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OPEN MEETING COVER SHEET

MEMORANDUM AND PROPOSAL FOR ADOPTION

MEETING DATE:	November 30, 2022
DATE DELIVERED:	November 29, 2022
AGENDA ITEM NO.:	10
CAPTION:	Project No. 53169 – Review of Transmission Rates for Exports from ERCOT
DESCRIPTION:	Memo and Proposal for Adoption

Public Utility Commission of Texas

Memorandum

TO: Chairman Peter Lake
Commissioner Will McAdams
Commissioner Lori Cobos
Commissioner Jimmy Glotfelty
Commissioner Kathleen Jackson

FROM: David Smeltzer, Director of Rules and Projects

DATE: November 29, 2022

RE: November 30, 2022, Open Meeting – Agenda Item No. 10
Project No. 53169 – *Review of Transmission Rates for Exports from ERCOT*

Please find attached to this memorandum Commission Staff's proposal for adopting amended 16 Texas Administrative Code §25.192, relating to Transmission Service Rates, at the November 30, 2022, Open Meeting.

Commission Staff's proposal amends §25.192(e) by converting the delivery rate charged for transmission service for exports from the Electric Reliability Council of Texas (ERCOT) region to a flat rate for all months of the year by removing the seasonal on-peak component from the delivery charge. Commission Staff's proposal also amends §25.192(e) to require ERCOT to file a monthly report with the Commission that states the total amount of energy imported and exported over each DC tie for the reporting month and the preceding 11 calendar months.

Commission Staff recommends the Commission adopt this order.

PROJECT NO. 53169

§

REVIEW OF TRANSMISSION RATES § PUBLIC UTILITY COMMISSION

FOR EXPORTS FROM ERCOT § OF TEXAS

§

(STAFF RECOMMENDATION)

ORDER ADOPTING AMENDMENTS TO 16 TAC §25.192

FOR CONSIDERATION AT THE NOVEMBER 30, 2022 OPEN MEETING

1 The Public Utility Commission of Texas (commission) adopts amended 16 Texas
2 Administrative Code (TAC) §25.192, relating to Transmission Service Rates. The commission
3 adopts this rule with changes to the proposed rule as published in the August 19, 2022 issue of the
4 *Texas Register* (47 TexReg 4907). This rule will implement a flat transmission charge for
5 exporting power outside the Electric Reliability Council of Texas (ERCOT) region by
6 eliminating the increased charge for the months of June, July, August, and September. The
7 adopted rule will also provide additional transparency on transmission charges associated with
8 DC ties by requiring ERCOT to file a monthly report with the commission that states the total
9 amount of energy imported and exported over each DC tie. The adopted rule also makes other
10 minor changes.

11
12 The commission received comments on the proposed rule from Conservative Texans for Energy
13 Innovation (CTEI), Grid United LLC (Grid United), Joint Transmission Service Providers

(Joint TSPs), the Office of Public Utility Counsel (OPUC), Southern Cross Transmission LLC (Southern Cross), and Texas Industrial Energy Consumers (TIEC)

Compliance tariffs

Joint TSPs commented that the proposed amendments to §25.192 would require TSPs serving the ERCOT region to file amended compliance tariffs after the amended rule is adopted. Therefore, a single compliance project should be established for the submission of such tariffs and allow efficient implementation of the TSP export rates. Joint TSPs suggest that, alternatively a TSP could choose to file its conforming compliance tariff in an individual Transmission Cost of Service proceeding that is pending at the time the commission adopts the proposed amendments. OPUC agreed with Joint TSPs' proposal for a single project to file compliance tariffs to conform to the revised rule.

Commission Response

The commission agrees with Joint TSPs that a single compliance project will facilitate implementation of tariff amendments in a timely, consistent, and efficient manner. The commission will open a compliance project and post the project information in this project.

§25.192(e)

Proposed §25.192(e) would modify the transmission service charge for the use of the ERCOT transmission system in delivering power to be exported from the ERCOT region. The proposal sets a single year-round rate, replacing the existing rule's requirement for a peak rate during the months of June through September.

1

2 ***Proposal to eliminate the export delivery charges***

3 Grid United recommended the commission eliminate export delivery charges entirely, except
4 during the peak months. Grid United asserted that the elimination of export delivery charges would
5 promote free trade between grids and permit the commission to “offer electric generators the same
6 market benefits afforded to the producers of all other Texas commodities” and would “encourage
7 developers to extend capital for beneficial grid interconnection projects.”

