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PROJECT NO. 57374

EXEMPTION PROCESS FOR ERCOT TECHNICAL STANDARDS	**§**	**PUBLIC UTILITY COMMISSION**
	§	
	§	**OF TEXAS**

JUPITER POWER LLC'S COMMENTS ON THE PROPOSALS FOR PUBLICATION

Jupiter Power LLC (Jupiter Power) files these comments regarding the two Proposals for Publication (PFP) adopted by the Public Utility Commission of Texas (Commission) and published in the *Texas Register* on December 19, 2024. Jupiter Power appreciates the efforts of the Commission and Staff to draft proposed rules to establish a process for exemptions and appeals from ERCOT standards that ensure reliability and continued investment in the ERCOT market.

Jupiter Power is a developer and owner-operator of stand-alone energy storage projects and has been actively developing resources in the Electric Reliability Council of Texas (ERCOT) grid since 2017. Jupiter Power currently has 1375MWh of battery energy storage projects in operations in ERCOT. Jupiter Power's battery energy storage projects provide services in the ERCOT energy and ancillary services markets. Jupiter Power continues to invest in existing and future resources and currently has an additional 7200MWh of storage in development in ERCOT, including 600MWh in construction.

I. GENERAL COMMENTS

The proposed rules amending 16 Texas Administrative Code (TAC) §§ 25.517 and 22.251 would have far-reaching implications. The Commission should take caution to not implement rules that hinder the investment in generation that provides the operational flexibility needs of ERCOT and provides the resources to build and operate a reliable grid. As we look at steep demand trajectory in ERCOT, the plan for ensuring reliability must include promoting rules that allow for new reliable and flexible generation to be able to connect to and provide wholesale power to the ERCOT market in a timely fashion in order to meet long-term reliability needs of rapidly growing demand. The proposed rulemaking process should be guided by the need to narrowly, quickly and efficiently solve the barriers to bringing or keeping projects online while ensuring reliability. Towards these ends, we propose two changes: (1) that the Commission should clarify the definition

of technical feasibility; and (2) that the Commission should add a much-needed extension allowance to this process.

In addition, the rulemaking should not permit the retroactive application of reliability standards unless that application has been specifically asserted in statute. By attempting to assert retroactive application of reliability standards the Commission and ERCOT are out of step with the Federal Energy Regulatory Commission (FERC), the North American Electric Reliability Corporation (NERC), and other Regional Transmission Organizations (RTOs). Jupiter Power agrees with the Commission's focus on reliability, and that focus is precisely why reliability requirements should not be imposed retroactively, unless specifically asserted in statute. In a current FERC rulemaking to establish reliability standards for frequency and voltage ride-through, parallel to those contemplated by NOGRR 245, NERC stated that there would be a "substantial negative impact to reliability" if legacy exemptions were not granted at the outset.[1] Implicit in NERC's determination is that a greater reliability risk would likely be created by taking units offline temporarily for retrofits or permanently for economic retirements than otherwise would be created by granting exemptions to all legacy units requiring hardware changes.[2] NERC and FERC reviewed and evaluated the same ride-through studies and data that ERCOT has presented and yet came to the complete opposite conclusion. Using the ride-through reliability standard exemption process at FERC as a guide, the Commission should harmonize its efforts here with proposed federal standards; hardware upgrades should be an accepted justification for an exemption for existing resources. Further, the effect of retroactive application of any new reliability standard may be felt even if the resource is not yet currently commercially operational on the grid. Application of a new rule that applies to projects at a certain point in late-stage development may render the established progress in the development of that project moot and would be felt as retroactively applying to the resource.

Jupiter Power does not offer any responses to the questions posed by the Commission at this time.

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[1] Notice of Proposed Rulemaking, Reliability Standards for Frequency and Voltage Protection Settings and Ride-Through for Inverter-Based Resources, 18 Fed. Reg. 6845 (proposed Jan. 21, 2025) (to be codified at 18 C.F.R. pt. 40); Petition of the North American Electric Reliability Corporation for Approval of Proposed Reliability Standards PRC-029-01 and PRC-024-4 at 38 (Nov. 4, 2024); *See*, https://www.nerc.com/FilingsOrders/us/NERC%20Filings%20to%20FERC%20DL/Petition%20for%20Appproval%20of%20PRC-029-1%20and%20PRC-024-4_digicert.pdf.

