

PROJECT NO. 55566

GENERATION INTERCONNECTION § PUBLIC UTILITY COMMISSION
ALLOWANCE §
§ OF TEXAS

INITIAL COMMENTS OF THE TEXAS SOLAR POWER ASSOCIATION ON
PROPOSAL FOR PUBLICATION TO AMEND 16 TAC §25.195

The Texas Solar Power Association (TSPA) files these comments regarding the Proposal for Publication adopted by the Public Utility Commission of Texas (Commission) which proposes amendments to 16 Texas Administrative Code §25.195 as published in the Texas Register on December 15, 2023.

TSPA is a statewide industry trade association that promotes the development of solar electric generation. Our member companies invest in the development of solar photovoltaic and storage products and projects in Texas, serving customers in both wholesale and retail markets, with products ranging from utility-scale generation, community solar, and customer-sited solar and storage solutions.

I. Discussion

The proposed rule implements Section 9 of House Bill 1500 (88th R.S.) which amended Public Utility Regulatory Act (PURA) §35.004(d) to require the Public Utility Commission (PUC or Commission) to establish a reasonable transmission utility allowance for costs incurred to interconnect generation resources directly with the Electric Reliability Council of Texas (ERCOT) transmission system. Generation resources are responsible for the cost of installing interconnection facilities that exceed this allowance.

The proposed rule creates two separate allowances based on voltage for generators with signed generation interconnection agreements (SGIA) executed after December 31, 2025. For

generation resources interconnecting at transmission voltage of 138kV or less, the allowance is set at \$12 million, adjusted annually. For generation resources interconnecting at transmission voltage higher than 138kV, the allowance is set at \$22.5 million, adjusted annually.

TSPA commends the Staff for its work in developing a proposed rule consistent with the intent¹ of Section 9, HB 1500 to provide a reasonable allowance cap for generation interconnection projects while reducing the high-cost, outlier interconnection generation costs that are included in the Transmission Cost of Service² (TCOS) and paid for by electricity customers. The proposed allowances facilitate the interconnection of new generation resources and recognize the system-wide benefits and lower overall consumer energy costs that these new resources provide while protecting consumers by excluding outlier costs.

Given the many issues that ERCOT is facing, the market needs all economic generation resources to be developed in a timely fashion and deployed quickly to meet growing demand and to provide other beneficial grid services. In particular, solar resources provide substantial energy savings, environmental benefits, and economic benefits such as new tax revenue and multi-generational landowner income. Solar resources have also been invaluable in meeting summer gross peak demand and have beneficially shifted and narrowed net peak demand into cooler, evening hours. Energy storage resources, with their own unique attributes, have also contributed significantly in the provision of ancillary services and meeting net peak load as well as responding

¹ The Author's Statement of Intent for SB 1287, the bill on which this provision of HB 1500 was based, in part, states that the legislation "seeks to provide for a cap on the amount of capital costs incurred to interconnect generation resources and electric energy storage resources with the ERCOT transmission system that may be socialized and require that any excess costs be borne directly by the applicable generation resource or electric energy storage resource."

² It should be noted that generation interconnection costs comprise only a small portion of overall TCOS (in some cases less than 5% of TCOS) according to a review of several recent TCOS filings at the Commission where generation interconnection costs can be clearly identified. The vast majority of TCOS are driven by projects for reliability needs, industrial, commercial, and residential load-growth, equipment replacements, system upgrades, and general maintenance of aging transmission infrastructure.

to the ERCOT September 6, 2023, Emergency Event helping ERCOT avoid load shed and “deploying maximum instantaneous net output of 2,181 MW at 19:20, which was a record ESR net output for the ERCOT Region.”³ The proposed allowances will cover most generation interconnection costs and help secure these benefits while the exclusion of outlier costs insulates consumers from abnormally high costs.

TSPA supports the proposed inclusion of an annual adjustment to the allowance. Adjusting the costs annually for inflation ensures the financial outlook of a project remains stable despite economic fluctuation and that the project can manage increases in material and labor costs.

TSPA also supports the clarification in the proposed rule that the Transmission Service Provider (TSP) is responsible for the costs of installing any transmission system upgrades that the TSP and ERCOT deem necessary. This clarification ensures that transmission upgrades that benefit consumers as a whole and support grid needs are appropriately allocated and collected through TCOS.

