



ERCOT Board of Directors

Subject: Appeal of TAC Decision

IPR GDF SUEZ Energy Marketing NA (IP-GSEMNA) is appealing the Technical Advisory Committee (TAC) decision of September 7, 2012 on the designation of the 2013 Competitive Constraints Annual List. The company is doing so because we believe that the current competitive constraint designations result in over-mitigation of prices and present a barrier to the formation of competitive price signals needed in an efficient market. Under the competitive constraint test approved by TAC in September, 92% or 1,974 of the 2,146 constraints in ERCOT are deemed non-competitive. Quite simply, that is too many. We believe that both the test for competitive constraints and the current list of competitive constraints need to be modified to relieve the over-mitigation of pricing that is occurring. We believe the appropriate test and resulting list should be based on what the TAC considered as "Option 1." Otherwise, as currently proposed, once a constraint is designated "noncompetitive" that constraint will, for 2013, always be considered noncompetitive and will contribute to over-mitigated pricing.

Below is an overview of the recent TAC action that we ask be appealed and a further description of the alternative proposal that IP-GSEMNA supports.

TAC approved the list of Competitive Constraints for 2013 using a methodology labeled as "modified Option 3." This method deems a constraint to be competitive if it is competitive in either the August 2013 or April 2013 Congestion Revenue Rights (CRR) case.

- Option 3 logic:
 - A constraint is "Competitive" if
 - Constraint can be overloaded under worst case scenario

AND

- Combination of
 - There are resources with absolute Shift Factor $\geq 2\%$
 - AND positive-SF ECI of squared SF with $\min(0.02, 1/3)$ threshold ≤ 2500
 - AND negative-SF ECI of squared SF with $\min(0.02, 1/3)$ threshold ≤ 2000
 - AND no pivotal player exists
- Otherwise, it is "Non-Competitive"

Since Nodal Go-Live, ERCOT has designated Commercially Significant Constraints/Closely Related Elements competitive. This resulted in approximately 664 constraints being designated



as competitive. Of the three options considered by TAC, Option 3 is the most restrictive. The modified Option 3 leaves only 172 constraints in the ERCOT region designated as competitive. This means some 92% of the constraints in ERCOT will be deemed noncompetitive. That seems contrary to a market design that is intended to reflect competitive pricing.

IP-GSEMNA respectfully requests that the Board reverse the TAC Action and institute the proposal identified as Option 1 as modified which deems a constraint to be competitive if it is competitive in either the August 2013 or April 2013 Congestion Revenue Rights (CRR) case. Option 1 designates approximately 1,480 constraints as competitive for the annual list. Using Option 1 allows for the Monthly and Daily tests to re-designate the competitive constraints on the annual list as noncompetitive as necessary, therefore, no constraint designated as competitive on the "Annual List" can be treated as such if the monthly or daily test determines the constraint to be noncompetitive.

- Option 1 logic:
 - A constraint is "Competitive" if
 - Constraint cannot be overloaded under worst case scenario

OR

- Combination of
 - There are resources with absolute Shift Factor $\geq 2\%$
 - AND positive-SF ECI of squared SF with $\min(0.02, 1/3)$ threshold ≤ 2500
 - AND negative-SF ECI of squared SF with $\min(0.02, 1/3)$ threshold ≤ 2000
 - AND no pivotal player exists
- Otherwise, it is "Non-Competitive"

In summary, we know that the competitive tests conducted under any currently proposed method would be flawed. None of the current options correctly designate constraints for 2013 because the current testing is only based on analysis of the months of April and August. The problem is particularly onerous because once a constraint is designated as noncompetitive on the annual list it retains that designation throughout the year. Therefore, IP-GSEMNA believes that the TAC decision creates over mitigation in the ERCOT market when resolving congestion and should be rejected with guidance to stakeholders to develop a more appropriate test and evaluate the necessity of an "Annual List".

Submitted by:

A handwritten signature in black ink, appearing to read "R. Helton", written over a horizontal line.

Robert Helton

GDF Suez Energy Marketing NA Inc.