[2] *Id.*

II. PROPOSED EDITS TO THE RULE

Jupiter Power proposes the following changes to this rulemaking:

- **§ 25.517(b)(4) Technically feasible**

Any discussion of technical feasibility should be limited to the context of the resource itself, circumstances of application to the technology type, and the existing hardware, or existing commercially available hardware, for new resource. Precedent exists in ERCOT Protocols to exempt existing facilities from new standards that are not feasible with existing hardware or cannot be accomplished within the timeline contemplated by the deadlines established in a reliability requirement.[3] This practice should continue and be codified in the present rulemaking.

- **§ 25.517(c) and (d) Extensions**

A resource may be able to comply with a reliability requirement if it is permitted reasonable time for compliance. In those situations, a resource may only need an extension of the applicable requirement and not a permanent exemption that would be subject to a formal review process. The proposed rule forecloses any consideration of extensions to allow modifications to existing resources. For regulatory expediency, resources should be granted a defined amount of additional time to comply with the reliability requirement without having to seek a formal exemption. Additionally, an exemption of a reliability rule relating to a timing requirement would be done more cleanly as an extension of the timing required and still ensure that the actual reliability requirement is complete.

Modifications to resources in late-stage development or existing resources to comply with reliability requirements, even where no hardware change is involved, can require significant expenditures and require time to implement. For example, modelling requirements have recently been added in order to increase grid reliability. Under recent changes to ERCOT planning guides, those modelling updates may need to be reviewed before a resource is authorized to make a

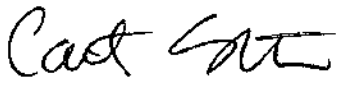
[3] *See, e.g.*, Nodal Operating Guide § 2.6.2.2(3) (permitting exemptions for certain distribution generation resources and distribution energy resources from frequency ride-through requirements); Nodal Operating Guide § 2.9.1.2 (establishing separate voltage ride-through requirements for transmission-connected legacy inverter-based resources); *See, e.g.*, ERCOT Protocol § 3.15(6) (which exempts resources that have previously been commissioned from having to meet certain voltage support requirements and submitting new reactive studies or conducting commissioning-related reactive testing); ERCOT Protocol § 8.5.1.3 (exempting certain resources from primary frequency requirements if compliance is technically infeasible); ERCOT Protocol § 1.6.5(3) (granting certain generation units owned by municipally-owned utilities and cooperatives exemptions from requirements that are not feasible at reasonable costs); ERCOT Protocol § 3.14.1.9(16)(c) (providing that if a decommissioned resource comes back to service, it is given exemptions to any requirements it had been previously permitted).

modification, reach commercial operations, or, in some instances, the modelling process simply takes longer than ERCOT's established timelines. Depending on the nature of what the model is intended to depict, requiring a narrow timeline for the resource to provide ERCOT the accurate information it needs for reliable grid operations before the resource can be fully commissioned, may be "technically infeasible." Further, if a modification is not available to be procured but will be in the future, then it would be far better to grant an extension for the resource to make the modifications in the future rather than seek a formal exemption. As a practical matter, the Commission should not require a resource to proceed through the extensive procedural process to obtain an exemption because a needed modification or the associated model is on back order.

III. CONCLUSION

Jupiter Power appreciates the opportunity to offer comments on this important issue and respectfully requests the consideration of the proposed changes and additions to rule as published.

Respectfully Submitted,



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§25.517. Exemption Process for ERCOT Reliability Requirements

(a) **Application**. This section applies to the Electric Reliability Council of Texas (ERCOT) and market participants in the ERCOT region that are required to comply with reliability requirements. Any exemption granted under this section applies only to a resource that existed before the date a reliability requirement takes effect and that satisfies the criteria for an exemption. An unacceptable reliability risk described in subsection (b)(5) of this section applies only to the assessment of exemption requests and does not affect reliability criteria in the ERCOT protocols, operating guides, or other binding documents.

(b) **Definitions**. The following words and terms, when used in this section, have the following meanings unless the context indicates otherwise:

(1) **Resource** -- includes a generation resource, load resource, and an energy storage resource, as defined in the ERCOT protocols.

(2) **Reliability requirement** -- a technical standard adopted by ERCOT to support the reliability of electric service, with which market participants must comply, that is included in the ERCOT protocols~~,~~ operating guides, or other binding documents to support the reliability of electric service.

(3) **Technical limitation** -- a technical restriction preventing a resource from complying with a reliability requirement, based on the resource's documented technical infeasibility to comply with the reliability requirement.

(4) **Technically feasible** -- describes a modification or upgrade to the as-built resource that~~, based on physics and engineering,~~ can be made ~~to a resource~~ without modification to the existing hardware within the timeline contemplated by the deadlines established in the reliability requirement.

