



Filing Receipt

Received - 2022-03-18 11:24:24 AM
Control Number - 53191
ItemNumber - 9

PROJECT NO. 53191

REORGANIZATION OF §25.505	§	BEFORE THE
	§	PUBLIC UTILITY COMMISSION
	§	OF TEXAS

COMMENTS OF VISTRA CORP.

Vistra Corp. (Vistra), on behalf of its jurisdictional subsidiaries, files these comments concerning the proposed repeal and replacement of 16 Tex. Admin. Code (TAC) § 25.505 relating to Reporting Requirements and the Scarcity Pricing Mechanism in the Electric Reliability Council of Texas (ERCOT) Power Region, as approved for publication by the Public Utility Commission of Texas (Commission) at its February 25, 2022 open meeting, as published in the *Texas Register* on March 11, 2022,¹ and as clarified by the filing in this Project by David Smeltzer, Director of Rules and Projects, on March 7, 2022.

I. Specific Comments

A. §§25.505(b)(1) & 25.509(b)(1): The definitions of “generation entity” should incorporate energy storage resources to avoid gaps and be consistent with 16 TAC § 25.55

The proposed change to the definition of “generation entity” in 16 TAC § 25.505(b)(1) might exclude energy storage resources from the rule’s applicability. The phrase “registered with ERCOT as a generation resource” carries specific, limited meaning in the ERCOT Protocols that does not extend to energy storage resources. Under Section 2 of the ERCOT Protocols, “Generation Resources” and “Energy Storage Resources” are distinct subsets of the broader term “Resource” and do not overlap.

¹ 47 Tex. Reg. 1131, 1161-65 (Mar. 11, 2022).

To clarify that energy storage resources are covered by the rule, the Commission should use the approach it used when it adopted 16 TAC § 25.55, relating to Weather Emergency Preparedness. In that rule, the Commission incorporated energy storage resources into the definition of “generation entity,” and Vistra suggests the Commission mirror that approach in both 16 TAC §§ 25.505(b)(1) & 25.509(b)(1) as follows:

(b) Definitions.

- (1) Generation entity** – entity that owns or controls a generation resource. A generation resource is a generator capable of providing energy or ancillary services to the ERCOT grid and that is registered with ERCOT as a generation resource or an energy storage resource.

B. 25.509(c)(7): The Commission should replace “actual marginal costs” with “reasonable, verifiable operating costs” to reflect the language in Senate Bill 3 (SB 3) (codified in PURA § 39.160) and should announce a timeline for consideration of the Emergency Pricing Program required by SB 3.

During extreme operating events, generators regularly incur additional operating expenses in support of grid reliability that may not be strictly considered “marginal costs,” including fuel costs, backup fuel procurement, chemical supplies, water treatment expenses, heating/cooling equipment, and additional staffing.² Section 18 of SB 3 clearly set an expectation that when generators are operating to support reliability in extreme events, they should not lose money in the process:

- (g) The emergency pricing program *must allow generators to be reimbursed for reasonable, verifiable operating costs that exceed the emergency cap.*

While this section of the statute specifically pertains to the emergency pricing program that has yet to be implemented, the underlying principle that generators should not operate at a loss in

² See Vistra’s comments in Project 51871 at https://interchange.puc.texas.gov/Documents/51871_36_1131963.PDF.

support of reliability is critical to maintaining the economic viability of the market. Vistra therefore recommends that the Commission incorporate this statutory language in the rule:

(c)(7) Reimbursement for Operating Losses when the LCAP is in Effect. When the system-wide offer cap is set to the LCAP, ERCOT must reimburse resource entities for any ~~actual marginal~~ reasonable, verifiable operating costs in excess of the larger of the LCAP or the real-time energy price for the resource. ERCOT must utilize existing settlement processes to the extent possible to verify the resource entity's costs for reimbursement.

Regarding the Emergency Pricing Program, SB 3 requires the Commission, by rule, to establish an emergency pricing program that must take effect if the high system-wide offer cap has been in effect for 12 hours in a 24-hour period after the high system-wide offer cap is initially reached. The rule must establish the criteria for when the emergency pricing program ceases, must establish a cap on ancillary services prices to be in effect during the period when the emergency pricing program is in effect, and, as mentioned above, must allow generators to be reimbursed for reasonable, verifiable operating costs that exceed the emergency cap.

The Commission has made great progress implementing new legislative requirements designed to address reliability and pricing issues in ERCOT. To date, however, no action has been taken on this legislative mandate for an Emergency Pricing Program. Because the Emergency Pricing Program may require market participants to modify their hedging strategies, Vistra urges the Commission to identify the time frame in which it will consider and adopt this important rule.

C. Vistra supports decoupling value of lost load (VOLL) from the system-wide offer cap.

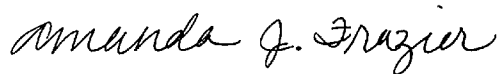
Mr. Smeltzer's March 7 Memorandum indicates that language from existing §25.505(g)(6)(E), which currently sets the VOLL equal to the system-wide offer cap, was deleted from the published version of proposed §25.509(c)(6), which otherwise incorporates the language of existing §25.505(g)(6). Vistra supports decoupling VOLL from the System Wide Offer Cap and thus supports the non-inclusion in proposed §25.509(c)(6) of the existing §25.505(g)(6)(E).

II. Conclusion

Vistra appreciates the opportunity to provide these comments for the Commission's consideration. Vistra looks forward to continued participation in this effort.

Dated: March 18, 2022

Respectfully submitted,

A handwritten signature in black ink that reads "Amanda F. Frazier". The signature is written in a cursive, flowing style.

Amanda Frazier
State Bar No. 24032198
Senior Vice President, Regulatory Policy

1005 Congress Ave., Suite 750
Austin, TX 78701
512-349-6442 (phone)
amanda.frazier@vistracorp.com

PROJECT NO. 53191

REORGANIZATION OF § 25.505	§	BEFORE THE
	§	PUBLIC UTILITY COMMISSION
	§	OF TEXAS

EXECUTIVE SUMMARY OF VISTRA CORP.'S COMMENTS

- **25.505(b) & 25.509(b):** The definitions of “generation entity” should incorporate energy storage resources to avoid gaps and be consistent with 16 TAC § 25.55
- **25.509(c)(7):** The Commission should replace “actual marginal costs” with “reasonable, verifiable operating costs” to reflect the exact language established by SB 3 in PURA § 39.160.
 - Vistra also urges the Commission to initiate action on a rulemaking to implement the provisions of PURA § 39.160 (Emergency Pricing Program) in order to give market participants adequate time to adjust their hedging strategies to accommodate the changes.
- **25.509(c)(6):** Vistra supports non-inclusion of the existing language in §25.505(g)(6)(E) that, today, links VOLL to SWOC, in order to appropriately implement the Commission’s decision to decouple VOLL from the SWOC.