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PROJECT NO. 53169

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

ONCOR ELECTRIC DELIVERY COMPANY LLC'S INITIAL COMMENTS ON THE STAFF DISCUSSION DRAFT OF PROPOSED CHANGES TO § 25.192(e)

TO THE HONORABLE PUBLIC UTILITY COMMISSION OF TEXAS:

Oncor Electric Delivery Company LLC ("Oncor") timely files these Initial Comments on the Public Utility Commission of Texas ("Commission") Staff's discussion draft of proposed changes to 16 Tex. Admin. Code ("TAC") § 25.192(e), relating to transmission service rates for exports of power from the Electric Reliability Council of Texas ("ERCOT") region. As noted in the discussion draft, the proposed changes would eliminate the seasonal component of the transmission charge for exporting power from the ERCOT region to areas outside of the ERCOT region, resulting in a uniform export charge throughout the year versus an increased charge for the months of June, July, August, and September, as under the current rule. The discussion draft requested comments on the proposed amendments' effects on ratepayers, market participants, electric utilities, and system reliability. While Oncor has no position on whether the changes proposed in the discussion draft should be adopted, Oncor respectfully submits the following comments in response to certain of the requests for comments in the discussion draft:

I. EXECUTIVE SUMMARY

As requested, the following summarizes Oncor's Initial Comments:

- Consistent with its tariffs, Oncor charges either an on-peak rate or an off-peak rate (depending on the month of the transaction) for all export transactions.
- 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.
- Oncor does not expect the proposed amendments to have impacts on system reliability within ERCOT.

- While the proposed amendments could have impacts on transmission service providers' ("TSPs") revenues (which would be difficult to predict or quantify), Oncor does not expect the proposed amendments to have significant impacts on TSPs.
- If the proposed amendments are approved, Oncor will have to file updated tariff sheets for both its Commission-approved Tariff for Transmission Service and its To, From and Over Certain Interconnections tariff ("TFO Tariff") on file with the Federal Energy Regulatory Commission ("FERC") that implement the new export rate methodology.
- The proposed deletion of the reference to distribution service providers ("DSPs") in § 25.192(e)(3) is consistent with Oncor's experience that exports are typically scheduled by third-party power marketers and not DSPs.
- If on-peak rates are eliminated as proposed, then the deletion of § 25.192(e)(4) seems appropriate.

II. BACKGROUND / CURRENT PRACTICE

Commission-approved transmission cost of service ("TCOS") rates have historically been premised on the notion that wholesale customers utilizing the transmission system should pay for that usage. This is accomplished through TSPs' assessments of export charges to those particular customers, in accordance with each TSP's tariff. When an entity (typically a power marketer) schedules exports from ERCOT, the only way to ensure that those entities are not using the transmission system within ERCOT free of charge is to impose the Commission-approved transmission charge on each transaction that utilizes the ERCOT direct current ("DC") ties. Even smaller TSPs within ERCOT that do not own or operate any DC ties and do not have FERC-jurisdictional tariffs are required to assess and collect the export charges for transactions using the ERCOT transmission system in order to ensure that every entity utilizing the transmission system is adequately paying for that usage. Under 16 TAC § 25.192(f), revenue recovered from transmission service for exports over the DC ties is credited to all transmission service customers as a reduction in the TCOS for TSPs that receive the revenue. In other words, if an entity scheduling an export does not pay for the transmission service relating to an export transaction, the remaining ERCOT ratepayers ultimately bear those costs associated with the transaction through the Commission-approved postage stamp rates for transmission service within ERCOT.

In order to assess export fees to the wholesale customers that are utilizing the transmission system for exports, Oncor obtains monthly transaction data through the system managed by the third party Open Access Technology International, Inc. ("OATI"). Based on the OATI transaction information, and in accordance with Oncor's approved Tariff for Transmission Service, Oncor invoices the respective customers for their export transactions on a monthly basis. For export transactions to the Southwest Power Pool region utilizing either the North or East DC ties, Oncor bills customers under its FERC-jurisdictional TFO Tariff.[1] For export transactions to Mexico utilizing the Railroad DC tie, Oncor bills customers under its Commission-approved Tariff for Transmission Service. Under both the TFO Tariff and the Tariff for Transmission Service, the rate is Oncor's Commission-approved TCOS rate,[2] as further detailed below.

III. COMMENTS ON PROPOSED CHANGES

Proposed Elimination of On-Peak Export Rates

Under the current rule, monthly transmission rates for exports from ERCOT are higher for the four months of the year during which demand in ERCOT is typically at its highest (the "on-peak" period of June, July, August, and September), and a lower "off-peak" transmission rate is charged for the remainder of the year. The proposed amendment to § 25.192(e)(2) would eliminate the higher on-peak rate, such that an off-peak rate is used for all months of the year.

