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| NPRR Number | [1186](https://www.ercot.com/mktrules/issues/NPRR1186) | NPRR Title | Improvements Prior to the RTC+B Project for Better ESR State of Charge Awareness, Accounting, and Monitoring |
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| Date | | September 25, 2023 | |
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| Market Segment | | Independent Generator | |

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| Comments |

Eolian, L.P. (Eolian) submits these comments to Nodal Protocol Revision Request (NPRR) 1186.

On September 19, 2023, ERCOT submitted comments to NPRR1186 for consideration by the Technical Advisory Committee (TAC) at its September 26, 2023 meeting. Eolian has been involved in all proposed ERCOT rule revisions that impose significant operational impacts on ESRs. To date, Eolian has filed four sets of comments to NPRR1186, and one opposition to TAC’s August 22, 2023 recommendation that the ERCOT Board vote to recommend that the Public Utility Commission of Texas approve NPRR1186 ([08/28/2023 TAC-Approved Version](https://www.ercot.com/files/docs/2023/08/22/1186NPRR-19%20TAC%20Report%20082223.docx)).[[1]](#footnote-1)

Eolian appreciates ERCOT’s current proposal to revise, as directed by the ERCOT Board, stranded capacity during scarcity events. ERCOT’s comments propose to further revise NPRR1186 to expand this modification to Energy Storage Resources (ESRs) at all times, such that ESRs will not be required to hold excess energy for future Operating Hours, regardless of whether the ESR receives an Ancillary Service award for those hours. Eolian fully supports this modification. However, Eolian remains concerned that there are still a number of unintended consequences from NPRR1186, even as further revised, which are likely to administratively limit access to energy held by ESRs in an ERCOT emergency and reduce the essential contributions made by ESRs due to their unique flexibility. For example, under the current version of NPRR1186:

* An ESR must maintain a State of Charge (SOC) that slopes linearly from the top of the Operating Hour to 0 MWh, which precludes flexible dispatch across all Ancillary Service products.
* An ESR providing Regulation Up Service (Reg-Up) and Regulation Down Service (Reg-Down) in an Operating Hour would be required to have the maximum SOC it bid for the Reg-Up product, rather than operating at optimal flexibility with a lower SOC at the top of an Operating Hour, which would allow it to act as a sponge to immediately charge and discharge as needed to maintain the stability of the grid. As Mr. Rickerson noted in the ERCOT Board meeting on August 31, 2023, “I would think Reg-Up and -Down are, like, the batteries have an inherent advantage there because they're both a load and a generator and it's a one-hour product. I mean, they are really custom made for that Ancillary Service.” However, NPRR1186 will limit that flexibility.

Moreover, Eolian remains concerned that ERCOT’s comments make its intent clear: ERCOT will continue to devalue and limit ESR participation in the ERCOT Ancillary Service market in disregard of Texas law.

Specifically, ERCOT states:

… Most importantly, ERCOT will need **stronger compliance and financial penalties for** QSEs representing **ESRs** in the form of [(1)] **charges** for failures to provide that are **automatically imposed** when… SOC requirements are [not met] and [(2)] **requirements to disqualify** [ESRs] for [(a)] repeated failures to perform and/or [(b)] failures to perform during energy emergencies *and* other significant grid events. ERCOT intends to seek the Board’s direction to pursue these changes as Board Priority NPRRs (emphasis added).[[2]](#footnote-2)

In relevant part, the Public Utility Regulatory Act (PURA) provides:

PURA Section 35.004

(e) In this section, “ancillary services” means services necessary to facilitate the transmission of electric energy including load following, standby power, backup power, reactive power, and any other services as the commission may determine by rule.

(f) The **commission shall ensure that ancillary services** necessary to facilitate the transmission of electric energy are available at reasonable prices with terms and conditions that **are not unreasonably preferential, prejudicial, discriminatory, predatory, or anticompetitive**. On the introduction of customer choice in the ERCOT power region, acquisition of generation-related ancillary services on a nondiscriminatory basis by the independent organization in ERCOT on behalf of entities selling electricity at retail shall be deemed to meet the requirements of this subsection.

(h) The **commission shall require [ERCOT] to modify the design, procurement, and cost allocation of ancillary services** for the region in a manner consistent with cost-causation principles and **on a nondiscriminatory basis**.

PURA Section 39.151

(a) A power region must establish one or more independent organizations to perform the following functions:

(1) **[ERCOT shall] ensure access** to the transmission and distribution systems **for all buyers and sellers of electricity on nondiscriminatory terms**.

