



Filing Receipt

Received - 2022-08-31 05:25:53 PM

Control Number - 53911

ItemNumber - 12

MEMORANDUM

FROM: Jason M. Ryan, ADER Task Force Chair
Arushi Sharma Frank, ADER Task Force Vice-Chair

RE: Project No. 53911, *Aggregate Distributed Energy Resource (ADER) ERCOT Pilot Project*

DATE: August 31, 2022

On August 30, 2022, the ADER Task Force held a workshop titled “Review of Laws, Rules and Protocols.”

The following attached material was presented:

- Vistra, Review of Certain PURA Provisions & Frameworks
 - Any questions regarding the Vistra presentation may be directed to Ned Bonskowski at ned.bonskowski@vistracorp.com.

A recording of the workshop is available on the Texas ADER Task Force YouTube channel at: <https://youtu.be/y0jKNk1GP9A>.

Review of Certain PURA Provisions & Frameworks

ADER Task Force Discussion – August 30, 2022

General Framework

- SB 7 (1999) unbundled vertically integrated utilities in ERCOT region into three distinct functions (PURA 39.051):
 - Power Generation Companies (PGCs) (producing and selling energy & ancillary services at wholesale)
 - Retail Electric Providers (REPs) (customer interface)
 - Transmission & Distribution Utilities (TDUs) (wires)
- Functions are clearly separated from each other:
 - PGCs cannot own/operate wires:
 - A PGC by definition “does not own a transmission or distribution facility in this state other than an essential interconnecting facility, a facility not dedicated to public use, or a facility otherwise excluded from the definition of ‘electric utility’ under this section” (PURA 31.002(10))
 - “Beginning on the date of introduction of customer choice, a person that owns generation facilities may not own transmission or distribution facilities in this state except for those facilities necessary to interconnect a generation facility with the transmission or distribution network, a facility not dedicated to public use, or a facility otherwise excluded from the definition of “electric utility” under Section 31.002.” (PURA 39.157)
 - REPs & TDUs cannot own or operate generation assets:
 - “After January 1, 2002, a transmission and distribution utility may not sell electricity or otherwise participate in the market for electricity except for the purpose of buying electricity to serve its own needs.” (PURA 39.105)
 - “A retail electric provider may not own or operate generation assets.” (PURA 31.002(17))
 - Other provisions further separate them functionally:
 - “Electric utility” definition broadly includes “a person or river authority that owns or operates for compensation in this state equipment or facilities to produce, generate, transmit, distribute, sell, or furnish electricity in this state” but with specific exemptions for certain entities, notably including REPs and PGCs (PURA 31.002(6)) – that is, unless there is a specific functional other definition (e.g., REP or PGC), PURA defaults to “it is an electric utility”
 - “A person may not generate electricity unless the person is registered with the commission as a power generation company” (PURA 39.351)
 - “After the date of customer choice, a person, including an affiliate of an electric utility, may not provide retail electric service in this state unless the person is certified by the commission as a retail electric provider” (PURA 39.352)

General Framework (cont'd)

- REPs, Aggregators, Brokers, and Power Marketers are also functionally separated
 - A REP is a person who “sells electric energy to retail customers” and may not generally own/operate generation assets (PURA 31.002(17)).
 - A Retail Customer is the “end-use customer who purchases and ultimately consumes electricity.” (PURA 31.002(16)).
 - A REP must be certificated by the PUCT “before purchasing, taking title to, or reselling electricity in order to provide retail electric service.” (16 TAC 25.107(a)(1)). A REP cannot be an Aggregator. (PURA 39.353(b)).
 - An Aggregator is a person who joins multiple customers into a single purchasing unit to negotiate the purchase of electricity from a REP; Aggregators may not sell or take title to electricity. (PURA 39.353-39.3545).
 - Brokers provide advice or procurement services to, or acting on behalf of, a retail electric customer regarding the selection of a retail electric provider, or a product or service offered by a retail electric provider. (PURA 39.3555)
 - A retail electric provider may not register as a broker. A broker may not sell or take title to electric energy. (Id)
 - A Power Marketer is a person who becomes an owner of energy for the purpose of selling it at wholesale. (PURA 31.002(11)).
 - “A person may not sell electric energy at wholesale as a power marketer unless the person registers with the commission pursuant to Section 35.032” (PURA 39.355)
 - “An exempt wholesale generator or power marketer may sell electric energy only at wholesale.” (PURA 35.031).