8

9 TIEC and Joint TSPs opposed Grid United’s recommendation to eliminate export delivery charges
10 outside of the peak-months. TIEC emphasized that Grid United’s proposal would enable merchant
11 exports to utilize the ERCOT grid for free without compensating ERCOT’s native customers.
12 TIEC and Joint TSPs strongly discouraged the commission from adopting Grid United’s proposal,
13 because it would essentially force regulated ratepayers in the ERCOT power region to subsidize
14 the cost associated with the use of the ERCOT grid by merchant exporters, power marketers and
15 competitive generators to market their power outside of ERCOT.

16

17 ***Commission Response***

18 **The commission declines to eliminate export delivery charges for off-peak months, as**
19 **recommended by Grid United. The commission agrees with TIEC that Grid United’s**
20 **proposal would result in ratepayers in the ERCOT power region subsidizing merchant**
21 **exports. Transmission rate design cannot focus exclusively on the wholesale energy market,**
22 **because ERCOT ratepayers are subject to transmission and distribution delivery charges in**

1 addition to energy market prices. Cost causation and ratepayer equity are the two
2 fundamental principles of sound transmission rate design. Furthermore, PURA §35.004(c)
3 requires third party users such as energy exporters be charged for delivery service so that
4 the utility's other customers do not bear the costs of the service.

5
6 *Proposal to retain on-peak seasonality component*

7 TIEC opposed elimination of the seasonal component from the transmission delivery rate for
8 exports from ERCOT. TIEC asserted that the current policy of charging DC Tie exports at a higher
9 rate when transmission capacity is in greater demand ensures appropriate market incentives,
10 properly captures the contribution to system costs by exporters, and promotes utilization of the
11 transmission system during off-peak periods. Alternatively, TIEC recommended retaining a time-
12 of-use rate, but limiting the peak period to the hours of 2:00 PM and 7:00 PM during weekdays in
13 the summer months. In TIEC's view, such a framework historically matches when peak demand
14 actually occurs and therefore the potential reliability risk to the grid is the greatest.

15
16 Southern Cross, Grid United, CTEI opposed any form of an on-peak transmission rate charge for
17 exports from ERCOT, alleging that such a rate structure would be disruptive of market signals.
18 Southern Cross and Joint TSPs opposed TIEC's specific proposal for an on-peak rate limited to
19 the hours of 2:00 PM to 7:00 PM.

20
21 Joint TSPs argued that TIEC's proposal to limit the on-peak period to the hours of 2:00 PM to 7:00
22 PM introduces unnecessary complexity and expense because it would require intensive accounting

1 review of daily totals for each weekday of the summer months. Joint TSPs asserted that such a
2 review would be necessary to separate the megawatt-hours of export transactions for the 2:00 PM
3 to 7:00 PM period from the export transactions made outside of those hours.

4
5 Southern Cross, Grid United, and CTEI argued that a seasonal component to the transmission rate
6 for exports from ERCOT is a “significant and unnecessary barrier to trade.” Southern Cross
7 specifically opposed TIEC’s 2:00 PM to 7:00 PM proposal because it would continue to impose
8 an economic burden on exports during pre-determined hours, rather than relying on market forces
9 and ERCOT’s authority to curtail exports when necessary.

10
11 TIEC disagreed with Southern Cross and argued that non-native DC Tie exports should be required
12 to provide a greater contribution to grid costs if they use the ERCOT transmission system during
13 periods where peak demand is likely to occur. TIEC also argued that its proposal “refin[ed] the
14 current approach to more accurately target peak demand periods.”

15
16 Southern Cross also asserted that dollars received from out-of-state customers for use of the
17 ERCOT transmission and system reduces the overall costs associated with the usage of those
18 systems that must be paid by Texas ratepayers. OPUC agreed that the proposed rule would
19 appropriately incentivize DC Ties to contribute to grid costs that would otherwise be borne by
20 native ERCOT customers.

1 TIEC contended that, while export delivery charges benefit ERCOT ratepayers, there is no
2 evidence that the proposed flat transmission rate for exports would result in a net reduction to
3 ratepayers' transmission costs or that the volume of DC tie exports would increase enough to
4 account for reduced summertime export charges.

5
6 Southern Cross and Joint TSPs commented that the "on-peak" rate for June through September is
7 not necessary to discourage export during scarcity conditions because high market prices will
8 more effectively accomplish that result. Southern Cross also emphasized that "ERCOT has the
9 authority to curtail exports and call on imports if needed for reliability reasons."

