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SIERRA CLUB

LONE STAR CHAPTER

Project 55633: Winter Preparedness Work Session 2023 for 2023-24 Peak Load Season.

Comments of the Lone Star Chapter of the Sierra Club

Earlier this month, ERCOT announced it would seek to contract up to 3,000 MWs of capacity from mothballed and shuttered gas plants, and potentially new demand response resources to meet a potential shortfall in supply if certain conditions were to arise this winter. While the Sierra Club appreciates the concern from our grid operator to assure that Texans don't face Emergency Energy Alerts (EAAs) this winter, we do not favor the outside-the-market proposal offered by ERCOT for a number of reasons. That being said, we do believe that an examination of other solutions to help make our grid more reliable during winter extremes is valid, and very much support the workshop scheduled for later this week.

In particular, we believe that the PUCT and ERCOT should be considering a number of additional solutions in the coming months. While some of these will not "solve" concerns this winter, we do think that many of them could be available by next winter, helping our grid to be more reliable and resilient. We would also note that with recent changes endorsed by the PUCT, EAAs occur sooner at 2,500 MWs of operating reserves (versus 2,300), meaning that a desire by ERCOT to avoid EAAs requires the use of additional tools even sooner in the process.

Among the potential solutions we believe should be addressed are:

- Expansion of the use of ERS (Emergency Response Services);
- Furtherance of utility-supported Demand Response programs, including winter demand response;
- Use of non-supported utility Demand Response programs, including residential demand response programs offered by both NOIEs and Retail Electric Providers;
- Rulemaking to expand energy efficiency and residential demand response programs through the EEIP process;

- Working with TDHCA and SECO on the use of federal funding to prioritize programs that help reduce winter demand;
- Adoption of building codes at the local and state level to assure new construction uses less energy.

What concerns us about the ERCOT decision announced October 2nd

We have three major concerns with the decision by ERCOT to explore contracting up to 3,000 MWs of capacity for the winter: process, cost, and local pollution.

First, we have concerns about the process. ERCOT just moved from a SARA to a MORA, using slightly different parameters. The analysis found that in if the weather is as expected, than the probability of falling into EEA is less than 10%, but if we were to have a weather event similar to that experienced last year through Winter Storm Uri, than that potential would be above 10% that we would fall into an EEA, and indeed it could be closer to a 20% probability, though only a 5% chance of falling into EEA 3. We certainly appreciate that this probability is of concern, but would point out that it would be more accurate to multiply the probability of having a Winter Storm Elliot event times the probability of EEA 1, 2 and 3 if we do have a Winter Storm Elliot. We believe if that were done, the probability would be much less than 10% given the NOAA is predicting it is more likely we will have either an average or mild winter than a winter colder than average. Thus, we believe that the policy basis for the decision to contract 3,000 MWs should be reviewed.

Second, we are extremely concerned about the potential cost of the approach laid out by ERCOT in the proposed RFP. ERCOT put together a list of seasonal, mothballed, and non-operational plants totalling nearly 2,100 MWs. We think it is very unlikely that many of those plants would be able to be up and running by late November and available for December, January and February, but even if they could be restarted, it could mean a huge cost to consumers. Consumers would be on the hook for what would essentially be RMR contracts, meaning paying operating costs, plus paying for the actual energy use, if the plants were called to operate. To the extent that the plants needed upgrade to even run, consumers would be on the hook for those costs.

Finally, as a conservation organization, we are very concerned with the real pollution and environmental impacts - particularly on local airsheds - from attempting to restart power plants that have already stopped operating, and in some cases, relinquished their operating permits. As an example, J.T. Deely in San Antonio was one of the most polluting plants in the state and permanently retired in December 2021. With San Antonio and Bexar County designated as a nonattainment area under the 2015 ozone

National Ambient Air Quality Standard, adding power from a plant that produced massive amounts of nitrogen oxides leading to higher levels of ozone would be problematic for the City and for compliance, and for its citizens. Similarly, the Decker Steam Unit in Austin was discontinued more than a year ago as part of the utility's resource plan. The units were used infrequently, but had an outsized impact on local pollution, including PM 2.5 and nitrogen oxide. Austin is currently facing both high levels of ozone pollution and PM 2.5, and local authorities are already worried about our ability to comply with the latest health-based standards.

We would note that neither Deely nor Decker Creek appear to have current operating permits, so even if their owners wanted to participate in the RFP, they would be hard pressed to offer their plant as an option for the RFP. As an example, Austin Energy recently received a new renewed permit for Decker Creek facilities that allows certain assets to run through 2032 through Permit 17380. However, even while seeking to renew that permit, they canceled the permit that was related to the steam unit, Indeed, Permit 2629 was voided on June 8, 2022. And as noted, CPS Energy "canceled" the air permit for JT Deely.¹

While we have less objections to the idea of seeking to expand available demand response resources, again, given the short time, it is unlikely that new resources that are not already part of a program like ERS, a utility program or part of a resource already providing ancillary services (such as non-spin) could be available for the winter.

