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SIERRA CLUB

LONE STAR CHAPTER

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IMPLEMENTATION ACTIVITIES	§	PUBLIC UTILITY
88TH LEGISLATURE	§	COMMISSION OF
CY 2023 RULEMAKING CALENDAR	§	TEXAS
	§	

Comments of the Lone Star Chapter of the Sierra Club

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In anticipation of future discussion about the CY 2023 Rulemaking activities, and implementation of legislation approved by the 88th Legislature, Sierra Club is pleased to make some following brief comments, building upon public comments made at the June 28th PUC open meeting. We address three basic issues: 1. Rulemaking related to energy efficiency raised through recent stakeholders meetings as part of EEIP; 2. Passage of SB 1699, related to both Aggregated Distributed Energy Resources, but also related to residential demand response; and 3. Implementation of DRRS (Dispatchable Reliability Reserve Service).

Energy Efficiency and the Blueprint

In January of 2022, the Commission ordered ERCOT and its staff to implement Phase 1 of the "Blueprint" on wholesale market design changes, as can be found in this memo

and directive as part of Project 52373

(https://interchange.puc.texas.gov/Documents/52373_336_1180125.PDF/)

Several of the actions taken were designed to enhance the role of demand response and energy efficiency in the ERCOT energy market. Among the “demand-side” issues included in the “Blueprint” approved by the PUCT include:

Demand Response. Adopt changes that allow for more targeted demand response to increase utilization of load resources for grid reliability.

Next steps:

- o Pursue market modifications and technical measures to improve transparency of price signals for load resources, such as changing demand response pricing from zonal to locational marginal pricing (LMP)
- o Set higher performance standards for energy efficiency programs.
- o Direct ERCOT to evaluate actions that have already been taken to accommodate customer aggregation participation-i.e., virtual power plants (VPPs)-in the ERCOT market, determine how much customer aggregations currently participate in the ERCOT market, and identify current barriers for VPP participation in the ERCOT real-time and ancillary services markets.

Loads in Non-Spinning Reserve Service. Expansion of ERCOT's existing Non-Spinning Reserve Service (Non-Spin) to allow loads to participate in the service to provide additional versatility for addressing forecast error or ramping issues in the future.

Emergency Response Service (ERS) Reform. ERS is an operational reliability tool that should be deployed earlier to allow participating large commercial and industrial consumers, distributed generation (DG) facilities, and aggregated customers to curtail their electricity consumption to reduce demand on the grid to help avoid conservation appeals and emergency conditions.

Of these demand-side actions, the PUCT and ERCOT have:

- Added loads to non-spinning reserves;
- Reformed and updated the ERS (ERS) service;
- Created a pilot program for VPP (Virtual Power Plant) through the ADER taskforce, though it has initially focused on distributed generation as opposed to demand response.

Nonetheless, 18 months after the PUCT adopted Phase 1 of the blueprint, there has been no definitive action taken on “Set higher performance standards for energy efficiency programs.”

Stakeholders have, however, sought to address this issue. First, the Sierra Club submitted a rulemaking petition to set higher goals and make other changes that was rejected by the Commission.

Second, the Commission began a stakeholder process to examine the utility energy efficiency and demand response programs, formed four working groups and held a stakeholder meeting on March 28th, 2023 through the Energy Efficiency Implementation Project (EEIP). Filings and both consensus and non-consensus suggestions can be found in Project 38578 (ENERGY EFFICIENCY IMPLEMENTATION PROJECT UNDER 16 TAC § 25.181). Presentations made at the latest EEIP meeting can be found here https://interchange.puc.texas.gov/Documents/38578_89_1285598.PDF.

We ask that the PUCT begin a rulemaking and separate project to help implement the Commission’s decision to set higher performance standards for energy efficiency programs. This issue should be placed on the 2023 Calendar.

In addition, we believe that given passage of SB 1699, the Commission should consider including issues related to that piece of legislation in the wider energy efficiency rulemaking (See below).

