

PROJECT NO. 55323

**REVIEW OF RENEWABLE
PORTFOLIO STANDARD**

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**PUBLIC UTILITY COMMISSION

OF TEXAS**

COMMENTS OF THE TEXAS SOLAR POWER ASSOCIATION

The Texas Solar Power Association (TSPA) files these comments addressing the Proposal for Publication adopted by the Public Utility Commission of Texas (Commission) which proposes repeal of existing 16 Texas Administrative Code §25.173 and the proposed adoption of new §25.173 as published in the Texas Register on October 27, 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. TSPA appreciates the opportunity to offer comments and looks forward to working with the Commission, Commission Staff, and other stakeholders on the final adoption of this rule.

I. INTRODUCTION

TSPA supports adoption of proposed rule which creates a Solar Renewable Energy Credit (REC) Trading Program, effective until September 1, 2025, consistent with section 53 of House Bill (HB) 1500 enacted by the 88th Texas Legislature (R.S). The Solar REC Trading Program will continue to incentivize investments in solar energy while providing a reasonable transition period to the voluntary REC Accreditation Program. In addition, TSPA agrees that the proposed solar

capacity requirements of 1,310 MW and 655 MW of new resources for the 2024 and 2025 compliance periods, respectively, are reasonable.

TSPA also supports the establishment of the REC Accreditation Program as required by the Public Utility Regulatory Act (PURA)¹ §39.9113 which will continue the accreditation and banking system to award and track voluntary RECs by eligible facilities and verify environmental attributes of renewable energy production. The growth in the United States REC market reflects the demand by businesses and consumers to purchase RECs and the development of a voluntary program will continue to allow renewable energy companies in Texas to participate in this growing market.

Finally, TSPA recommends two modifications to the proposed rule. TSPA recommends that the Commission clarify that REC program participants that were previously registered and certified under the REC Trading Program do not need to re-register to participate in the Solar REC Trading Program or the REC Accreditation Program. TSPA also recommends a minor modification to §25.173(b)(18) to reflect the correct rule reference.

As requested by the Commission, TSPA will discuss these issues consistent with the organization of the proposed rules.

I. COMMENTS

A. §25.173(b)(18) – Renewable Portfolio Standard (RPS) Definition

TSPA recommends a minor correction to the RPS definition in proposed §25.173(b)(18). The rule refers to both PURA §39.904 as well as subsection (h). Although PURA §39.904 has been repealed, the RPS included in the proposed rule is based on the intent of PURA §39.904 to

¹ Public Utility Regulatory Act, Tex. Util. Code Ann. §§ 11.001-66.016 (PURA).

increase the installed renewable capacity of renewable resources by creating a REC trading program premised upon an RPS. Furthermore, HB 1500, Section 53 states that notwithstanding the repeal of PURA §39.904, the Commission must adopt a solar-only program “to apply that section as it existed immediately before the effective date of this Act”.² Therefore, TSPA believes that it may be appropriate to continue referencing PURA 39.904 in the proposed RPS definition.

However, the reference to subsection (h) in the proposed rule is incorrect as it is referring to the existing version of rule §25.173. The correct refence should be subsection (e) which is the subsection in the proposed rule which discusses the RPS.

B. §25.173(c) – Certification of Renewable Energy Facilities

Proposed rule §25.173(c) identifies the same process for certification of renewable energy facilities participating in the new Solar REC Trading Program³ and REC Accreditation Program that currently exists for certificating facilities pursuant to existing rule §25.173(o). However, the proposed rule does not address whether current participants must re-register for the new programs. It would be inefficient and disruptive to require current participants to re-register and, therefore, TSPA recommends that the language be amended to clarify that re-registration is not required.

The creation of the new programs allows an uninterrupted continuation in the generation, trading, and accreditation of solar RECs, RECs and compliance premiums. A requirement to re-register would cause a disruption to this process because the rule prohibits the program administrator from awarding Solar RECs, RECs, and compliance premiums for energy produced

² HB 1500, Section 53(a).

³ Proposed §25.173(c)(2)(A)(i).

by a power generator before it has been certified.⁴ Moreover, the certification process can take up to 30 days, and even longer if the application is contested.⁵

To address this ambiguity, TSPA recommends the addition of a new subsection to clarify that re-registration is not required for current participants:

25.173(c)(6) Participants that are currently registered and certified in a trading program prior to the effective date of this rule are not required to re-register for either the Solar REC Trading Program or the REC Accreditation Program.

The adoption of TSPA's proposed language will ensure there will be no interruption in the generation, trading or accreditation of Solar RECs, RECs, or compliance premiums.