(5) **Unacceptable reliability risk** -- a risk posed to the ERCOT system, including:

(A) instability, cascading outages, or uncontrolled separation;

(B) loss of generation capacity equal to or greater than 500 megawatts in aggregate from one or more resources;

(C) loss of load equal to or greater than 300 megawatts;

(D) equipment damage; or

(E) an unknown or unverified limitation.

(c) **Exemption and Extension Requests**. If a technical limitation or lack of commercial viability prevents a resource from complying with a requirement that ERCOT has determined is critical for reliability, a market participant may submit to ERCOT an exemption request in accordance with this section. ERCOT must also allow existing resources to seek a reasonable extension for the time to implement modifications to comply with such a requirement as provided in this rule. If ERCOT denies that extension request, the existing resource may seek an exemption under this provision.

(1) The exemption request must be submitted in a form prescribed by ERCOT that, at a minimum, requires the following:

(A) a description of the applicable reliability requirement that the market participant's resource cannot meet, including cross-references to ERCOT protocols, operating guides, or other binding documents where the applicable reliability requirement is codified;

(B) a succinct description, with supporting technical documentation, of the market participant's efforts to comply with the applicable reliability requirement, and an explanation of the market participant's inability to comply;

(C) documentation describing all technically feasible modifications, replacements, or upgrades the market participant could implement, but has not yet implemented, to improve the performance of the resource toward meeting the applicable reliability requirement;

(D) the estimated total cost of implementing each modification, replacement, or upgrade identified in paragraph (3) of this subsection, including line-item descriptions and costs for procurement; installation, replacement, or modification; and operations and maintenance;

(E) models that accurately represent expected resource performance and reflect actual as-built resource equipment and settings, with all technical limitations, before and after maximizing the resource's operational capability. Each model must include a

description of any technical limitation the market participant cannot accurately represent in that model;

(F) a plan to comply with each specific element of the applicable reliability requirement to the maximum extent possible. A plan under this paragraph must include:

(i) a proposed completion deadline for each proposed modification, replacement, or upgrade;

(ii) proposed dates for the market participant to provide updates to ERCOT on its progress;

(iii) any supporting documentation relevant to plan implementation;

(G) whether any other exemption request has been submitted for the resource, in accordance with this section or otherwise, including the outcome of each request;

(H) a list detailing the resource's history of violations of ERCOT protocols, operating guides, or other binding documents related to the reliability requirement for which an exemption is being requested; and

(I) the resource's interconnection date, including a copy of the resource's interconnection agreement and any amendments.

(2) In lieu of an exemption, resources may seek an extension of the time to implement changes necessary to comply with the new requirement. A request must be submitted in a form proscribed by ERCOT that requires the following:

(A) a description of the applicable reliability requirement that the market participant's resource cannot meet, including cross-references to ERCOT protocols or operating guides where the applicable reliability requirement is codified; and

(B) documentation of the reasonable need for additional time to implement any technically feasible modifications or to create any studies, analyses, or models required to meet the reliability requirement.

(d) **ERCOT assessment of exemption and extension requests.**

(1) **Exemption assessment process**. ERCOT must assess the ERCOT system to determine whether an exemption granted to one resource, or several resources would adversely affect ERCOT system reliability, including whether an unacceptable reliability risk is present in ERCOT's assessment. The assessment may consider the estimated total cost of each modification, replacement, or upgrade included in an exemption request under subsection (c)(3) of this section and must consider the following:

(A) steady state and dynamic stability of the ERCOT system;

(B) resource and system performance under a reasonable set of operating conditions (e.g., peak summer, peak winter, high wind low load, and nighttime conditions);

(C) reasonable and expected topology, equipment status, and dispatch used in the assessment;

(D) any contingencies ERCOT deems critical based on engineering judgment, including contingencies from any applicable North American Electric Reliability Corporation reliability standard, including any allowed steady state system adjustments for contingencies, or from the ERCOT planning guide;

(E) any technical limitations described in the request that are not included in the models provided by the applicant under subsection (c)(5) of this section, the effect of which will be assessed by analyzing the expected impact based on ERCOT's engineering judgment;

(F) ERCOT's most recent outlook for resource adequacy;

(G) the potential impact of new resources in the interconnection queue on system reliability; and

(H) any other information ERCOT deems necessary to assess the reliability impact of an exemption based on ERCOT's engineering judgment.

(2) **Extension assessment process.** ERCOT must assess an exemption request to determine if the provided documentation reasonably supports that the additional time is necessary for the resource to implement the technically feasible modification or to create any studies, analyses, or models required for the reliability requirement.

(3) **Assessment outcomes**. ERCOT may grant an extension, exemption, grant an exemption with conditions, or deny an exemption.