Timing is important. Recently all four non-ERCOT utilities around May 1 and all four ERCOT utilities around June 1 filed their proposed EECRF and energy efficiency plans for 2024 which means that these 8 dockets could come to the Commission for decisions in the coming months, and most likely before the end of the year. Thus, unless the Commission begins a rulemaking soon, it will most likely not influence these programs until 2025, a long time for stakeholders to wait for change promised in early 2022.

The 88th Legislature

While there were a number of bills approved by the Legislature and signed by the Governor, we wanted to speak about two very important pieces of legislation: HB 1500 (PUC Sunset bill) and SB 1699 (ADER).

SB 1699 is composed of two parts, or issues that will probably require separate rulemaking tracts. First, the bulk of the bill deals with aggregated distributed energy resources, and the recommendations of the PUCT and stakeholders that came out of the ADER process at the Commission. Sections 1, 3 and 4 of the bill deal with ADER

and ADER definitions, while Section 2 and 5 of the bill pertain to residential demand response programs, including demand response programs funded by utilities through their energy efficiency programs.

While the bill goes into effect September 1, 2023, there is some flexibility on when the bill is implemented since it states in Section 6 that “The Public Utility Commission of Texas shall adopt rules as necessary for the adoption of a program to begin facilitating the widespread deployment of appliances and devices capable of being part of a demand response product or plan offered by a retail electric provider, as provided by Section 39.919(b)(6), Utilities Code, as added by this Act, before December 31, 2024.”

To the extent that such programs are dependent or related to investments and incentives from utilities, there could be a need to begin rulemaking in the short term to make sure that ERCOT utilities include such incentives in their 2024 Energy Efficiency Plans and 2024 EECRFs.

Thus, again, we ask the PUCT to consider as part of its FY 2023 calendar including SB 1699 for residential demand response, along with a wider rulemaking dealing with energy efficiency programs. Potentially, these could be addressed at the same time.

HB 1500

While we will certainly be commenting more in depth as the PUCT and ERCOT implements the many provisions of HB 1500, we wanted to respond to the ERCOT memo regarding implementation of a DRRS service, as required in Section 22 of the bill. As pointed out by ERCOT in their memo last month, the required new service must be implemented on or before December 1, 2024, must reduce the use of RUC, must be dispatchable and must be capable of running for at least four hours.

In their memo, ERCOT provides three options for meeting Section 22 of the new Act. First, they could replace non-spin with DRRS, essentially swapping out one service for another. Second, they could partially replace non-spin with DRRS, while maintaining some amount of the 30-minute service. Finally, they could develop a full DRRS, but make it clear they could not meet the statutory deadline.

The Sierra Club is not in support of Option A-1 because we believe it would undermine efforts to include both controllable and non-controllable loads as options to provide non-spin which is a useful 30-minute service, and also allow in some cases distributed energy resources to provide non-spin. However, we believe that Option A-2 is preferable since it would allow some amount of non-spin, but convert other to the DRRS. We also want to be clear that we believe that batteries that can meet the four-hour requirement as well as loads should be eligible to provide DRRS.

Finally, we wanted to mention the potential for Option A-2 to serve as a bridge solution to a full DRRS, as suggested by Option B. In other words, while ERCOT should implement a modified DRRS before the deadline by adoption Option A-2, this would not prevent ERCOT and the PUCT from implementing a more robust DRRS (Option B) in the future. In other words, adoption of Option A-2 does not prevent the PUCT and ERCOT from implementation of a full-scale DRRS in the future if merited.

Conclusions

The PUCT must include energy efficiency and demand response in its FY 2023 rulemaking calendar. First, the adoption of the Blueprint in early 2022 requires that the Commission address energy efficiency and demand response programs, a commitment that was bolstered through the EEIP process and the recent stakeholder process. Furthermore, passage of SB 1699 requires both a rulemaking for ADER but also a separate rulemaking for residential demand response, which is related to the blueprint recommendation. With Utility programs and EECRFs for 2024 being adopted soon, now is the time to begin that rulemaking process.

Finally, Sierra Club is generally supportive of Option A-2 as part of DRRS implementation, a key provision of HB 1500, but wanted to point out that adoption of A-2 could be a bridge or interim solution toward a full-scale DRRS (Option B). Implementation of Option A-2 does not preclude future development of Option B, which would be outside the timeline established by the Legislature.