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PUBLIC AFFAIRS DIVISION
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OPEN MEETING COVER SHEET COMMISSIONER MEMORANDUM

MEETING DATE: November 30, 2023

DATE DELIVERED: November 29, 2023

AGENDA ITEM NO.: 33


CAPTION: Project No. 54445 – CY 2023 Review of Rules
Adopted by the Independent Organization

DESCRIPTION: Memorandum of Commissioner Glotfelty

Public Utility Commission of Texas

Commissioner Memorandum

TO: Interim Chair Kathleen Jackson
Commissioner Will McAdams
Commissioner Lori Cobos

FROM: Commissioner Jimmy Glotfelty 

DATE: November 29, 2023

RE: Docket No. 54445
Item #33 - NPRR 1186

It is my belief that NPRR 1186 has not been adequately studied, discussed, and justified at this time and therefore I oppose its approval. NPRR 1186 seems to be a proposed solution in search of a problem.

ERCOT asserts that the point of NPRR 1186 is to improve “the awareness, accounting and monitoring of the State of Charge (SOC)” for an Energy Storage Resource. In fact the NPRR as proposed sets operational limits and potential compliance fines upon storage resources even as those resources are making outsized contributions to ERCOT reliability. Furthermore, since ERCOT has not yet adopted any protocols regarding the real-time state of fuel availability for coal or gas plants, it would be discriminatory to adopt burdensome operational requirements on storage devices when no such requirements are placed upon thermal plants.

As I have said in the past, ERCOT is trying to make batteries look like and act like coal plants. ERCOT is pushing this purely because the current ERCOT systems do not accurately capture the operational flexibility and geographic diversity of storage resources. Once Real Time Co-Optimization (RTC) is complete, this issue goes away, so this is really a proposal for the next 2 years, at the time we need the most flexible resources on the system as possible. Evidence on the September 6th EEA event and throughout the past summer show that batteries are making the system MORE reliable, especially on days when forced thermal outages are high and unexpected.

This Commission and ERCOT must value and incentivize flexibility, not penalize it.

NPRR 1186 is increasing the non-compliance penalties on batteries relative to other resources because the other resources are only penalized AFTER they fail to deliver as committed, but the SOC provisions would penalize preemptively BEFORE any actual failure to deliver. And when ERCOT approved this NPRR they asked for yet another penalty structure for violations to this NPRR. If we pass this as requested by ERCOT and approve the follow-on penalty that they

requested, then storage will have no way to even understand what penalty structure they will be facing in the market. This seems problematic and a disincentive to me.

We need ERCOT to admit they can see current SOC of large batteries and with the industry that they do not yet operationally understand. This State of Charge (SOC) issue, if handled correctly, may be the carrot to get Real Time Co-Optimization (RTC) done quickly.

Over the past year ERCOT has demonstrated many misses on its load forecasting, its thermal plant availability forecasts, and the timing and magnitude of potential supply-to-demand shortfalls. Most Qualified Scheduling Entity (QSE), generation and storage resources base their Current Operating Plan and bids in part on ERCOT forecasts, so it is likely that the times when a storage resource's bid level and actual State of Charge – if insufficient – was directly influenced by ERCOT's flawed predictions and the market scramble to correct in real time. At a time when thermal generators are showing repeated low dependability in tight hours, but storage resources are repeatedly showing up, it makes little sense to penalize a storage resource because it based its weekly and daily operational strategy and market bids on ERCOT's bad forecasts.

My review of PURA, section 39.159(b)3-4 as added by SB 3,¹

“requires the commission to ensure that ERCOT procures ancillary or reliability services on a competitive basis during extreme conditions or low output of non-dispatchable power production. ERCOT must develop appropriate qualification and performance requirements for providing services under subdivision three, including appropriate penalties for failure to provide the services during such conditions.”

I believe the above sections must be implemented on a non-discriminatory basis and NPRR 1186 goes against the provision of the law above by targeting one resource type.

NPRR 1186 calls for MORE penalties beyond the ones we have that are implemented on a non-discriminatory basis. How can that encourage further storage investment in ERCOT at a time when ERCOT warns of imminent potential shortfalls.

As we have learned from the recent failed ERCOT Reliability Must Run (RMR) for capacity RFP, we must act to promote the resources that work, and that includes more demand response programs, and an urgent increase in energy efficiency goals.

Path Forward:

I propose we consider a few actions instead of approving NPRR 1186, and look forward to my fellow Commissioners' thoughts:

- 1) Have Commission Staff initiate a project and rulemaking to better hash out the state of charge issue. It is too important for the Commission to not address. Given the PUC staff's rulemaking workload, alternatively,
- 2) Delay approving NPRR 1186 until the Independent Market Monitor (IMM) can evaluate whether adoption of NPRR 1186 as now written could cause regulatory-forced

withholding of battery capacity from ERCOT's ancillary services markets or discourage some proposed storage projects from investing in ERCOT. We should also ask the IMM to study the economic impact on the ERCOT markets of withholding a large portion of battery capacity from the energy and ancillary services markets (including congestion costs).

- 3) Finally, we could consider deleting all the penalty provisions in the current NPRR 1186 proposal, as well as follow-on NPRRs, and adopt only the data collection and monitoring provisions. These data should inform studies and models on battery operation and capabilities so ERCOT can maximize the value of these resource to reliable grid operation, not force them to behave like slower, less flexible grid assets.
- 4) If I had my way, I would simply vote no and ask the Commission to join me. Having heard from many interested parties that this version is acceptable *only as compared to how bad the original proposal was*. I do not think this is the measure of success this Commission, and hopefully ERCOT, strive for.

I look forward to our discussion at our open meeting on 11/30.

¹ SB3, (87th Regular Session, 2021)