(A) ERCOT ~~may~~ must grant an exemption if its assessment identifies no unacceptable reliability risks.

(B) ERCOT may grant an exemption with conditions (e.g., curtailment of the resource's output under certain circumstances, a congestion management plan, or other remedial action) if implementation of those conditions would eliminate all unacceptable reliability risks.

(C) ERCOT must deny the exemption request if its assessment identifies an unacceptable reliability risk that cannot be eliminated by imposing conditions, such as those listed in subparagraph (B) of this paragraph.

(D) ERCOT must grant an extension if its assessment identified that the provided documentation reasonably supports that the additional time is necessary for the resource to implement the technically feasible modification or to create any studies, analyses, or models required for the reliability requirement.

(c) **ERCOT inspections**. ERCOT may inspect resources to verify the need for an exemption or perform field verification of modeling parameters, using employees or ERCOT-designated contractors. ERCOT must provide the market participant at least 48 hours' prior notice of a field visit unless otherwise agreed by the market participant and ERCOT.

A market participant must grant ERCOT employees or ERCOT-designated contractors access to its facility to conduct, oversee, or observe the inspection. ERCOT may require additional documentation from the resource or conduct its own verifications, as ERCOT deems necessary.

(f) **Appeal to commission.** If a market participant is not satisfied with ERCOT's determination of that market participant's request under subsection (d) of this section, the market participant may file a complaint under §22.251 of this title (relating to Review of Electric Reliability Council of Texas (ERCOT) Conduct).

(g) **Revocation.**

(1) Any exemption is limited to the period identified by ERCOT in granting the exemption under subsection (d)(2) of this section or the period in the commission's order ruling on an exemption under §22.251 of this title. An exemption is no longer valid if the resource owner or operator makes a modification covered by the ERCOT planning guide section relating to Generator Commissioning and Continuing Operations. After such a modification, the resource must meet the latest reliability requirements in the ERCOT protocols, operating guides, and other binding documents.

(2) ERCOT may revoke an exemption it granted, or suspend an exemption granted by the commission, if a reliability study by ERCOT demonstrates that system conditions have materially changed since the exemption was granted. If ERCOT suspends an exemption granted by the commission, the commission will either ratify or set aside ERCOT's action as soon as practicable.

(3) Nothing in this section reduces or otherwise adversely affects ERCOT's authority to prudently operate the grid, regardless of whether a resource has been granted an exemption. The commission may initiate a review of an exemption on its own motion or in response to a filing by ERCOT.

~~h) **Limit on number of exemptions**. A resource is limited to two exemptions from the same reliability requirement, regardless of whether the exemption is granted by ERCOT or the commission.~~

PROJECT NO. 57374

EXEMPTION PROCESS FOR ERCOT TECHNICAL STANDARDS	§ § §	**PUBLIC UTILITY COMMISSION OF TEXAS**

EXECUTIVE SUMMARY

- Jupiter Power proposes two changes to the proposed rule: (1) that the Commission should clarify the definition of technical feasibility; and (2) that the Commission should add a much-needed extension allowance to this process.
- Regarding extensions: a resource may be able to comply with a reliability requirement if it is permitted reasonable time for compliance, but the proposed rule forecloses any consideration of extensions to allow modifications to existing resources. For regulatory expediency, resources should be granted a defined amount of additional time to comply with the reliability requirement without having to seek a formal exemption. An exemption of a reliability rule relating to a timing requirement would be done more cleanly as an extension of the timing required.
- Modifications to resources in late-stage development or existing resources to comply with reliability requirements, even where no hardware change is involved, can require significant expenditures and require time to implement. For example, modelling requirements have recently been added in order to increase grid reliability. Depending on the nature of what the model is intended to depict, requiring a narrow timeline for the resource to provide ERCOT the accurate information it needs for reliable grid operations before the resource can be fully commissioned, may be "technically infeasible."
- The rulemaking should not permit the retroactive application of reliability standards unless that application has been specifically asserted in statute. In a current FERC rulemaking to establish reliability standards for frequency and voltage ride-through, parallel to those contemplated by NOGRR 245, NERC stated that there would be a "substantial negative impact to reliability" if legacy exemptions were not granted at the outset. Implicit in NERC's determination is that a greater reliability risk would likely be created by taking units offline temporarily for retrofits or permanently for economic retirements than otherwise would be created by granting exemptions to all legacy units requiring hardware changes.
- The effect of retroactive application of any new reliability standard may be felt even if the resource is not yet currently commercially operational on the grid. Application of a new rule that applies to projects at a certain point in late-stage development may render the established progress in the development of that project moot and would be felt as retroactively applying to the resource.