours of the summer months, even at night when the grid is generally not expected to see high levels of demand. This appears to have been out of expedience, to avoid requiring time-differentiated DC Tie usage data for TSP billing. However, rather than abandoning "on-peak" export charges altogether, the Commission should take a more granular approach by only increasing export charges during the actual peak hours of 2-7 PM on weekdays in the summer months. Even this more moderate change will significantly improve DC Tie economics by decreasing export charges across the hours when most exports actually occur. As Grid United explained in its comments, "[e]xport charges, *especially in off-peak periods*, impact the economic incentives to develop DC tie projects,"⁴ because "[i]n times of low ERCOT demand, the DC ties export power."⁵ Similarly, Southern Cross claims that the value proposition for decreasing export charges is that it will "improve ERCOT system reliability by *increasing exports of surplus renewable energy during low load conditions*."⁶ Even Rainbow Energy Marketing Corporation (REMC), an exporting QSE, seems to agree that decreasing export charges in off-peak hours will support DC Tie exports, as REMC also proposed time-of-use export charges in its prior comments.⁷ Accordingly, the Commission can capture most or all of the

³ See Grid United's Reply Comments on Staff's Discussion Draft at 2 ("Export charges, *especially in off-peak periods*, impact the economic incentives to develop DC tie projects.") (emphasis added).

⁴ Grid United's Reply Comments on Staff's Discussion Draft at 2 (emphasis added).

⁵ Grid United's Comments on Staff's Proposal for Publication at 3.

⁶ Southern Cross Transmission LLC's Reply Comments on Discussion Draft at 1.

⁷ Rainbow Energy Marketing Corporation Reply Comments at 2. TIEC strongly disagrees with REMC's proposal to *eliminate* export charges altogether in off-peak hours because merchant exporters should be required to compensate native loads for using the ERCOT grid.

benefits of the proposed rule change by reducing export charges during off-peak hours, which TIEC's proposal would accomplish.

B. Preserving higher transmission charges for exports in on-peak hours will protect the interests of native ERCOT customers.

When evaluating changes to PUC Subst. R. § 25.192(e), the Commission should focus on what is in the best interest of “native” ERCOT load, and not DC tie developers or other competitive entities. PURA explicitly requires the Commission to ensure that rates, operations, and services are just and reasonable *to consumers*.⁸ As discussed in previous comments, TIEC believes that aligning price incentives for DC Tie exports with periods when the ERCOT transmission system will be operating at close to its full capacity is in the best interest of the end-use customers that the ERCOT system was built to serve. Southern Cross and Grid United both claim that DC Ties generally import power rather than exporting when demand is high.⁹ Even if this is generally true, the Commission should preserve pricing that will deter merchant DC Ties from using the ERCOT grid to export power at times when the system is most likely to be in high demand.

The Commission is obligated to prioritize the interests of native ERCOT customers over those of competitive generators and merchant exporters. Some commenters have argued that PURA § 39.001(d) requires the Commission to minimize the impact of its rules on competition.¹⁰ However, while PURA § 39.001(d) requires the use of competitive, rather than regulatory means to “achieve the goals of this chapter” whenever possible, that section also contains a carve out that

⁸ See e.g. PURA §§ 11.002(a), 31.001(a) (“The purpose of this title is to establish a comprehensive and adequate regulatory system for public utilities to *assure rates, operations, and services that are just and reasonable to the consumers* and to the utilities.”) (emphasis added).