C. §25.173(e) - The Solar REC Trading Program

TSPA supports the adoption of proposed rule 16 T.A.C. § 25.173 which, *inter alia*, creates the new Solar REC Trading Program consistent with the provisions of HB 1500, Section 53. That legislation required the Commission to create a solar-only trading and accreditation program, effective until September 1, 2025, that applies repealed PURA §39.904 (as it existed immediately prior to September 1, 2023) only to “renewable energy technologies that exclusively rely on an energy source that is naturally regenerated over a short time and are derived directly from the sun.”⁶

Based upon this legislative requirement, proposed rule §25.173(e) creates the Solar REC Trading Program which allows for the continued generation, banking, and trading of solar RECs and compliance premiums and provides a reasonable transition period from the previous REC Trading Program under existing §25.173 to the new voluntary REC Accreditation Program

⁴ Proposed Rule §25.173(c).

⁵ Proposed Rule §25.173(c)(2)).

⁶ HB 1500, Section 53.

proposed in this rulemaking. TSPA supports the proposed rule because it is consistent with HB 1500, Section 53 and helps ensure the continued investment in solar generation projects which provide needed capacity and pricing benefits to consumers through the continuation of the REC trading program.

D. §25.173(e)(2)(A) – Solar RPS Calculation

Proposed rule §25.173(e)(2)(A) also establishes a new total statewide Renewable Portfolio Standard (RPS) requirement for the Solar REC Trading Program for each compliance period calculated using new capacity requirements of 1,310 MW and 655 MW of new resources in the 2024 and 2025 compliance periods, respectively. TSPA supports the adoption of these new capacity requirements which are based upon the percentage of installed solar capacity in ERCOT.

The Commission has historically used installed renewable capacity in the calculation of the RPS to calculate the capacity needed to meet the requirements of PURA §39.904. Calculation of a solar-only RPS requirement based upon the percentage of solar installed capacity is reasonable and consistent with Commission precedent.

The intent of PURA §39.904 was to increase installed renewable capacity by setting a goal for an additional 5000 MW of new installed renewable capacity of by January 1, 2015 (10,000 MW by January 1, 2025) and establishing a Renewable Energy Credit program. The PUC adopted §25.173 to implement the requirements of PURA 39.904 “to ensure the cumulative installed generating capacity from renewable technologies” met identified targets and did so by calculating an annual RPS requirement using an installed renewable capacity requirement target as an input in the calculation methodology.⁷

⁷ See, Existing Rule §25.173(a) and (h).

The proposed rule applies the same logic in the calculation of the solar-only RPS requirement by using the actual 2022 percentage of solar installed capacity in the calculation. According to ERCOT's 2022 Annual Report on the REC Program, the cumulative renewable MW capacity in ERCOT was 56,373.8 MW, of which Solar accounted for 14,762.2 MW (or 26.2% rounded).

The 5000 MW referenced in PURA §39.904 is a capacity goal (MW) for all renewable generation types. The proposed rule multiplies the original 5000 MW of new installed renewable capacity goal by 26.2% (the solar percentage of cumulative renewable MW capacity) to reflect a Solar-only capacity goal of 1,310 MW for 2024. For 2025, the proposed rule proportionally reduces the 1,310 MW capacity requirement to 655 MW to reflect that 2025 is only a partial compliance period⁸ of eight months (January 1, 2025 to September 1, 2025).

TSPA agrees that the proposed calculation methodology is reasonable because the new capacity requirements are based upon on the percentage of installed solar capacity in ERCOT consistent with the methodology used in the current rule and consistent with the intent of PURA §39.904. TSPA urges the adoption of this methodology.

E. §25.173(f) – REC Accreditation Program

TSPA also supports the proposal to create a voluntary accreditation and banking system as required by PURA § 39.9113. The REC market is growing in the United States. According to a recent report by S&P Global,⁹ the value of the REC market in the United States energy market will

⁸ See, Proposed Rule §25.173(b)(1).

⁹ S&P Global, Market Intelligence, *US renewable energy credit market size to double to \$26 billion by 2030* (December 16, 2022). The report can be found at <https://www.spglobal.com/marketintelligence/en/news-insights/research/us-renewable-energy-credit-market-size-to-double-to-26-billion-by-2030#:~:text=According%20to%20S%26P%20Global%20Commodity,up%2095%25%20of%20that%20value.>

more than double from \$11.45 billion in 2021 to \$26.5 billion by 2030. The creation of a voluntary trading and accreditation program will allow Texas renewable energy companies to participate in this market and encourage the development of new generation in Texas. The creation of this voluntary program is consistent with the legislative requirement in §39.9113 and TSPA urges its adoption.

II. CONCLUSION

TSPA appreciates the efforts of both the Commission and Commission Staff to develop a rule that creates the new Solar REC Trading Program and the voluntary REC Accreditation Program consistent with HB 1500, Section 53 and PURA §39.9113. TSPA is supportive of the rule and urges its adoption with the two clarifications suggested by TSPA.

Respectfully submitted,



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