



## **Filing Receipt**

**Filing Date - 2024-01-05 02:39:48 PM**

**Control Number - 55826**

**Item Number - 21**

**PROJECT NO. 55826**

**TEXAS ENERGY FUND IN-ERCOT  
GENERATION LOAN PROGRAM**

§  
§  
§

**PUBLIC UTILITY COMMISSION  
OF TEXAS**

**COMMENTS OF ELECTRIC RELIABILITY COUNCIL OF TEXAS, INC.**

Electric Reliability Council of Texas, Inc. (ERCOT) submits these comments in response to the Public Utility Commission’s (Commission) Proposal for Publication of proposed 16 TAC § 25.510, *Texas Energy Fund In-ERCOT Generation Loan Program*, as approved at the Commission’s November 30, 2023 Open Meeting and published in the *Texas Register* on December 15, 2023. As described further herein, given the confidentiality of availability data in the North American Electric Reliability Corporation’s (NERC) generating availability data system (GADS), if the Commission wishes to rely on ERCOT information on generator availability to ascertain whether an electric generating facility has maintained an equivalent availability factor (EAF) of 50 percent during the term of the loan, it may wish to clarify that the EAF calculation will be based on ERCOT data, rather than NERC GADS data. ERCOT is submitting similar comments regarding the EAF calculation in Project 55812, *Texas Energy Fund Completion Program*.

Several provisions in proposed rule 25.510 rely on the calculation of an “equivalent availability factor” (EAF). As prescribed in proposed section 25.510(e)(5)(C)(i), a loan applicant must include the manufacturer’s estimated EAF as part of the loan application. In proposed section 25.510(f)(2)(I), the Commission must consider whether a proposed facility “can achieve the applicant’s long-term EAF and capacity projections.” And proposed section 25.510(h)(1)(A) requires that any loan agreement include a performance covenant under which the electric generating facility would need to “meet an EAF of 50 for all hours during the term of the loan.”

Proposed section 25.510(e)(5)(C)(i) specifies that the EAF estimated by the manufacturer must use “the calculation in the NERC GADS.” The other references to EAF in the proposed rule do not specify the source of availability data, but ERCOT would read the rule to imply that NERC GADS data would be used to calculate an EAF in all such instances. While an estimate of an EAF based on NERC GADS data may be suitable for a manufacturer to use for purposes of the loan application, if the Commission intends to enforce the performance covenant of the loan agreement, it may need to rely on ERCOT availability data for that purpose, given that NERC has historically

regarded GADS data as confidential,<sup>1</sup> and ERCOT does not have access to the NERC GADS. Generator Owners provide outage and availability information directly to the NERC GADS, and ERCOT is not included in that communication.

To the extent the Commission may wish to rely on ERCOT availability information to calculate an EAF for purposes of determining compliance with the performance covenant in proposed 25.510(h)(1)(A), ERCOT recommends that the Commission clarify the rule to provide that the EAF used for this purpose must be determined using ERCOT's availability data. Furthermore, if the Commission expects ERCOT to provide this information to the Commission or to have some other formal role in the process of determining the EAF for purposes of the loan program, ERCOT recommends making that explicit in the rule to avoid any controversy. ERCOT is willing and able to calculate an EAF as described in the rule. If it is helpful to the Commission, ERCOT could provide a report on an annual basis (or other specified period) documenting the EAF for each unit that is the subject of a loan agreement. ERCOT recommends that such a reporting obligation be specified in the rule.

Assuming the Commission does envision ERCOT's calculation of the EAF for purposes of this rule, then for purposes of the calculation specified in subsection (h)(1)(A) of the proposed rule, ERCOT would expect to use the telemetered status and the telemetered High Sustained Limit (HSL) for each affected unit. Subject to further Commission input, ERCOT would propose that, if the telemetered status for the entirety of a given hour during the period of the loan is anything other than "OUT," "EMR," or "EMRSWGR," the unit would be considered available unless the telemetered HSL for the unit is less than the unit's Seasonal net maximum sustainable rating by some defined margin established by ERCOT.<sup>2</sup> To that end, if the Commission does expect ERCOT to calculate the EAF under this rule, ERCOT further recommends that the rule be revised

---

<sup>1</sup> See, e.g., *NERC GADS data FAQ, available at <https://www.nerc.com/pa/RAPA/gads/Documents/GADS%20FAQ%20080414.pdf>* ("Per Section 1500 of the Rules of Procedure, all [GADS] data submittal is secure and confidential.").