⁹ Grid United’s Comments on Staff’s Proposal for Publication at 3 (“*[I]n times of high ERCOT demand, the DC ties import power.*”) (emphasis added); Southern Cross Transmission LLC’s Reply Comments on Discussion Draft at 1 (“[T]he proposed change would improve ERCOT system reliability by increasing exports of surplus renewable energy during low load conditions, while *DC ties would import power rather than export during scarcity conditions.*”) (emphasis added)

¹⁰ CTEI Comments on the Proposal for Publication at 1; Southern Cross Transmission LLC’s Initial Comments on Proposal for Publication at 2.

allows the Commission to continue regulating “transmission and distribution services.”¹¹ That carve-out explains why the current peak pricing system for exports has been in effect since PURA § 39.001 was adopted, and the Commission has not viewed peak pricing as in conflict with that statutory provision over the past 22 years.¹² As such, PURA does not require the Commission to prioritize the interests of competitive DC Tie exporters over ensuring reliability for native ERCOT load.

C. There is no evidence that removing the seasonal multiplier will benefit ERCOT consumers.

Contrary to claims made by Southern Cross, there is no evidence that removing on-peak charges for exports will result in a net reduction to ratepayers’ transmission costs. Southern Cross claims that removing the seasonal multiplier will directly benefit ERCOT ratepayers because it will increase exports, and utilities will credit the resulting export charges against transmission service costs that would otherwise flow through to native loads.¹³ While it is true that export charges benefit ERCOT ratepayers, there is no evidence that the volume of DC Tie exports will increase enough to offset reducing summertime export charges by two thirds. For Southern Cross’s argument to be true, DC Tie exports during the on-peak months (June, July, August, and September) would have to more than triple before native loads would see a net reduction in their transmission charges compared to the status quo. Without any evidence of how lower export charges would impact the volume of exports, it is speculative to claim that customers will directly benefit if the Commission adopts the Proposal for Publication. Further, even if reducing export charges would result in net reductions to the transmission charges that are passed through to customers, then customers will still see the vast majority of those benefits under TIEC’s time-of-

¹¹ PURA § 39.001(a) (“The legislature finds that the production and sale of electricity is not a monopoly warranting regulation of rates, operations, and services and that the public interest in competitive electric markets requires that, *except for transmission and distribution services* and for the recovery of stranded costs, electric services and their prices should be determined by customer choices and the normal forces of competition...”)(emphasis added).

¹² *Order Adopting Amendments to §§25.192, 25.193, 25.194, 25.198 and 25.204 as Approved at the December 1, 1999 Open Meeting and Published in the Texas Register on December 24, 1999* at 20 (available at: <https://www.puc.texas.gov/agency/ruleslaws/subrules/electric/25.192/21080adt.pdf>).

¹³ Southern Cross Transmission LLC’s Initial Comments on Proposal for Publication at 4.

use proposal because, as explained above, the DC ties primarily export during off-peak periods when TIEC's on-peak export charges would not be in effect.

D. The Commission should reject Grid United's proposal to eliminate export charges altogether.

The Commission should not adopt Grid United's proposal to eliminate export fees entirely outside of the summer months.¹⁴ Under that proposal merchant exports would be able to use the ERCOT grid *for free* for eight months out of the year, and would not be required to compensate ERCOT's native customers for that privilege. TIEC strongly discourages the Commission from adopting this anti-consumer proposal because it would essentially force regulated ratepayers to subsidize merchant exporters and the competitive generators that would benefit the most from being able to market their power outside of ERCOT. Instead, the Commission should establish a time-differentiated scheme for export charges that requires DC Tie operators to appropriately contribute to system costs, and creates appropriate incentives to use the system at times when it is not in high demand. This strikes the right balance of allowing DC Tie operators to manage their costs without requiring subsidization from ERCOT ratepayers.

III. CONCLUSION

TIEC respectfully requests that the Commission incrementally improve the current approach to DC Tie export rate charges by adopting TIEC's suggested time-of-use rate rather than abandoning any attempt to disincentivize DC Tie exports at times of high demand. As explained above, TIEC's proposal will still materially improve the economics of DC Tie exports by reducing export charges during the hours when most exports actually occur, while also protecting the interests of native ERCOT customers by dissuading export transactions during times of peak demand.

¹⁴ Grid United's Comments on Staff's Proposal for Publication at 1-2.

Respectfully submitted,

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