DERs in PURA

- No single “DER” definition, but several definitions describe DERs. Examples:
 - “Distributed natural gas generation facility”: *a facility installed on the customer's side of the meter that uses natural gas to generate not more than 2,000 kilowatts of electricity (PURA 31.002(4-a))*
 - “Distributed generation facility”: *specific definition for “food supply chain” customers – installed on customer’s side of the meter but separately metered, ≥250 kW but <10 MW, capable of providing backup/supplemental power to customer’s premises, in an MOU territory, and registered as a PGC (PURA 35.037)*
 - “Distributed generation”: *an electrical generating facility that: (1) may be located at customers point of delivery; (2) is connected at a voltage less than 60 kilovolts; and (3) may be connected in parallel operation to the utility system.” (PURA 39.9165)*
 - “Distributed renewable generation”: *electric generation with a capacity of not more than 2,000 kilowatts provided by a renewable energy technology, as defined by Section 39.904, that is installed on a retail electric customer's side of the meter. (PURA 39.916)*
 - “Electric generation equipment lessor or operator”: *a person who rents to or operates for compensation on behalf of a third party electric generation equipment that [is not interconnected to T&D system and consumed onsite by a third party host pending the ability to obtain sufficient electricity service] (PURA 31.002(4-b))*

DERs / PGC nexus in PURA (one exception)

- PURA 31.002(10): “Power generation company” means a person, *including a person who owns or operates a distributed natural gas generation facility*, that:
 - (A) generates electricity that is intended to be sold at wholesale, *including the owner or operator of electric energy storage equipment or facilities* to which Subchapter E, Chapter 35, applies;
 - (B) does not own a transmission or distribution facility in this state other than an essential interconnecting facility, a facility not dedicated to public use, or a facility otherwise excluded from the definition of “electric utility” under this section; and
 - (C) does not have a certificated service area, although its affiliated electric utility or transmission and distribution utility may have a certificated service area.
- PURA 35.037: (a)(2) “Distributed generation facility” means a facility installed on the customer's side of the meter but separately metered from the customer:
 - (A) with a nameplate capacity of at least 250 kilowatts and not more than 10 megawatts;
 - (B) that is capable of generating and providing backup or supplementary power to the customer's premises; and
 - (C) *that is owned or operated by a person registered as a power generation company in accordance with Section 39.351.*
 - (b) This section only applies in the ERCOT power region in areas where retail customer choice has not been implemented.
 - (c) A person who owns or operates a distributed generation facility served by a municipally owned utility or electric cooperative in the ERCOT power region may sell electric power generated by the distributed generation facility at wholesale, including the provision of ancillary services, subject to the limitations of this section.
- PURA 35.152 (not DER-specific): (a) Electric energy storage equipment or facilities that are intended to be used to sell energy or ancillary services at wholesale are generation assets.
 - (b) *The owner or operator of electric energy storage equipment or facilities that are generation assets under Subsection (a) is a power generation company and is required to register under Section 39.351(a).* The owner or operator of the equipment or facilities is entitled to:
 - (1) interconnect the equipment or facilities;
 - (2) obtain transmission service for the equipment or facilities; and
 - (3) use the equipment or facilities to sell electricity or ancillary services at wholesale in a manner consistent with the provisions of this title and commission rules applicable to a power generation company or an exempt wholesale generator.
- **The exception: distributed renewable generation** (PURA 39.916(k)): *Neither a retail electric customer that uses distributed renewable generation nor the owner of the distributed renewable generation that the retail electric customer uses is an electric utility, power generation company, or retail electric provider for the purposes of this title and neither is required to register with or be certified by the commission if at the time distributed renewable generation is installed, the estimated annual amount of electricity to be produced by the distributed renewable generation is less than or equal to the retail electric customer's estimated annual electricity consumption.*

PGC registration

- Sec. 39.351. REGISTRATION OF POWER GENERATION COMPANIES. (a) A person may not generate electricity unless the person is registered with the commission as a power generation company in accordance with this section. A person may register as a power generation company by filing the following information with the commission:
 - (1) a description of the location of any facility used to generate electricity;
 - (2) a description of the type of services provided;
 - (3) a copy of any information filed with the Federal Energy Regulatory Commission in connection with registration with that commission; and
 - (4) any other information required by commission rule, provided that in requiring that information the commission shall protect the competitive process in a manner that ensures the confidentiality of competitively sensitive information.
- (b) A power generation company shall comply with the reliability standards adopted by an independent organization certified by the commission to ensure the reliability of the regional electrical network for a power region in which the power generation company is generating or selling electricity.
- (c) The commission may establish simplified filing requirements for distributed natural gas generation facilities.