<sup>2</sup> Requiring a unit's HSL to be at or above the Seasonal net maximum sustained rating to be considered available could be problematic because a generator's actual HSL varies depending on temperature and other conditions and can reasonably be expected to drop below the Seasonal net maximum with some regularity. Consequently, ERCOT believes it would be appropriate to identify some margin below the Seasonal net maximum sustained rating that would be allowed before the unit would be considered "derated." For example, ERCOT's Protocols only require Outage Scheduler entries for derates that exceed 10 MW and 5% of the unit's Seasonal net maximum sustainable rating and that last more than 30 minutes. See ERCOT Protocols section 3.1.4.7(4). ERCOT does not read the EAF calculation in subsection (h)(1)(A) to imply such a margin. Further, ERCOT reads the current rule language to mean that if a unit has a telemetered status of "OUT," "EMR," or "EMRSWGR" for any part of a given hour for the period of the loan, that entirety of that hour is counted as unavailable. If a different outcome was intended, such as the telemetry status for the majority of an hour controlling, clarification from the Commission would be helpful.

to allow ERCOT to establish such a margin. Alternatively, the Commission could revise the EAF calculation in subsection (h)(1)(A) to provide for a reduction in the EAF proportional to the magnitude of the derate, rather than considering any derate to mean the unit is entirely unavailable. Under any approach, ERCOT would also intend to rely on other system data, including data from its Outage Scheduler, to validate the telemetered data. As explained in ERCOT's comments in Project 55812, ERCOT proposes to calculate an EAF for purposes of the bonus in the same manner.

Dated: January 5, 2024

Respectfully submitted,

/s/ Katherine Gross

Chad V. Seely  
Senior Vice President and General Counsel  
Texas Bar No. 24037466  
(512) 225-7035 (Phone)  
chad.seely@ercot.com

Nathan Bigbee  
Deputy General Counsel  
Texas Bar No. 24036224  
(512) 225-7035 (Phone)  
nathan.bigbee@ercot.com

Katherine Gross  
Senior Corporate Counsel  
Texas Bar No. 24065610  
(512) 225-7184 (Phone)  
katherine.gross@ercot.com

ERCOT  
8000 Metropolis Drive, Bldg. E, Suite 100  
Austin, Texas 78744  
(512) 225-7079 (Fax)

ATTORNEYS FOR ELECTRIC  
RELIABILITY COUNCIL OF TEXAS,  
INC.

**PROJECT NO. 55826**

**TEXAS ENERGY FUND IN-ERCOT  
GENERATION LOAN PROGRAM**

§  
§  
§

**PUBLIC UTILITY COMMISSION  
  
OF TEXAS**

**COMMENTS OF ELECTRIC RELIABILITY COUNCIL OF TEXAS, INC.**

**EXECUTIVE SUMMARY**

Electric Reliability Council of Texas, Inc. (ERCOT) requests that the Public Utility Commission of Texas (Commission) consider revising the proposed rule as follows:

- If the Commission intends ERCOT to have any role in calculating the equivalent availability factor (EAF) for purposes of enforcing the performance covenant, then:
  - o the rule should require ERCOT to calculate the EAF using ERCOT's own availability data, rather than data from the North American Electric Reliability Corporation's (NERC) Generating Availability Data System (GADS), as ERCOT does not have access to the NERC GADS or the information that resides in that system; and
  - o the rule should either require ERCOT to determine how far a generator's telemetered high sustained limit (HSL) must fall below its Seasonal net maximum sustainable rating before it is considered derated or it should revise the EAF calculation to provide for a reduction in the EAF proportional to the magnitude of the derate.