**Automatic Failure to Provide Charges**

(ERCOT-Proposed Board Priority NPRR)

ERCOT states its intent to impose an **automatic “failure to provide” charge** on an **ESR, regardless of size or duration**, if that ESR fails to meet a SOC requirement, regardless of whether that ESR actually meets its Ancillary Service Resource Responsibility or the ESR’s Qualified Scheduling Entity (QSE) transfers the ESR’s obligation to another Resource. ERCOT is proposing this blanket penalty based on ERCOT’s perceived “**risk that short-duration ESRs** will not have the SOC necessary to fulfill their Ancillary Service Resource Responsibilities in the event they are carrying such a responsibility across multiple consecutive hours and are deployed for that service across those hours” (emphasis added).[[3]](#footnote-3) This proposal will effectively:

1. Impose failure to provide charges on all ESRs that fail to maintain SOC as dictated by ERCOT even if they actually provide the Ancillary Service or transfer it to another Resource; and
2. Potentially penalize ESRs qualified to provide Ancillary Services with longer duration requirements (i.e., ERCOT Contingency Reserve Service (ECRS) and Non-Spinning Reserve (Non-Spin)) due to ERCOT’s focus on issues that ERCOT views may be caused by shorter duration ESRs.

Further, the ERCOT Protocols already impose failure to provide charges on Resources (all Resource types) for a Resource’s failure to provide Ancillary Service obligations.[[4]](#footnote-4) Extending failure to provide charges to a certain type of Resource that does not ultimately fail to provide is discriminatory and anticompetitive, and therefore a violation of PURA.[[5]](#footnote-5)

To be clear:

If:

1. An ESR provides ERCOT with its awarded Ancillary Service (i.e., the ESR satisfies its Ancillary Service Resource Responsibility); or
2. An ESR’s Qualified Scheduling Entity (QSE) moves the ESR’s Ancillary Service Resource Responsibility to another Resource, as it (and all Resources) may do under the Protocols (i.e., a Resource satisfies the Ancillary Service award);

And:

1. For whatever reason, the ESR did not maintain SOC per NPRR1186;

But:

1. ERCOT still ***takes*** the Ancillary Service provided by the ESR or the substituted Resource and ***uses*** it to help maintain reliability on ERCOT System;

Then:

1. Under NPRR1186, the ESR will be subject to financial charges (penalties) by ERCOT and deemed in violation of the ERCOT Protocols, which also subjects the ESR to enforcement action by the Public Utility Commission of Texas (PUCT) and fines of up to $25,000 per 5-minute SCED interval.

Under NPRR1186, an ESR may qualify to provide Ancillary Service products in ERCOT like any other Resource, but if the ESR does not operate in a certain manner—even though the ERCOT System still benefits from the Ancillary Service the ESR was awarded and provided—the ESR is subject to penalties and disqualification, unlike any other Resource in ERCOT.

**Mandatory ESR Disqualification**

(ERCOT-Proposed Board Priority NPRR)

ERCOT states that it will seek to implement **requirements to disqualify** ESRs for:

1. Repeated failures to perform; or
2. A failure to perform during energy emergencies and “other significant grid events.”

***Repeated Failures to Provide***

As noted above, the ERCOT Protocols already impose failure to provide charges on Resources (all Resource types) for a Resource’s failure to provide Ancillary Service obligations.[[6]](#footnote-6) Imposing a mandatory disqualification requirement on ESRs for repeated failures to perform without imposing the same standard on **all Resources** is, on its face, prejudicial, discriminatory, predatory, anticompetitive, and a violation of PURA.[[7]](#footnote-7)

***Failure to Provide During an Energy Emergency or an “Other Significant Grid Event”***

Again, the ERCOT Protocols currently impose failure to provide penalties on all Resource types. If a mandatory disqualification is to be imposed on ESRs during what appears to be a single EEA or other grid event presumably determined by ERCOT, then the same standard must be imposed on **all Resources**. Otherwise, such a rule is blatantly prejudicial, discriminatory, predatory, anticompetitive, and a violation of PURA.[[8]](#footnote-8)

If ERCOT’s current hourly clearing design and penalty structure for non-performance applicable to all Resources is insufficient to ensure that ERCOT can meet operational reliability goals, then the *entirety* of ERCOT’s structure and Protocols should be evaluated to ensure that all Resources are held to such enhanced standards. ESRs should be held accountable as any other Resource type for performing during a given one-hour interval in which they have cleared, not for meeting an arbitrary standard that will penalize an ESR for actually providing the Ancillary Service or moving its obligation to another Resource.