TSPA recommends a few clarifications and edits for the Commission’s consideration: (1) Amend subsection (f)(2) to clarify that TSPs will be responsible for the cost of installing new transmission facilities for projects with SGIA on or before December 31, 2025, even if subsequent amendments are made to the SGIA after that date; (2) Amend subsection (f)(3) to clarify that each interconnection point of a project is eligible for a separate allowance; and (3) Amend subsection (f)(3)(ii) to clarify that the allowances which are based on 2023 dollars will be adjusted each year, beginning in 2024; and (4) Add new subsection (j) that establishes a cost sharing mechanism for the sharing of above-allowance costs for subsequent generators interconnecting at the same

³ Project No. 54444, *CY 2023 Reports of the Electric Reliability Council Electric Reliability Council of Texas*, ERCOT’s Final Report Addressing September 6, 2023 Emergency Event, (Item No. 65, November 22, 2023), https://interchange.puc.texas.gov/Documents/54444_65_1348255.PDF.

facilities. The adoption of a cost sharing mechanism will ensure that all generators are treated equally, will prevent delays in interconnections, and is consistent with Commission precedent regarding cost sharing of contributions in aid of construction (CIAC) funded facilities.

II. Comments on Specific Rule Language

TSPA comments are organized consistent with the organization of the proposed rules.

Proposed Rule §25.195(f)(2)

TSPA recommends that the rule be clarified that TSPs are responsible for the costs of installing any new transmission facilities for projects with SGIAs that were executed on or before December 31, 2025, including any amendments thereto. The rule is silent as to the applicability of subsection (f)(2) on existing projects with subsequent amendments to the SGIA.

Project developers amend SGIAs to implement changes for a variety of reasons such as impacts to planned projects from: (1) supply chain issues and the availability of certain components; (2) the effects of changes to or cancellations of other nearby developments on the existing project; (3) delays in the interconnection process impacting financial projections or the ability to obtain permits; (4) the addition of new or different technologies such as energy storage or changes to the size of the project to respond to the needs of the grid or the market; or (5) changes to regulatory requirements. Developers of existing projects (i.e., SGIAs signed before December 31, 2025) have planned projects and secured financing based on the current method of allocating and collecting transmission costs and have entered into SGIAs well in advance of the completion date of projects. Developers must have some latitude to make needed changes to projects to respond to current conditions. Application of the new cost allowances in (f)(3) to existing projects

will change economic projections, be disruptive to the interconnection process, and potentially result in delays in the interconnection of the project or cancellation of needed new resources.

TSPA recommends amending (f)(2) to clarify that TSPs will be responsible for the cost of installing new transmission facilities for projects with SGIA on or before December 31, 2025, even if subsequent amendments are made to the SGIA after that date. TSPA recommends the proposed language be amended as follows:

- (2) If the SGIA between the generation resource and the TSP is executed on or before December 31, 2025, the TSP is responsible for the cost of installing any new transmission facility. TSPs will be responsible for the cost of installing new transmission facilities for projects with SGIA on or before December 31, 2025 even if subsequent amendments are made to the SGIA after that date.

Proposed Rule §25.195(f)(3)

TSPA recommends that the rule be clarified that each generation interconnection point is eligible for a separate generation interconnection allowance. This clarification will ensure that facilities that have two or more interconnection points will receive a separate allowance for each.

TSPA recommends the proposed language be amended as follows:

- (3) If the SGIA between a generation resource and TSP is executed on or after December 31, 2025, then the interconnection generation resource is responsible for all cost of installing interconnection facilities that are incurred by the TSP that exceed the allowance established in accordance with this paragraph. The allowance is applied to each interconnection point so that facilities with more than one interconnection point are eligible for more than one allowance. The TSP is responsible for the costs of installing any transmission system upgrades deemed necessary by the TSP and ERCOT that are made concurrently with the installation of the interconnection facilities.

Proposed Rule §25.195(f)(3)(A)(ii)

TSPA recommends that the rule be clarified to state that the annual adjustment of the allowances be adjusted separately for each year beginning in 2024. It is unclear whether the proposed rule language regarding the adjustment that will be made on January 1, 2025, includes an adjustment to the 2023 allowance amount from CY 2023 to CY 2024 resulting in a potential new 2024 allowance amount followed by a separate adjustment from CY 2024 to CY 2025 to the 2024 allowance amount. TSPA recommends that the allowance be adjusted each year before making the next year's adjustment to calculate the allowance values. TSPA suggests that this clarification be made either in the preamble or included in the rule language.