Oncor does not anticipate that the proposed change would impact system reliability, as ERCOT currently evaluates (and presumably would continue to evaluate) 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.[3] Likewise, Oncor does not anticipate that the elimination of on-peak export rates would significantly impact TSPs because it will be relatively simple to implement.

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[1] For the current version of Oncor's TFO tariff, see FERC Electric Tariff, Fourteenth Revised Volume No. 1, Tenth Revised Sheet Nos. 37-38, FERC Docket No. NJ22-1, approved on Dec. 16, 2021, with an effective date of Sept. 20, 2021 (filed in connection with Oncor's Docket No. 52352 interim TCOS case).

[2] *See* Federal Power Act § 212(k)(1).

[3] *See* ERCOT Nodal Protocol 4.4.4, DC Tie Schedules.

Adjustments of Oncor's Tariffs with the Commission and FERC

When the Commission approves changes to Oncor's rates for wholesale transmission service within ERCOT or to the methodology for those rates (as proposed in this project), Oncor must then update its TFO Tariff with FERC in order to maintain parity with Oncor's Commission-jurisdictional transmission tariff. By doing so, Oncor is able to provide essentially the same open-access, non-discriminatory, and comparable wholesale transmission service (1) to third parties within ERCOT, and (2) to, from, and over the DC tie interconnections to other wholesale electricity markets.

The applicable federal statute—Federal Power Act[4] § 212(k)(1)—requires that for any FERC order issued under FPA § 211 (pertaining to orders requiring a transmitting utility, like Oncor, to provide FERC-jurisdictional transmission service) that require the provision of transmission service in whole or in part within ERCOT, such FERC orders "shall provide that any ERCOT utility which is not a public utility and the transmission facilities of which are actually used for such transmission service is entitled to receive compensation based, insofar as practicable and consistent with [FPA § 212(a)[5]], on the transmission ratemaking methodology used by the Public Utility Commission of Texas." Historically, FERC has accepted the Commission-approved rate methodology and the Commission's periodic adjustments to rates for intra-ERCOT transmission service as the appropriate rates for export transmission service, in accordance with FPA § 212(k). However, given the language in § 212(k) that presumes the Commission-approved rate is consistent with FPA § 212(a)—*i.e.*, just and reasonable and not unduly discriminatory or preferential, among other things—there is a theoretical possibility that FERC might not

[4] Federal Power Act, 16 U.S.C. §§ 791 *et seq.* ("FPA").

[5] FPA Section 212(a) states: "[a]n order under section 824j of this title shall require the transmitting utility subject to the order to provide wholesale transmission services at rates, charges, terms, and conditions which permit the recovery by such utility of all the costs incurred in connection with the transmission services and necessary associated services, including, but not limited to, an appropriate share, if any, of legitimate, verifiable and economic costs, including taking into account any benefits to the transmission system of providing the transmission service, and the costs of any enlargement of transmission facilities. *Such rates, charges, terms, and conditions shall promote the economically efficient transmission and generation of electricity and shall be just and reasonable, and not unduly discriminatory or preferential.* Rates, charges, terms, and conditions for transmission services provided pursuant to an order under section 824j of this title shall ensure that, to the extent practicable, costs incurred in providing the wholesale transmission services, and properly allocable to the provision of such services, are recovered from the applicant for such order and not from a transmitting utility's existing wholesale, retail, and transmission customers." 16 U.S.C. §824k(a) (emphasis added).

accept the Commission's approved export rate if it were alleged that the modified methodology is somehow unreasonable or discriminatory. In Oncor's experience, however, the Commission-approved rate has never been challenged or rejected by FERC as the appropriate rate for the TFO Tariff.

Proposed Amendment to 16 TAC § 25.192(e)(3)

This subsection currently states that either the DSP or an entity scheduling the export of power over a DC tie is solely responsible to the TSP for payment of the export charges. The proposed amendment would delete "DSP." In Oncor's experience, exports of power across the DC ties are typically scheduled by entities outside of ERCOT (frequently power marketers), not ERCOT DSPs. Therefore, the Commission would have a valid basis for deleting this part of the rule.

Proposed Amendment to 16 TAC § 25.192(e)(4)

As noted above, if the Commission eliminates on-peak rates from § 25.192(e)(2), then the deletion of § 25.192(e)(4) is logical and seems appropriate.

IV. CONCLUSION

Oncor appreciates the opportunity to comment on the discussion draft and respectfully requests the Commission's full consideration of the comments set forth herein.

Respectfully submitted,

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