**Ancillary Service Limits on ESRs**

ERCOT’s comments of September 19 also suggest that ERCOT may pursue system-level limits on the amount of Ancillary Services ESRs are allowed to provide to the market as well as a possibly increase in the quantity of certain Ancillary Services. Specifically,

If ERCOT observes significant non-compliance, an additional NPRR may be needed to impose system-level limits on the amount of [Ancillary Services—i.e.,] Responsive Reserve (RRS), ECRS, and Non-Spin that ESRs are permitted to provide. ERCOT may also need to increase the quantities of certain Ancillary Services to mitigate risks associated with ESRs carrying the same type of Ancillary Service for several consecutive hours.[[9]](#footnote-9)

Eolian notes that these significant policy discussions should be made at the PUCT after careful consideration and analysis and following the holistic review of Ancillary Services that has been suggested at prior PUCT Open Meetings.

**Conclusion**

Eolian appreciates the progress indicated by ERCOT’s latest comments, as it is a step toward addressing the issue of stranded capacity. However, NPRR1186 continues to impose discriminatory compliance provisions, which clearly run afoul of PURA and will require further action if TAC votes to recommend approval of NPRR1186 in its current form (as considered by the ERCOT Board on August 30 and 31, 2023) or as proposed by ERCOT in its September 19, 2023 comments.

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| Revised Cover Page Language |

None

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| Revised Proposed Protocol Language |

None

1. *See* [1186NPRR-03 Eolian Comments](https://www.ercot.com/files/docs/2023/07/06/1186NPRR-03%20Eolian%20Comments%20070623.docx) (Jul. 6, 2023); [1186NPRR-11 Joint Commenters Comments](https://www.ercot.com/files/docs/2023/08/09/1186NPRR-11%20Joint%20Commenters%20Comments%20080923%20v2%20CORRECTED.docx) (by Eolian and Plus Power) (Aug. 9, 2023); [1186NPRR-17 Joint Commenters Comments](https://www.ercot.com/files/docs/2023/08/21/1186NPRR-17%20Joint%20Commenters%20Comments%20082123.docx) (by Eolian, Plus Power, and Jupiter Power) (Aug. 21, 2023); [1186NPRR-20 Eolian TAC Recommendation Opposition](https://www.ercot.com/files/docs/2023/08/24/1186NPRR-20%20Eolian%20TAC%20Recommendation%20Opposition%20082423.pdf) (Aug. 24, 2023); and this set of comments (Sept. 25, 2023). [↑](#footnote-ref-1)
2. NPRR1186, ERCOT Comments at 2 (Sept. 19, 2023), available at

   <https://www.ercot.com/files/docs/2023/09/19/1186NPRR-27%20ERCOT%20Comments%20091923.docx>. [↑](#footnote-ref-2)
3. NPRR1186, ERCOT Comments at 1 (Sept. 19, 2023), available at

   <https://www.ercot.com/files/docs/2023/09/19/1186NPRR-27%20ERCOT%20Comments%20091923.docx>. [↑](#footnote-ref-3)
4. ERCOT Nodal Protocols, Section 6.4.9.1.3, Replacement of Ancillary Service Due to Failure to Provide (Aug. 1, 2023); ERCOT Nodal Protocols, Section 6.7.3, Charges for Ancillary Service Capacity Replaced Due to Failure to Provide (Aug. 1, 2023). [↑](#footnote-ref-4)
5. Public Utility Regulatory Act, Tex. Util Code § 35.004(f) (PURA). [↑](#footnote-ref-5)
6. ERCOT Nodal Protocols, Section 6.4.9.1.3, Replacement of Ancillary Service Due to Failure to Provide (Aug. 1, 2023); ERCOT Nodal Protocols, Section 6.7.3, Charges for Ancillary Service Capacity Replaced Due to Failure to Provide (Aug. 1, 2023). [↑](#footnote-ref-6)
7. PURA § 35.004(f). [↑](#footnote-ref-7)
8. *Id.* [↑](#footnote-ref-8)
9. NPRR1186, ERCOT Comments at 2 (Sept. 19, 2023), available at

   <https://www.ercot.com/files/docs/2023/09/19/1186NPRR-27%20ERCOT%20Comments%20091923.docx>. [↑](#footnote-ref-9)