TSPA offers the following amended language as an option:

- (ii) Beginning on January 1, 2025, the commission will increase or decrease the allowance prescribed by clause (i) of the subparagraph annually on or before January 1 of each calendar year. The January 1, 2025 adjustment will use the 2023 allowance amounts to calculate any adjustments to the allowance values from 2023 to 2024. The 2025 adjustment will then use the 2024 allowance amounts to calculate any adjustments to the allowance values from 2024 to 2025. Annually, no later than September 1, 2024 the commission will publish the new values of the allowance to be used in the subsequent calendar year.

New Subsection (j)

TSPA also recommends that the rule include a mechanism for cost sharing above-allowance expenses paid by an initial generator with generators that subsequently interconnect generation resources to those same facilities. A cost sharing mechanism treats all generators fairly and ensures that there is not a competitive advantage given to one generation resource over another in terms of project economics.

TSPA also notes the Commission precedent concerning the sharing of CIAC costs. The TSPs have tariffs⁴ which allow for pro-rated cost sharing of CIAC-funded facilities that are used by subsequent wholesale and retail customers. TSPA believes that its suggestion to adopt a cost-sharing mechanism for above-allowance costs is similar in nature and is even easier to manage as the transactions occur directly between generators.

Finally, the inclusion of a cost-sharing mechanism should also help to avoid delays in the interconnection of needed resources. Without cost sharing of above allowance costs, projects developers may wait to enter an interconnection queue or withdraw from an existing queue (and re-enter at a later date) to determine if there may be another generation resource that could possibly be responsible for these costs.

The impact of these “first to cause” serial, cost allocation approaches in which the first generator is entirely responsible for certain costs has led to large backlogs in interconnection queues in PJM and other regions. Historically, PJM employed an “invest and connect” approach⁵ in which network upgrade costs were borne by the first energy generation project to trigger the need for an upgrade (rather than socialized through proactive transmission planning) which resulted in an enormous backlog of interconnection requests and a delay in interconnections as developers tried to avoid these costs through various methods.

In its recently adopted Generation Reform Order No. 2023, The Federal Energy Regulatory Commission (FERC) noted its concern that these interconnection backlogs are substantially delaying bringing much needed capacity online:

As of the end of 2022, there were over 10,000 active interconnection requests in interconnection queues throughout the United States, representing over 2,000 gigawatts (GW) of potential generation and storage capacity. [fn] This potential

⁴ See, e.g., Oncor Tariff for Transmission Service, Section 4.4.6.2.

⁵ See, Tyler H. Norris (August 2023) Beyond FERC Order 2023 Considerations on Deep Interconnection Reform (for a discussion of the connect and invest approach).

generation is the largest interconnection queue size on record, more than four times the total volume (in GW) of the interconnection queues in 2010, and a 40% increase over the interconnection queue size from just the year prior.⁶

In addition, FERC found that these “these backlogs and delays, and the resulting timing and cost uncertainty, hinder the timely development of new generation and thereby stifle competition in the wholesale electric markets resulting in rates, terms, and conditions that are unjust, unreasonable, and unduly discriminatory or preferential.”⁷

To address this backlog and facilitate faster interconnections, FERC ordered that network upgrade costs be proportionally allocated to interconnecting generation resources within a cluster using a methodology that determines the degree to which each generating facility contributes to the need for a specific network upgrade. This cost allocation method shares network upgrade costs among clustered generators that may benefit from and cause the need for certain network upgrades.⁸

FERC found that this method fairly allocates costs among all generators that benefit from the facilities, will improve the interconnection process, and reduce interconnection delays:

We also find that allocating shared network upgrade costs among a cluster of interconnection customers will reduce the frequency of an individual interconnection customer being allocated the costs of a large network upgrade that benefits subsequent interconnection customers; reduce the incentive of interconnection customers to submit multiple speculative interconnection requests to avoid shouldering the cost of large network upgrades that may be triggered by a single interconnection customer in the existing serial study process; and reduce the number of cascading withdrawals and restudies, thereby improving the efficiency of the interconnection process and reducing interconnection queue processing delays.⁹

⁶ FERC Generation Reform Order No. 2023, Improvements to Generator Interconnection Procedures and Agreements, 88 Fed. Reg. 61014, 61021 (September 6, 2023).

⁷ FERC Generation Reform Order No. 2023, Improvements to Generator Interconnection Procedures and Agreements, 88 Fed. Reg. 61014, 61021 (September 6, 2023).

