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PROJECT NO. 55718

RELIABILITY PLAN FOR THE PERMIAN BASIN UNDER PURA §39.167	§ § § §	**PUBLIC UTILITY COMMISSION OF TEXAS**

OFFICE OF PUBLIC UTILITY COUNSEL'S INITIAL COMMENTS ON STAFF QUESTIONS ON ERCOT'S RELIABILITY PLAN FOR THE PERMIAN BASIN UNDER PURA § 39.167

The Office of Public Utility Counsel ("OPUC"), representing the interests of residential and small commercial consumers, respectfully submits these initial responses to questions posed by staff ("Staff") of the Public Utility Commission of Texas ("Commission") on ERCOT's Reliability Plan for The Permian Basin under Public Utility Regulatory Act ("PURA") § 39.167. Staff requests stakeholder comments by August 9, 2024.[1] Therefore, these comments are timely filed.

INTRODUCTORY COMMENTS

PURA § 39.167, as enacted by the 88th Texas Legislature through House Bill ("HB") 5066, requires the Commission to direct the Electric Reliability Council of Texas ("ERCOT") to develop a reliability plan for the Permian Basin region to address the extension of transmission service to areas where mineral resources have been found, increasing capacity for forecasted load, and provide infrastructure to reduce interconnection times. However, there is no mandate requiring the Commission to approve this plan for immediate implementation. Consistent with comments herein, OPUC recommends that the Commission's deliberations and recommendations ultimately be submitted to the Texas Legislature for further consideration, particularly given the significant costs involved for residential and small commercial consumers who are not the primary driver behind these investments.

PLAN

In its report filed on July 25, 2025, the Electric Reliability Council of Texas ("ERCOT") stated that it "expects to provide an initial draft of holistic transmission plan for the 500-kV or 765-kV to serve the entire ERCOT region's forecasted load reliably and efficiently for 2030, no later

[1] *Reliability Plan for the Permian Basin Under PURA § 39.167*, (Mem.) (Jul. 30, 2024).

than September 2024. The 2024 RTP is evaluating project alternatives to significantly expand the existing 345-kV network or building a new [Extra-High Voltage ("EHV")] backbone infrastructure (500-kV or 765-kV) to meet the long-term reliability, resiliency and growth."[2] These detailed reports may contain information critical to the evaluation of these projects and are likely to inform whether a phased approach is the most practicable and beneficial method to pursue. For example, it could be found that expanding existing 345 kV paths near the Permian Basin offers a more cost-effective alternative to some components of the plans proposed in the ERCOT Study. Lines in one part of the state don't just move electrons generated in that part of the state. So, it would be premature to approve significant investments in transmission system projects in any region without knowing the viability of all the options impacting ERCOT and may lead to an inefficient duplication of effort and increased costs to backtrack on plans to incorporate new information into the design of a buildout. Instead, OPUC suggests that ERCOT's Plan and these additional reports inform the Commission's recommendations to the Legislature, which will convene in January and can more fully consider all of this information in addressing the needs of the Permian Basin, the entire ERCOT region, and the state as a whole, as discussed elsewhere in OPUC's comments.

AFFORDABILITY AND COST

The general guiding principle of transmission planning is to determine the societal benefit of a proposed project by comparing the revenue requirement of the capital cost of the project to the expected savings in system production costs resulting from the project over the expected life of the project.[3] If this production cost savings equals or exceeds the annual revenue requirement for the project, the project is economic from a societal perspective.[4] OPUC appreciates the granularity in ERCOT's report submitted July 25, 2024, detailing the costs of the three proposals for the Permian Basin, and in particular highlighting common costs that each project are likely to entail.[5] Importantly, even these common costs are estimated to exceed $3.925 billion.[6] Additional

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[2] ERCOT Permian Basin Reliability Plan Study – Final at 53 (Jul. 25, 2024) ("ERCOT Study").

[3] ERCOT Nodal Protocols, Section 3.11.2 Transmission Planning: Planning Criteria at Subsection (5) (updated August 1, 2024).