10
11 TIEC disagreed that charging a higher price for transmission during peak periods is unnecessary.
12 TIEC noted that ERCOT can only curtail DC tie exports in a few limited situations prior to
13 declaring an Energy Emergency Alert. Further, TIEC argued that scarcity in the energy market
14 does not necessarily align with peak demand on the transmission system. Moreover, TIEC asserted
15 that relying on wholesale market energy signals or emergency conditions where ERCOT curtails
16 exports neither promotes reliability nor prudent use of the transmission grid.

17
18 Southern Cross argued that TIEC "understates ERCOT's ability to curtail exports when in fact the
19 priority TIEC seeks for native load already exists in ERCOT's market rules." Southern Cross
20 remarked that the ERCOT Protocols require the grid operator to post Day Ahead limits on DC
21 imports and exports if insufficient transmission is likely to exist in the coming operating day,

1 “completely independent of and irrespective of market prices or Real-Time energy sufficiency.”
2 Southern Cross also stated that upon implementation of NPRR 825, ERCOT will be required to
3 post each hour a rolling 48-hour schedule of DC Tie limits. Southern Cross further stated that
4 under current ERCOT Protocols, ERCOT is prohibited from approving a requested DC Tie
5 schedule that would exceed the posted DC Tie limit for a given operating hour. Lastly, Southern
6 Cross emphasized that under the ERCOT Protocols, ERCOT has broad discretion to curtail DC
7 Tie load including pre-emptive curtailments and rejecting load schedules.

8
9 Southern Cross and CTEI argued that the current transmission delivery rate for exports under
10 §25.192(e) does not comply with the postage stamp requirement under PURA §35.004(d) because
11 it artificially increases the postage stamp rate by three times. Southern Cross and CTEI also argued
12 the on-peak transmission rate for June through September deviates from the Legislature’s directive
13 under PURA §39.001 to allow the forces of competition, rather than regulatory methods, to
14 determine market participant behavior by prohibiting otherwise economical market transactions.
15 Southern Cross maintained that the proposed rule is consistent with PURA §35.004(d), which
16 requires all transmission service within the ERCOT region be based upon the postage stamp
17 pricing methodology. Southern Cross commented that PURA §35.004(d) does not distinguish
18 between native load and exports and asserted that PURA §35.004(d) and instead “simply provides
19 that the [c]ommission shall price wholesale transmission services within ERCOT based on the
20 postage stamp method of pricing.” CTEI commented that the seasonal component of the
21 transmission charge “may have been appropriate when the state was transitioning from regulation
22 to competition” and prior to “clear energy pricing market signals to indicate when energy should

1 not be exported,” but is not a barrier to efficient markets. OPUC generally agreed with CTEI’s
2 comments and specifically agreed with CTEI’s point that eliminating the seasonal price differential
3 in paragraph (e)(2) will “facilitate more efficient market outcomes in the ERCOT region.”
4

5 TIEC argued that while PURA §39.001 requires the use of competitive, rather than regulatory
6 means to minimize the impact of commission rules on competition, the statute also carves out
7 commission authority to continue regulating “transmission and distribution service.” TIEC
8 underscored that this carve out provision is why the existing DC Tie pricing mechanism under
9 §25.192 has been preserved in its current form since PURA §39.001 was adopted more than two
10 decades ago. TIEC therefore concluded that PURA does not require the commission to prioritize
11 the interests of competitive DC Tie exporters over ensuring reliability for native ERCOT load.

12 TIEC further argued that PURA §35.004(d) requires the commission to “uniformly price wholesale
13 transmission service for native loads within ERCOT based on the postage stamp rate, but does not
14 require the same treatment for exports.” TIEC commented that requiring TSPs to apply postage
15 stamp pricing to DC tie exports during all hours of the year would cause “existing grid capacity to
16 be strained when customers need it most” and that imposing higher transmission costs on DC ties
17 during potential peak demand periods is an “appropriate deterrent and tracks cost causation.”
18

19 TIEC argued that for this rulemaking the commission should focus on what is in the best interest
20 of native ERCOT load and not DC tie developers or other competitive entities as PURA
21 §§11.002(a) and 31.001(a) “explicitly requires the [c]ommission to ensure that rates, operations,
22 and services are just and reasonable to consumers.”
23

Commission Response

The commission declines to revise the on-peak window for the rate structure to the hours of 2-7 PM during the summer months as recommended by TIEC. The commission agrees with Joint TSPs that TIEC's proposal introduces complexity to the process of calculating the export delivery charges for each TSP that may outweigh any benefits. Further, there is insufficient evidence at this time to support the specific on-peak time window proposed by TIEC.

