



HR&G Agenda Item 7.2.4.2

Membership Definition Comments

**Oncor Comments Regarding Southern Cross Transmission Participation in the
ERCOT Member Sectors**

March 8, 2018

Submitted by Elizabeth Barton Jones

Oncor provided written comments on three issues subsequent to the September 7, 2017 ERCOT Workshop on Registration of Southern Cross Transmission LLC - Owner/Operator of a Merchant DC Tie (SCT). ERCOT is acting pursuant to an order issued by the Public Utility Commission of Texas (PUC) in Docket No. 45624. Oncor recommended:

1. Creation of DC Tie Operator as a new type of market participant. NPPR 857 addresses this recommendation. As previously noted, Oncor expects that AEP, ETT, Sharyland, and Southern Cross Transmission (SCT) would each register in this category, in addition to their other applicable functions such as Transmission Service Provider.
2. Evaluation of ERCOT systems to determine which ones SCT must necessarily access in its capacity as a DC Tie Operator, followed by modification of governing documents, such as Nodal Protocols and Guides, as needed. Oncor believes this activity to be pending.
3. Amendment to the ERCOT Bylaws to designate the default membership segment for a DC Tie Operator, absent the entity's qualification in another segment.

At the TAC meeting conducted on February 22, 2018, ERCOT presented ERCOT Bylaws revisions, including a memorandum dated February 15, 2018. A lively discussion ensued. Members of both the IOU Segment and the IPM Segment articulated the differences between the SCT business model and those of the other Segment members.

Oncor continues to believe that SCT is better suited for membership in the Independent Power Marketer (IPM) Segment and is ill-suited for membership in the IOU Segment for the following reasons:

1. The IPM Segment has historically included members that could also have joined the Independent Retailer (REP) or Independent Generator Segments, such as Reliant and Tenaska. Many IPM Segment members are investor-owned. Credentials for membership in the IPM Segment currently include PUC registration as a power marketer, but such registration (or the ability to take title to electricity) need not limit the construct of the ERCOT IPM Segment. Furthermore, SCT aligns more clearly with the interests of the IPM Segment than the IOU Segment because SCT's business model is dependent on the sale and purchase of power across the DC tie it owns. Unlike other members of the IOU Segment, SCT cannot receive revenue through the Transmission Cost of Service (TCOS) mechanism and is not rate-regulated by the PUC.

2. IOU Segment corporate members, and their affiliates, are precluded from membership in any other segment, absent an exception approved by the ERCOT Board of Directors. This isolation exists in no other segment and was designed to limit the market participant power formerly integrated utilities might otherwise exercise. The current members of the IOU Segment are all either transmission utilities (TSPs) or transmission and distribution utilities (TDSPs). Each member has open-access rights and responsibilities pursuant to the Texas Public Utility Regulatory Act (PURA) and reliability responsibilities pursuant to Section 215 of the Federal Power Act.
3. SCT is subject to FERC open access and code-of-conduct obligations that may be similar to, but are different from, obligations imposed by the PUC. Current IOU Segment members all are subject PUC oversight of their open-access obligations and to a PUC-approved code of conduct. IOU Segment members have different, and probably greater, obligations with respect to planning and operations in the ERCOT Interconnection than SCT ever will.
4. The ERCOT CIM model contains transmission elements owned by IOUs, municipally-owned utilities, cooperatives, generators, and even retail customers. SCT's transmission ownership, by itself, does not align it with a particular sector. If "optics matter", SCT's inclusion in any Segment is not indicative of its status or business model.
5. The analogy to aggregator participation in the REP Segment was intended to illustrate the flexibility sometimes needed in ERCOT Segments, rather than the proximity of individual members.

Oncor urges the ERCOT Board of Directors, and the ERCOT Corporate Members to approve a modification to the ERCOT Bylaws that would permit SCT to join the IPM Segment. SCT is "neither fish nor fowl" when compared to either the IOU or IPM Segments. Consequently, ERCOT and its members should look to the alignment of member interests and the "community of interest" each Segment represents. Based on that framework, and the facts stated above, Oncor urges the following amendment to the ERCOT Bylaws:

Independent Power Marketer. Any entity that is not a T&D Entity or Affiliate of a T&D Entity and is registered at the PUC as a Power Marketer to serve in the ERCOT Region. **For the purposes of Segment classification, a DC Tie Operator, if such Member does not comply with the requirements of any other classification, shall participate as an Independent Power Marketer.**

**Comments of Southern Cross Transmission LLC
Regarding Proposed Amendments to Segment Definitions in the ERCOT Bylaws**

Southern Cross Transmission LLC (SCT) appreciates the opportunity to comment on proposed amendments to the ERCOT Bylaws to enable a DC Tie Operator which does not meet the existing definition of Investor-Owned Utility to qualify for membership in an ERCOT market segment.