[4] *Id.*

[5] ERCOT Study.

[6] *Id.*

project-specific costs could exceed $10 billion by 2038.[7] In fact, according to ERCOT, the "majority of the local transmission upgrades identified for 2038 are needed for 2030":

> The total cost estimate for local upgrades and the 345-kV import path option in 2030 is a subset, approximately $9.04 billion, of the total 2038 cost estimate of approximately $12.95 billion. The total cost estimate for local upgrades and the 500-kV import paths in 2038 is approximately $15.32 billion. The total cost estimate for local upgrades and the 765-kV import paths in 2038 is approximately $13.77 billion. For the EHV import path options (500-kV or 765-kV), a small subset of the local transmission upgrades (estimated cost of approximately $0.54 billion) would not be needed.[8]

Given the magnitude of the estimates, it is imperative that the proposals undergo a detailed technical and cost-benefit analysis. ERCOT's Regional Planning Group ("RPG") is well versed in performing these analyses, albeit scaled down from the ERCOT Plan, and is already established to incorporate stakeholders in the process. While OPUC respects the Commission's intention to bypass the usual RPG process in the overall development of this Plan,[9] and OPUC appreciates that ERCOT has provided informational updates to RPG, no analysis has actually occurred to determine the full societal benefit of the buildout that would supplant the normal RPG process. Further, Texas has already gone through a major transmission buildout through the Competitive Renewable Energy Zone ("CREZ") projects and should consider historical insights gained to maximize the long-term benefits of any Permian Basin transmission buildout. Rather than leaving for litigation a determination of the prudence of investments after-the-fact, the importance of this project leans in favor of more prospective analyses.

Based on that data, it may be appropriate for the Commission to recommend a cost cap that ensures the costs borne by consumers do not exceed the projected benefits of any buildouts. Further, this would not be a typical cost incurred as part of the normal growth of a region and it would be shared by all ERCOT ratepayers, so guardrails to modify otherwise typical allocation methodologies may need to be considered. Specifically, the substantial load growth identified in the ERCOT study is primarily driven non-residential growth, including oil and gas operations,

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[7] *Id.* at 54.

[8] *Id.* at 52.

[9] *Order Directing ERCOT to Develop a Regional Plan for the Permian Basin Region* at Attachment A (Dec. 14, 2023).

crypto-mining operations, and new commercial and industrial operations; it would be fundamentally prejudicial for residential consumers to foot the bill for a massive transmission buildout to support these kinds of operations that can afford to pay a share of the costs more reflective of their demand, particularly as some of these operations may bring less permanent economic benefit to the state than others. OPUC recognizes that these conversations go beyond considerations within the public utility industry and would support delaying implementation of any plan until these issues can be debated and decided by elected representatives.

CCN PROCESS

OPUC recommends that the Commission consider establishing a process to work with the Transmission Service Providers ("TSPs") to resolve these questions of responsibility, similar to the directives given in the CREZ project.[10] Following a similar process would ensure that every TSP will get an equal opportunity to propose implementation strategies, keeping in mind the cost, quality, and reliability of these projects and long-term goals of the regional reliability plan. OPUC further recommends that the Commission consider modifications to the CCN process similar to the ones approved in Docket No. 36801.[11] Commission Staff resources could be unduly burdened if too many transmission project CCN applications are filed on the same date, and intervenors would likely be deprived a realistic opportunity to fully and meaningfully engage in cases. A staggard approach to filing the CCN applications or additional time to file them would be reasonable for all parties involved and, based on the prioritization of the project, would not unreasonably delay implementation. OPUC recommends that the Commission include proposed changes to the CCN process for consideration by the Legislature, along with its preferred reliability plan. Conversely, the Commission could consider preliminary strawman projects to begin development of rules to implement any changes to the existing CCN processes now while the Legislature more fully considers the impacts of implementation.