From a reliability perspective, the commission agrees with Southern Cross that ERCOT has the necessary authority to curtail exports when required to serve ERCOT customers under ERCOT Protocol 4.4.4. Moreover, reducing the on-peak rate from its current level may improve the viability of future DC tie projects, which may improve ERCOT reliability over the long term.

Additionally, the commission disagrees with TIEC that PURA does not allow for a flat rate structure for the export tariff. The commission agrees with TIEC that PURA §39.001 carves out an exception for the regulation of transmission and distribution service from the general requirement that the commission's rules favor competitive over regulatory means. While this carve out would allow the commission to adopt TIEC's proposal, it does not require it. Similarly, TIEC's argument that PURA §35.004(d) does not require exports to receive the same rate treatment as native loads within ERCOT does not prohibit the commission from approving a flat rate structure for export delivery service. Further, the commission disagrees that PURA §§11.002(a) and 31.001(a) require a peak-based export tariff to ensure

1 **that rates, operations, and services are just and reasonable to consumers. Under a flat rate**
2 **structure, exporters would still be contributing to the cost of the transmission system, and as**
3 **Southern Cross notes, DC tie loads receive a different level of service than other loads under**
4 **the ERCOT Protocols. The differences include the fact that ERCOT does not plan**
5 **transmission for DC ties, the rolling 48-hour schedule of DC-tie limits implemented by NPRR**
6 **825, and the ability of ERCOT to pre-emptively curtail DC tie load under ERCOT Protocol**
7 **4.4.4.**

8
9 All comments, including any not specifically referenced herein, were fully considered by the
10 commission. The absence of a commission response to any specific claim made in a filed comment
11 should not be construed as acceptance or rejection of that claim. In adopting these sections, the
12 commission makes other minor modifications for the purpose of clarifying its intent.

13
14 The amended rule is adopted under the following provisions of PURA: §14.001, which provides
15 the commission the general power to regulate and supervise the business of each public utility
16 within its jurisdiction and to do anything specifically designated or implied by PURA that is
17 necessary and convenient to the exercise of that power and jurisdiction; §14.002, which provides
18 the commission with the authority to make adopt and enforce rules reasonably required in the
19 exercise of its powers and jurisdiction. The amended rule is also adopted under PURA §§35.001-
20 35.008, which grants the commission oversight and review authority over wholesale transmission
21 service and rates, and PURA § 39.151, which grants the commission oversight and review
22 authority over independent organizations such as ERCOT.

1 Cross reference to statutes: Public Utility Regulatory Act §§14.001, 14.002, 35.001-35.008,
2 39.151.

3

4

1 **§25.192(e) Transmission Rates for Export from ERCOT.**

2 (a)-(d) No changes.

3 (e) **Transmission rates for exports from ERCOT.** A transmission service charge for exports
4 of power from ERCOT must be assessed to transmission service customers for
5 transmission service within the boundaries of the ERCOT region, in accordance with this
6 section and the ERCOT protocols.

7 (1) A transmission service customer must be assessed a transmission service charge for
8 the use of the ERCOT transmission system in exporting power from ERCOT based
9 on scheduled exports ~~the megawatts that are actually exported~~ and the rates
10 established under subsections (c) and (d) of this section. The intervals must consist
11 of one hour.

12 (2) The hourly transmission rate for exports from ERCOT will be the TSP's annual
13 rate established under subsections (c) and (d) of this section ~~converted to an hourly~~
14 ~~rate~~ divided by 8760.

15 (3) The entity scheduling the export of power over a DC tie is solely responsible to the
16 TSP for payment of transmission service charges under this subsection.

17 (4) Beginning with the January 2023 reporting month, ERCOT must file a public report
18 with the commission stating the total amount of energy imported and the total
19 amount of energy exported over each DC tie for the calendar month. The report
20 must also include the total amount of energy exported from the ERCOT region
21 during the reporting month and each of the preceding 11 calendar months, reported

- 1 by scheduling entity. Each report must be filed within 45 days of the end of the
- 2 reporting month.
- 3 (f)-(h) No changes.

This agency certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority. It is therefore ordered by the Public Utility Commission of Texas that §25.192, Transmission Service Rates, is hereby adopted with changes to the text as proposed.

Signed at Austin, Texas the _____ day of _____ 202__.

PUBLIC UTILITY COMMISSION OF TEXAS

PETER LAKE, CHAIRMAN

WILL MCADAMS, COMMISSIONER

LORI COBOS, COMMISSIONER

JIMMY GLOTFELTY, COMMISSIONER

KATHLEEN JACKSON, COMMISSIONER