⁸ FERC Order 2023 at 309-10 (Para 453, 454).

⁹ FERC Order 2023 at 310 (Para 455).

TSPA has developed a simple and fair method for allocating above-allowance costs among generation resources that interconnect to the same facilities. If costs exceed the allowance by more than 10%, the initial generator will be eligible to share costs and receive payments from any subsequently interconnecting new generation resources within two calendar years of the energization of the initial project. A pro-rata payment will be determined at the end of the two years and the transactions will occur directly between generators. TSPA also recommends that information regarding above-allowance projects be transparent and easily obtained by potential subsequent generators to facilitate cost sharing. Therefore, TSPA recommends, as an alternative to proposed subsection (i), that ERCOT's Monthly Generation Status Report as well as the SGIA contain information regarding any above-allowance costs for each interconnection request.

TSPA offers the following language for new subsection (j) for the Commission's consideration:

- (j) If a transmission service customer interconnecting a generation resource incurs costs for constructing or upgrading transmission interconnection facilities in an amount that exceeds the utility allowance by 10% or more, the customer is eligible to receive payment from subsequent transmission service customers interconnecting new generation resources within two calendar years of the energization of the initial above-allowance funded transmission interconnection facilities.
- (1) Transmission service customers interconnecting new generation resources to transmission interconnection facilities funded by another transmission service customer interconnecting a generation resource with above-allowance funds shall contribute on a pro-rata basis to the above-allowance cost of the facilities. Before energization activities can commence with ERCOT, any transmission customer with cost-sharing responsibilities must provide to the commission an affidavit acknowledging its cost-sharing obligation and a commitment to complete its required payment within 60 days of the two-year anniversary as described in Subsection (F) (2).
- (2) The pro-rata payment of each subsequent transmission service customer interconnecting a generation resource will be determined at the end of two calendar years from the energization of the initial above-allowance funded transmission interconnection facilities and shall be paid directly to the initial

transmission service customer interconnecting a generation resource with above-allowance expenses.

- (3) Beginning January 1, 2026, all Standard Generation Interconnection Agreements filed at the commission shall indicate if an above-allowance expense is required, the amount of the above-allowance expense, and the entity responsible for providing the above-allowance expense to the utility interconnecting the generation resource.
- (4) Beginning January 1, 2026, ERCOT's Monthly Generation Interconnection Status Report shall include information indicating whether each interconnection request with a Standard Generator Interconnection Agreement entered into on or after January 1, 2026 has an above-allowance expense and the amount of the above-allowance expense to interconnect a generation resource.

III. Conclusion

TSPA appreciates the efforts of both the Commission and Commission Staff to develop a rule that establishes a reasonable transmission utility allowance for costs incurred to interconnect generation resources directly with ERCOT consistent with the intent of Section 9, HB 1500. TSPA is generally supportive of the rule and urges its adoption with the clarifications and cost-sharing mechanism suggested by TSPA.

Respectfully submitted



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EXECUTIVE SUMMARY

COMMENTS OF THE TEXAS SOLAR POWER ASSOCIATION (TSPA)

TSPA appreciates the Staff’s work in developing the proposed rule and offers a few clarifications and edits for the Commission’s consideration.

- TSPA recommends amending subsection (f)(2) to clarify that TSPs will be responsible for the cost of installing new transmission facilities for projects with SGIA’s on or before December 31, 2025, even if subsequent amendments are made to the SGIA after that date.
- Developers of existing projects (i.e., SGIA’s signed before December 31, 2025) have planned projects and secured financing based on the current method of allocating and collecting transmission costs and have entered into SGIA’s well in advance of the completion date of projects. Developers must have some latitude to make needed changes to projects to respond to current conditions.
- TSPA recommends amending subsection (f)(3) to clarify that facilities with more than one generation interconnection point are eligible for a separate allowance for each interconnection point.
- TSPA recommends amending subsection (f)(3)(ii) to clarify that the allowances which are based on 2023 dollars will be adjusted each year, beginning in 2024, based on the proportional change in the NIPA from the previous year
- TSPA recommends adding new subsection (j) that establishes a cost sharing mechanism for the sharing of above-allowance costs for subsequent generators interconnecting at the same facilities.
- A cost-sharing mechanism ensures that there is not a competitive advantage given to one generation resource over another in terms of project economics; is consistent with the Commission precedent for CIAC cost sharing (but is easier to manage as the transactions occur directly between generators); and will help to avoid delays in the interconnection of needed resources.