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[10] *Order*, Commission Staff's Petition for Designation of Competitive Renewable Energy Zones, Docket No. 33672 at Part F: Future Actions (Aug. 15, 2008); 16 Texas Administrative Code § 25.216; *Order on Rehearing*, Commission Staff's Petition for Selection of Entities Responsible for Transmission Improvements Necessary to Deliver Renewable Energy from Competitive Renewable Energy Zones, Docket No. 35665 (May 15, 2009).

[11] Proceeding to Sequence Certificate of Convenience and Necessity Applications for the Priority Projects for the Competitive Renewable Energy Zones, Docket No. 36801 (Jul. 8, 2009).

FINAL ORDER

The final order in this docket should be tailored to the specific plan approved by the Commission, including any conditions or guardrails ultimately adopted, but should generally address similar criteria typically included in any CCN order pursuant to PURA § 37.056, including specificity as to the existing generation and transmission service provided in the Permian Basin; need for additional service, including whether than need represents permanent, long-term needs or a shorter-term investment; and the anticipated effects of the chosen plan on existing industry participants, including ratepayers. Additionally, the final order generally should specify:

(1) Geographic locations for all components of the plan selected;
(2) All known major transmission improvements necessary as a result of the plan;
(3) All known major distribution improvements necessary as a result of plan;
(4) An estimate of the maximum generating capacity that the Commission expects each section of the transmission buildout to accommodate;
(5) An estimate of costs associated with each component of the plan and estimated improvements needed to existing infrastructure; and
(6) A requirement that ERCOT will maintain reliability regardless of which plan is selected.[12]

Findings of fact and conclusions of law as to these issues will be critical context and provide transparency for future conversations by stakeholders, the Commission, and state leadership in determining whether the selected plan best supports the reliability of ERCOT's competitive energy market within this growing Texas economy.

CONCLUSION

OPUC appreciates the opportunity to provide these comments and looks forward to working with Staff and other stakeholders on this project.

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[12] *See generally Order*, Commission Staff's Petition for Designation of Competitive Renewable Energy Zones, Docket No. 33672 at 4 (Aug. 15, 2008).

Date: August 9, 2024

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EXECUTIVE SUMMARY

OPUC recommends that the Commission's deliberations and recommendations ultimately be submitted to the Texas Legislature for further consideration, particularly given the significant costs involved for residential and small commercial consumers who are not the primary driver behind these investments. OPUC specifically provides the following comments:

- It would be premature to approve significant investments in regional transmission system projects without knowing the viability of 345-kV expansion or Extra-High Voltage options across the ERCOT region and may lead to an inefficient duplication of effort and increased costs to backtrack on plans to incorporate new information into the design of a buildout.
- No analysis has yet occurred to determine the full societal benefit of the buildout that would supplant the normal ERCOT RPG process. Given the magnitude of the cost estimates, it is imperative that the proposals undergo a detailed technical and cost-benefit analysis, such as what the RPG can perform, and that the Commission consider lessons learned from the CREZ buildout to maximize the cost effectiveness of these investments.
- A cost cap and changes to cost allocation methodologies may be appropriate to ensure the cost-drivers behind the need for such a robust buildout pay a more proportionate share of expenses, rather than asking residential consumers to bear the bulk of this burden.
- OPUC believes processes similar to what were established during the CREZ projects could be used to provide TSPs a fair opportunity to propose implementation strategies and help contain costs for consumers.
- The final order in this project should provide context and transparency to the conversation by firmly establishing the specific regional need for and expected provision of transmission services within the Permian Basin, as well as the anticipated impacts to consumers as a result of the selected plan.

The Commission's decision in this docket represents a monumental opportunity for Texas's economic growth, not only for traditional West Texas industries but for the whole state. Collectively, we can agree that the state as a whole will benefit from a single, comprehensive plan to support improved reliability in the Permian Basin. However, these conversations entail considerations beyond the public utility industry, so OPUC strongly recommends and would support delaying implementation of any plan until these issues can be debated and decided by the state's elected leadership.