Statement of Position

Reliant Energy, Inc.

TIEC Appeal of February 5, 2009 TAC Action

February 12, 2008

Reliant Energy, Inc. ("Reliant Energy") submits this Statement of Position to the ERCOT Board of Directors on the subject of the Texas Industrial Electric Consumers' ("TIEC") appeal to the Board of Directors of PRR 776, and in response to Luminant Energy Company's Statement of Position. After TAC failed to pass a motion to approve PRR 776, TIEC should have an opportunity to appeal the PRR on its merits, and not be held in procedural limbo, as discussed below. Additionally, Luminant Energy and other parties have tried to link PRR 776 to PRR 791, which proposes to introduce an administrative scarcity pricing mechanism into ERCOT's zonal market that was explicitly rejected by the PUCT in its rulemaking on Resource Adequacy.[1] There is no link between these PRRs, and any attempt to change a PUCT rule must be made in a rulemaking, not a Protocol revision.

Background and Procedural Issue

PRR 776 was filed by TIEC in August of 2008. The PRR proposed to change the way ERCOT calculates the spot market energy price when non-spinning reserves ("NSRS") are deployed. In 2006, TXU Energy, a predecessor company to Luminant, filed PRR 650 to minimize price suppression when non-spinning reserves are deployed. That PRR required ERCOT to recalculate the energy price as though the NSRS were not deployed. After PRR 650 was implemented, ERCOT would often not calculate an adjusted price until the next day (or later). Because of this, price responsive loads would consume power based on the posted price, only to find out that in some cases the adjusted price was much higher. TIEC proposed always raising the price during NSRS deployments by $100 to resolve this issue, which was about the average increase in prices over a recent period.

After much negotiation and brainstorming, many parties agreed to the PRR 776 language reflected in TIEC's February 4th comments, which included splitting non-spinning reserves into online and offline groups and having two separate price floors apply during NSRS deployment. The first price floor (18 multiplied by the price of gas) is the minimum price that online units providing NSRS must offer into the spot market. This is typically above most balancing energy offers. The second price floor ($120 plus 15 multiplied by the price of gas) is the minimum price the balancing market can clear at when offline resources providing NSRS are deployed. Both of these price floors are intended to avoid the price suppression that existed when NSRS were deployed prior to PRR 650, and to economically commit peaking units. These pricing mechanisms are expected to provide appropriate energy prices when NSRS is deployed.

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[1] PUCT Project 31972, Final Order, pages 47-49

At the February 2009 TAC meeting, a motion to approve PRR 776 did not receive 67% of the vote, leading to its failure and this appeal. ERCOT has stated that because TAC did not affirmatively reject the PRR, TIEC may not appeal the failed vote, based on the idea that a failing vote is not an "action of TAC." Reliant encourages the ERCOT Board of Directors to allow TIEC to have an avenue to appeal in this instance, and to direct ERCOT to fix this procedural flaw as soon as possible. It is not appropriate or desirable for a party to not have the right to appeal a TAC decision on a Protocol revision request, whether it is an approval or a rejection of the PRR.

There is no link between PRR 776 and PRR 791

Contrary to statements by Luminant and others, PRRs 776 and 791 embody two separate concepts. PRR 776 was filed by TIEC on August 25, 2008.[2] On August 28, 2008, the Executive Director of the PUCT filed the Independent Market Monitor's 2007 State of the Market Report[3] ("SOM"), which included a recommendation to change the way ERCOT calculated balancing energy prices when NSRS is deployed. Although the SOM noted concerns about scarcity prices, stating that "[m]ore reliable and efficient shortage pricing could be achieved by establishing pricing rules that automatically produce scarcity level prices when defined shortage conditions exist on the system,"[4] it did not recommend an administrative scarcity pricing mechanism. The remarks in the SOM regarding automatically producing scarcity level prices were entirely independent from the NSRS pricing recommendation.

Several months later, at the November 2008 Wholesale Market Subcommittee (WMS) meeting, the IMM proposed adding an administrative scarcity pricing mechanism to the zonal market. His report to the WMS listed this proposal separately from those proposals made by the SOM.[5] At no point were these two proposals linked, except perhaps in the minds of some market participants. PRR 791 was not "developed to address the pricing impact"[6] of PRR 776, as alleged by Luminant. Mr. Jones' proposal to adopt an administrative scarcity pricing mechanism never mentioned PRR 776. Luminant's attempt to add language from PRR 791 into PRR 776 at the February TAC meeting failed, and that vote has not been appealed by any market participant.

Changes to the Commission's scarcity pricing mechanism should be made by the Commission

The merits of PRR 791 are not before the Board in this appeal, but if the Board considers the administrative pricing proposal it should recognize that the Protocol revision process is not the appropriate method to modify the Commission's scarcity pricing mechanism, which is set forth in P.U.C. SUBST. R. 25.505(g). As detailed in Reliant's comments on the PRR,[7] the PUCT formulated a comprehensive resource adequacy mechanism for the ERCOT Region, after

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[2] http://ercot.com/mktrules/issues/prr/775-799/776/index.
[3] PUCT control number 34677.
[4] 2007 State of the Market Report, pages 50-51.
[5] November WMS meeting, item 4.
[6] Luminant Statement of Position in this appeal, filed Feb. 11, 2009.
[7] http://www.ercot.com/content/mktrules/issues/prr/775-799/791/keydocs/791PRR-08_Reliant_Energy_Comments_012609.doc

considering a multitude of alternative approaches offered by various parties. The proper venue for changing the ERCOT scarcity pricing mechanism is the PUCT's rulemaking process, not the ERCOT stakeholder process.

Conclusion

Reliant Energy urges the Board to:

(a) recognize that PRRs 776 and 791 represent separate and distinct market revisions, which some parties have attempted to combine for political, not technical, reasons;

(b) correct the erroneous interpretation of ERCOT procedures that does not allow a party to appeal the rejection of a PRR by TAC; and

(c) recognize that modifications to the PUC's scarcity pricing mechanism should be considered in a rulemaking at the PUC, not through a Protocol revision like PRR 791.

Respectfully submitted,

Reliant Energy, Inc.

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