What solutions the PUCT (and ERCOT) should be considering instead

While we do not favor the proposed ERCOT contract because of our concerns over process, costs and pollution, we do believe there are steps that the PUCT and ERCOT can take to obtain more capacity and resources for the winter of 2023-2024, but more importantly work toward having more resources available by the winter of 2024-2025.

ERS

ERCOT and PUCT already have a distributed generation and demand response tool in their tool box which is intended specifically to expand capacity in emergency situations. ERS or Emergency Response Service is intended for use when our operating reserves get into EEAs, but it can also be used when those operating reserves fall below 3,000 MWs, before we reach 2300 or 2500 MWs of operating reserves. As part of the Blueprint adopted by the Commission in 2022, the PUCT already agreed to expand the

¹ See 88 Fed. Reg. 28,918, 28,929 (May 4, 2023); see also <https://www.regulations.gov/document/EPA-R06-OAR-2016-0611-0233>.

budget from \$50 million to \$75 million per year, but also gave itself the option to expand further as needed. The Sierra Club has been on record as supporting a budget of \$100 million per year, which could expand the use of backup generation and demand response for exactly the type of situations contemplated in ERCOT's RFP for 3,000 MWs. Indeed, ERCOT is currently seeking applicants for the winter season, and rather than creating a separate RFP, ERCOT could simply expand the one they have.

Utility Demand Response Programs

All four ERCOT utilities - TNMP, Centerpoint, Oncor and AEP Texas - offer summer demand response programs that are required to be available during EEA events. Recently, those same utilities began to explore winter demand response, and in particular, Oncor Electric and Centerpoint Energy have announced plans in 2024 to continue those winter programs and make their DR programs essentially 24/7 programs, available as needed.

Sierra Club has filed extensive comments in the 2024 EE plans for AEP Texas, Centerpoint Energy and Oncor, and called on all three to expand their demand response programs, both by having both winter and summer programs, but also making them more available for residential customers. Currently, Tetra Tech, the third party evaluator, reported some 600 MWs of demand response were provided by utilities in 2022, but because Texas has relatively modest goals (0.4% of peak demand) and has been mainly focused on summer peak programs, the actual amount of DR that could be obtained through utility programs is much greater. It is worth noting that none of the ERCOT utilities approached their residential cost caps for 2024. As an example, the 2024 EECRF recently approved by the Commission for Oncor Electric was some 60 cents per MWh below the cost cap, meaning the programs could be expanded significantly without busting cost caps.

Recently, the Sierra Club settled in the 2024 EECRF cases for both Oncor Electric and AEP Texas, and as part of that settlement we agreed to work with the utilities to explore the expansion of EE and DR residential programs. While that discussion is unlikely to lead to an expansion of programs this winter, our hope is it will lay the groundwork for expanded winter residential programs in 2025, including both demand response and overall energy savings programs.

In addition, in 2023, the Texas legislature passed, and Governor Abbott signed SB 1699, which requires the PUCT to adopt residential demand response goals, including allowing the use of utility funded DR programs to fund and enable Retail Electric Provider programs using smart thermostat technology. While there is not a specific date

established for the bill as a while, one section of the bill dealing with the REP programs does have a date of December of 2024, indicating the legislature's desire to jumpstart residential DR by then.

We need REP demand response and Coop and Muni demand response

SB 1699 establishes a general provision that customers should have the ability to participate in DR programs in the ERCOT market. We think the PUCT can jumpstart that process by initiating rulemaking and a project sooner rather than later.

Many REPs already have DR programs, including Reliant Energy and Octopus Energy, and continuing to promote good REP models and using education and the website, such as Power to Save to make customers aware of both utility and REP programs is important.

However, while the PUCT and ERCOT have less ability to influence programs in the Municipally-Owned Utilities and Electric Cooperatives, those entities should be encouraged to also step up their demand response and energy efficiency programs. Several of those utilities are actively engaged in assessing and expanding their programs - CPS Energy and Austin Energy are good examples - but many others have shied away from making real investments in customer-facing programs. However, again through the PUCT's role in customer education, programs that work can be highlighted.

EE Rulemaking Needed Now

Beyond the specific provisions of SB 1699 on residential demand response, the Sierra Club has for several years called on the PUCT to expand utility programs through rulemaking. First, we filed a petition for rulemaking which would have required utilities to meet both summer and winter peak demand with an expanded peak demand goal of 0.7 percent, but also by ratcheting up the energy savings goal, from our measly goal of 0.20 percent of load capacity (corresponding roughly to 0.125% of energy use) to something approaching one percent of energy savings.

Recently, the ACEEE released a groundbreaking report showing that by adopting 10 specific measures, and spending approximately \$1.2 billion per year (about 10 times what is currently spent), Texas could reduce winter peaks by some 25,000 MWs and summer peaks by some 15,000 MWs, saving consumers more than it costs in ratepayer funds. However, while advocating for these ambitious programs, ACEEE also provide a more modest path that would cost less but lead to similar results. A full copy of the report can be found at

<https://www.aceee.org/white-paper/2023/08/energy-efficiency-and-demand-response-to-ols-address-texas-reliability>.