LSE & DER nexus in PURA

- Generally, “willing buyer, willing seller”:
 - Distributed Natural Gas Generation output (PURA 35.036): “A person who owns or operates a distributed natural gas generation facility may sell electric power generated by the facility. The electric utility, electric cooperative, or retail electric provider that provides retail electricity service to the facility may purchase electric power tendered to it by the owner or operator of the facility at a value agreed to by the electric utility, electric cooperative, or retail electric provider and the owner or operator of the facility. The value of the electric power may be based wholly or partly on the clearing price of energy at the time of day and at the location at which the electric power is made available to the electric grid.”
 - Surplus DRG (generally) (PURA 39.916(j)): “For distributed renewable generation owners in areas in which customer choice has been introduced, the distributed renewable generation owner must sell the owner's surplus electricity produced to the retail electric provider that serves the distributed renewable generation owner's load at a value agreed to between the distributed renewable generation owner and the provider that serves the owner's load which may include, but is not limited to, an agreed value based on the clearing price of energy at the time of day that the electricity is made available to the grid or it may be a credit applied to an account during a billing period that may be carried over to subsequent billing periods until the credit has been redeemed. The independent organization identified in Section 39.151 shall develop procedures so that the amount of electricity purchased from a distributed renewable generation owner under this section is accounted for in settling the total load served by the provider that serves that owner's load by January 1, 2009. A distributed renewable generation owner requesting net metering services for purposes of this section must have metering devices capable of providing measurements consistent with the independent organization's settlement requirements.”
 - Surplus solar from public schools (PURA 39.914): “the district must sell the school buildings' surplus electricity produced to the retail electric provider that serves the school district's load at a value agreed to between the district and the provider that serves the district's load. The agreed value may be based on the clearing price of energy at the time of day that the electricity is made available to the grid. The independent organization identified in Section 39.151 shall develop procedures so that the amount of electricity purchased from a district under this section is accounted for in settling the total load served by the provider that serves the district's load. A district requesting net metering services for purposes of this section must have metering devices capable of providing measurements consistent with the independent organization's settlement requirements.”

Retail Customer Provisions

- Customer protections broadly outlined in PURA Ch. 17 & Ch. 39
 - PURA Ch. 17 Generally applies to REPs, electric utilities, and telecommunications utilities
 - Directs PUCT to adopt rules to support informed customer choice, including provision of clear, uniform, understandable, commonly defined information about key terms, available in both English and Spanish (PURA 17.003 & 39.101)
 - Establishes protections against fraudulent, unfair, misleading, deceptive, anticompetitive practices, slamming/cramming, discrimination, privacy of consumption and credit information, etc. (PURA 17.004, 17.102, 39.101)
 - Establishes responsibilities for “billing utilities” to verify customer consent to new service charges on the customer’s electric bill, maintain records, and settle disputes (PURA 17.151-158)
 - PUCT has power to revoke REPs’ & PGCs’ authorization to do business if rules are broken – including both customer protection and ERCOT market rules (PURA 39.356)

Questions for ADER Task Force

- What provisions of PURA are applicable to ADERs in the pilot?
 - Is ADER participation wholesale market participation? Retail electric service? Both?
 - What customer protections extend to ADER-participating customers, and how/through which entity?
 - Are there any guidelines for settling between DER-owning customer and LSE?
- How can the ALR “clumping” model contemplated for the ADER pilot fit within the PURA framework?
 - Does aggregating to appear like a net load pre-empt PGC designation?
 - If not, can the “simplified filing requirements” approach afforded to distributed natural gas generation be extended to other DERs?
 - Does the DRG exemption impact wholesale market participation?
- Not an exhaustive list