In its February 15, 2018 memorandum to the Technical Advisory Committee (TAC), ERCOT Staff suggested that either the Investor-Owned Utility (IOU) or the Independent Power Marketer (IPM) market segment definitions be amended to allow SCT to qualify for ERCOT corporate membership. SCT supports the IOU option.

1. Like the existing members of the IOU market segment, the primary function of SCT in the ERCOT region will be to own, maintain, and operate a high-voltage transmission facility.
2. Like existing members of the IOU market segment. SCT is investor-owned.
3. Like existing members of the IOU market segment, SCT is a public utility, as that concept is broadly understood. More specifically, as noted in the ERCOT memo, SCT is a “public utility” under the Federal Power Act, whereas the existing members of the IOU market segment are “electric utilities” under the Texas Public Utilities Regulatory Act (PURA). The only reason SCT is not an “electric utility” under PURA (and, therefore, the only reason SCT does not fit within the current IOU market segment definition) is that the only facility it will own and operate in the ERCOT region will not be located within the State of Texas.
4. Following adoption of NPRR 857, which will create the DC Tie Operator market participant type in the Protocols, existing market participants that operate DC Ties will be expected to amend their Standard Form Market Participation Agreements to add the DC Tie Operator functional registration. Those market participants are currently, and will remain, members of the IOU market segment.
5. The distinguishing feature of power marketers is that they buy and sell electricity in the wholesale market. SCT will not buy or sell energy in ERCOT. SCT will not take title to power. SCT will not register as a power marketer with either the Federal Energy Regulatory Commission or the Public Utility Commission of Texas. SCT will simply operate the DC Tie as directed by ERCOT operators to reflect the ERCOT-approved e-Tag schedules of Qualified Scheduling Entities (QSEs). SCT will not be a QSE.

In summary, the IPM option would label SCT something it clearly is not whereas the IOU option would accurately reflect the role of SCT in the ERCOT region and would be consistent with the segment affiliation of all other ERCOT DC Tie Operators.

**Texas Industrial Energy Consumers' Comments on
Member Segment for Southern Cross Transmission (SCT)**

As requested, TIEC submits these comments on ERCOT's proposed revisions to the bylaws to determine which market segment Southern Cross Transmission (SCT) will join. ERCOT submitted a memorandum to TAC recommending that SCT be included either the IOU or the IPM market segments.¹ TIEC believes that Southern Cross should be placed in the IPM segment for the following reasons:

- (1) **SCT is not regulated by the PUCT and does not serve a reliability function.** As the only fully regulated market segment, IOUs have a unique role and a unique set of responsibilities. IOUs do not participate in the wholesale market and play almost a pure reliability role, with comprehensive oversight from the PUCT. SCT will generally not be regulated by the PUCT, and will have a financial interest in wholesale transactions flowing into or out of ERCOT. Because of the unique role that IOUs play in ERCOT, TIEC does not believe it is prudent to include an entity with fundamentally dissimilar interests in a fully regulated, reliability-driven market segment.

- (2) **SCT cannot have access to the same data as other IOUs, creating unnecessary complications.** As TSPs, the IOU segment has access to information that is not available to competitive market participants. To include SCT in the IOU segment, ERCOT would need to revise the protocols to screen Southern Cross from receiving confidential reliability data (including potential CEII data) that all other members of the IOU segment will receive.² During the February 22 TAC meeting, Southern Cross claimed that it could "self-screen" from such information by relying on its FERC standards of conduct (which, notably, do not apply in ERCOT). TIEC does not believe this proposal is workable, nor would it be consistent with how the Protocols address handling confidential data in other situations. Further, including SCT in the IOU segment creates an unnecessary risk of inadvertent disclosure. For example, the IOU segment may need to discuss confidential data to inform their positions as a segment, and having to affirmatively exclude SCT from those discussions creates an unnecessary point of failure.

For these reasons, TIEC believes that SCT is better suited for the IPM segment and should not be included in the IOU segment. TIEC appreciates the opportunity to provide these comments.

¹ February 15, 2018, ERCOT Staff Memorandum to the TAC at 1.

² Protocols § 3.10 (1)-(8). As part of ERCOT's network operations and telemetry, ERCOT shares operational data (including data potentially subject to CEII protection) with TSPs to facilitate their coordination with ERCOT. TIEC is aware that ERCOT is currently processing NPRR 857, but this is an example of the issues that will be implicated by including SCT in the IOU segment.