While we recognize the important work done by the PUCT through its EEIP process, and stakeholder input, at the end of the day, the PUCT has yet to take any definitive action on expanding energy efficiency programs or demand response, and it is within the PUCT's power to do so. There is nothing in statute that prevents the PUCT from:

- Expanding energy savings goals;
- Requiring utilities to address both summer and winter peak demands
- Giving utilities more flexibility in program design to reach more Texans
- Adjusting cost caps and cost effectiveness tests

We do appreciate the recent improvements to the "Power to Save" website, but believe it is well past time to initiate rulemaking to expand utility programs.

Federal Funds Must be Utilized Efficiently in a Coordinated Effort

Fortunately, Texas does not have to rely only on ratepayer and utility funds to expand energy savings programs. The IIJA and IRA can provide billions of dollars of taxpayer funds to Texas to make our electric grid more resilient.

Some of those programs involve other state agencies, and again, we call on the PUCT to carefully coordinate with other state agencies and local governments that are gaining access to federal funds intended to reduce peak demand, save energy and build out distributed generation. Recently, under the IIJA, TDHCA was awarded approximately \$174 million it must spend over the coming years on low-income weatherization programs. PUCT must assure that utilities coordinate their programs with these TDHCA-administered programs to bring the maximum benefit to Texans. In addition, both the TDHCA and a coalition of local governments have applied for up to \$400 million in the Solar for All program. While it is unlikely that the EPA will approve both applications, we are confident that money intended to build out local distributed solar will be granted in Texas, and again, the PUCT can play a role in coordinating these efforts and utility efforts to maximize the benefits of local generation to help meet our growing loads.

Perhaps most importantly, the Comptroller of Public Accounts has the opportunity to apply for up to \$700 million in two programs intended to help increase the use of new more efficient appliances like heat pumps and water heat pumps and in general expand energy efficiency programs. Recently, the DOE announced after meeting with state

officials, that it would reduce the regulatory burden to apply for these funds. The Sierra Club supports SECO applying for the full allocated amount for both programs, but again, we believe that SECO should and must work with the PUCT, as well as private utilities, electric cooperatives and municipality-owned utilities to assure that these federal grants and rebates can be coordinated with other efforts to reduce energy use. We believe that part of this can be accomplished by providing credit to utilities when they do combine efforts, leading to even further reduction in energy use.

It is worth noting that much of the large winter loads is caused by electric resistance heating during cold snaps, and helping Texans get off electric resistance heating through the use of variable efficient heat pumps and hot water heat pumps could reduce winter loads by thousands of MWs. Federal funds combined with utility programs can help accomplish this.

Virtual Power Plants Efforts Should be Continued

We are very thankful to the many stakeholders and the Commission for beginning a pilot VPP and look forward to the results in the Houston and Dallas areas where the pilots are taking place. We hope that there will be an expansion of these efforts both in the competitive market, but we would also like to see NOIEs more actively participate in such efforts.

Texas must continue to lead on building codes

Even as we focus on making existing buildings more energy efficient, reducing load, Texas must continue to be a leader on adopting the latest energy and other building codes. Unfortunately, Governor Abbott vetoed SB 2453, which would have continued to allow SECO to move forward on statewide adoption of the latest energy codes for new construction, as well as high performance standards for state-funded and university buildings. Analysis by the Energy Systems Laboratory shows that buildings constructed to the 2021 IECC are five to ten percent more energy efficient than those built to the 2015 IECC, the current state minimum.

The Sierra Club has joined with unlikely allies in asking Governor Abbott to add the legislation to the special session. In the meantime, many local entities, including the City of Austin, City of San Antonio, City of Dallas and many other entities have already moved forward with adopting 2021 codes, and this week, the City of Houston will be considering the adoption of a suite of codes which will make future Houston buildings more resilient and energy efficient.

We hope that the work of these cities can be highlighted as an example to other locations, but ultimately we need state leadership on codes through agencies like SECO, TDI and other agencies.

Summary

The Sierra Club questions the need for ERCOT's proposed contract for an additional 3,000 MWs of capacity for the winter, and instead believes that a policy should be developed on when it is appropriate for ERCOT to order that extra capacity be contracted. In the meantime, we believe ERS can be more easily expanded if needed, and utilities can be encouraged to make their residential and commercial demand response programs 24/7 programs. In addition, the PUCT should begin rulemaking on both expansion of residential demand response to meet the requirements of SB 1699, but also a wider rulemaking on utility EE programs, including raising peak demand and energy savings goals. The recent ACEEE report shows there are literally thousands of MWs of energy savings that could be realized in a cost-effective manner. Finally, coordination of federal funding opportunities with agencies like TDHCA and SECO, expansion of VPP, and more attention to MOU and electric cooperative efforts, as well as development of retail electric provider DR programs are all needed to help assure that Texas can meet winter requirements.

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