

September 7, 2023

The Honorable Jennifer Granholm
Secretary of Energy
United States Department of Energy
1000 Independence Avenue, SW
Washington, DC 20585-1000

Re: Request for Emergency Order Under Section 202(c) of the Federal Power Act

Dear Secretary Granholm:

Pursuant to Section 202(c) of the Federal Power Act (“FPA”) and part 205, subpart W, of the regulations of the Department of Energy (“DOE”), Electric Reliability Council of Texas, Inc. (“ERCOT”) respectfully requests that the Secretary of Energy (“Secretary”) find that an electric reliability emergency exists within the State of Texas that requires intervention by the Secretary, in the form of a Section 202(c) emergency order, to preserve the reliability of the bulk electric power system. ERCOT respectfully requests that the Secretary issue an order immediately, effective today, September 7, 2023, authorizing certain electric generating units located within the ERCOT interconnection to operate up to their maximum generation output levels under the limited circumstances described in this letter, notwithstanding air quality or other permit limitations. In accordance with 10 CFR § 205.391(a), ERCOT requests that such order be entered as soon as possible today, September 7, 2023, and remain effective through 9:00 p.m. Central Daylight Time (CDT) tomorrow, September 8, 2023.

Background

The ERCOT region is currently experiencing a sustained heat wave that is resulting in abnormally high electric demand. Temperatures today are expected to reach 107 degrees in the Dallas-Fort Worth area, 105 degrees in the Houston area, 103 degrees in the San Antonio area, and 105 degrees in the Austin area, while temperatures tomorrow are expected to reach 108, 106, 107, and 105 degrees in these same areas, respectively. These high temperatures are driving record demands for this time of year. Yesterday, ERCOT established a September load record of 82,705 MW, which exceeds last year’s September peak load of 72,370 MW by 10,335 MW—an increase of 14.3% year over year.

This abnormally high demand is especially problematic in the evening hours, when the output from solar generating units decreases. During this period, ERCOT must depend on output from other generation technologies to meet demand, which remains high due to the continuing use of air conditioning. At times, the combination of wind generation and dispatchable generation output has been sufficient to cover load and minimum reserve levels during this solar-ramp period. However, in recent weeks, with the solar ramp-down occurring earlier each day, the total amount of generation available to serve load during this critical period has diminished. This is due in part

to a lower amount of wind generation at the time of the solar ramp (or a lower amount of wind generation more generally), a higher level of forced outages of thermal generating units, and transmission limitations. Yesterday, ERCOT was required to declare a Level 2 Energy Emergency Alert (EEA) due to the decline in reserves coupled with a post-contingency transmission overload that required a decrease in output from certain units impacting that constraint. ERCOT has observed high loading on this same transmission element in similar circumstances over the past few weeks and is concerned that a post-contingency overload could occur again during the late afternoon and evening hours today and tomorrow. Such an overload would require ERCOT to reduce output of resources impacting the loading on that element, exacerbating ERCOT's scarcity concern.

With the abnormally high demand due to the excessive heat, ERCOT is taking measures to ensure the supply of generation will continue to be sufficient to meet system demand and reserve requirements. Earlier today, ERCOT issued an appeal seeking energy conservation for the hours of 5:00 p.m. through 9:00 p.m. this evening. ERCOT expects to issue a similar appeal tomorrow morning for a similar period tomorrow afternoon. Additionally, at ERCOT's request, the Texas Commission on Environmental Quality announced that it will exercise enforcement discretion with respect to exceedances of state emissions limits during periods in which their incremental output is necessary. Moreover, if generating reserves do eventually diminish to a level that requires ERCOT to declare an EEA, ERCOT will take additional measures to provide additional reserves, including:

- Utilizing all available DC Tie import capacity;
- Deploying capacity enrolled in ERCOT's Emergency Response Service;
- Instructing transmission and distribution service providers to implement distribution voltage reduction measures and to deploy customers enrolled in load management programs;
- Instructing Load Resources providing Responsive Reserve Service (RRS) to curtail their demand and instructing Generation Resources providing RRS to make their capacity available for ERCOT's dispatch; and
- Instructing Energy Storage Resources to suspend charging.

Even so, it is possible that these measures may not be sufficient to avoid the need to direct curtailment of firm load to ensure system reliability.

Relief Requested

ERCOT has been notified by one generation owner that one of its generating units is currently limited in its power output due to certain opacity limits under federal environmental permits. This unit is identified in Exhibit A to this letter.

While only one entity has confirmed an operational restriction for one generator based on emissions limits, ERCOT is also aware that many other generators not included on this list are subject to similar federal permit limits, and it is possible that some of these units could encounter

an operational limitation due to a restriction under a federal environmental permit at some point today or tomorrow. Because the output from any generator that may encounter restrictions under any federal or state emissions restriction is expected to be critical to reducing the need for any firm load-shedding that may be required during this extreme hot weather event, ERCOT seeks an immediate order from DOE authorizing the provision of additional energy from the unit identified in Exhibit A as well as any other ERCOT-registered generating units that may be identified to ERCOT as being subject to emissions or other permit limitations. ERCOT proposes that this relief would be available only for operations under the following two limited circumstances:

- For any Generation Resource or Settlement Only Generator whose operator notifies ERCOT that the unit is unable, or expected to be unable, to produce at its maximum output due to an emissions or other limit in any federal environmental permit, the unit will be allowed to exceed any such limit only between the hours of 5:00 p.m. and 9:00 p.m. on Thursday, September 7, 2023 or Friday, September 8, 2023, and only if ERCOT has declared an EEA Level 2 or Level 3 that remains in effect during all or any part of either such period. This incremental amount of restricted capacity would be offered at a price no lower than \$1,500/MWh. Once ERCOT issues a declaration indicating that it is no longer in an EEA Level 2 or 3, or at 9:00 p.m., whichever occurs first, the unit would be required to return to operation within its permitted limits as expeditiously as possible. And at all other times, the unit would be required to operate within its permitted limits.
- For any Generation Resource whose operator notifies ERCOT that the unit will be offline at any point between the hours of 5:00 p.m. and 9:00 p.m. on Thursday, September 7, 2023 or Friday, September 8, 2023, or would need to go offline during either such period, due to an emissions or other limit in any federal environmental permit, if ERCOT has declared or expects to declare an EEA Level 2 or Level 3 that is expected to be in effect during all or any part of that period, then ERCOT may issue a Reliability Unit Commitment (RUC) instruction in advance of that period or during that period directing the unit operator to bring the unit online, or to keep the unit online, and to operate at the minimum level at which the Resource can be sustainably operated. If ERCOT issues the instruction in advance of either such period, then ERCOT shall endeavor to commit the unit at a time that allows the unit to reach its low sustained limit no earlier than the beginning of that period or the start of any EEA Level 2, whichever is expected to occur last. An operator subject to a RUC instruction described herein would be allowed to make all of the unit's capacity available to ERCOT for dispatch during any period between the hours of 5:00 p.m. and 9:00 p.m. on Thursday, September 7, 2023 or Friday, September 8, 2023 for which ERCOT has declared an Energy Emergency Alert (EEA) Level 2 or Level 3. This capacity would be offered at a price no lower than \$1,500/MWh. Once ERCOT issues a declaration indicating that it is no longer in an EEA Level 2 or 3, or at 9:00 p.m., whichever occurs first, the unit would be required to return to operation within its permitted limits as expeditiously as possible unless the unit is subject to a subsequent RUC instruction that complies with the terms specified herein.

ERCOT does not lightly request this authorization. It understands the importance of the environmental permit limits that are at issue. However, in ERCOT's judgment, the loss of power to homes and businesses in the areas that may be affected by curtailments presents a far greater

risk to public health and safety than the temporary exceedances of those permit limits that would be allowed under the requested order. Authorizing resources in the ERCOT interconnection to operate notwithstanding permit and other limitations will help ensure ERCOT can meet its minimum energy and reserve requirements.

This request is narrowly tailored to allow only the exceedances that are necessary to ensure reliability during the limited timeframe of this request. Limiting the requested allowance to situations involving an EEA Level 2 or 3 will ensure that the generation capacity subject to emissions limits and other permit restrictions will be the last generation that is made available for dispatch to meet system demand, thus minimizing any environmental impact to the greatest degree possible. While reserving the deployment of this permit-restricted capacity to EEA Level 2 or 3 should be sufficient to de-prioritize the dispatch of this generation, ERCOT would also require these resources, as a condition for the requested allowance, to price this incremental capacity no lower than \$1,500/MWh which will provide a separate mechanism to help ensure this capacity is deployed only when absolutely necessary.

Upon issuance of the requested order, ERCOT would issue a market notice to all ERCOT market participants describing the conditions of this allowance. The notice would require that any market participant that finds it necessary to utilize this allowance must notify ERCOT in advance of doing so, to ensure ERCOT's operators are aware the capacity is available during an EEA Level 2 or Level 3. This notification requirement would apply to all generators, including the unit identified on Exhibit A. ERCOT commits to providing notice to DOE of any additional units seeking authorization to act under this order by submitting an updated version of Exhibit A that reflects each of those generating units that has been identified to ERCOT as requiring use of this allowance to operate in excess of a permit limitation. ERCOT would provide any updates to Exhibit A by approximately 10:00 p.m. on September 7, 2023, and by 10:00 a.m. and 10:00 p.m. on September 8, 2023. ERCOT is also prepared to provide any additional information DOE may request, including information about the quantification of exceedances of environmental limits by units that invoke the authorization available under this order. ERCOT commits to respond to any requests for such information on an expedited basis.

ERCOT underscores that it is engaged in an ongoing effort with the Public Utility Commission of Texas (PUCT) to increase incentives for dispatchable generation capacity in the ERCOT market to help mitigate the occurrence of the conditions that underlie this request. These efforts include:

- enhancements to the Operating Reserve Demand Curve (ORDC) to add a multi-step floor to the online ORDC price to provide self-commitment incentives and improve resource revenues during scarcity conditions;
- establishing a reliability standard that will inform robust reliability requirements and will incorporate parameters to reflect frequency, duration and magnitude of loss of load events;
- establishing a Dispatchable Reserve Reliability Service, which is a new ancillary service legislatively required by December 2024 that will provide additional revenues for resources

capable of operating at their high sustainable limit for 4 hours, after being given 2 hours' notice; and

- establishing a Performance Credit Mechanism to allow resources to earn revenues based on credits when committing and performing during the tightest hours during each season.

ERCOT greatly appreciates DOE's expedited consideration of this request. Please do not hesitate to contact me or my staff if you have any questions or require additional information in order to act on this request.

Respectfully,

/s/ Pablo Vegas

Pablo Vegas
President and Chief Executive Officer
pablo.vegas@ercot.com

**Exhibit A
Generating Units Subject to Federal Emissions Restrictions**

Generator Unit Name	Fuel Type	Anticipated Emissions Category Resulting in Output Limitation (e.g., SOx, NOx, Hg, waste water),	Resource Entity Name	County	Zip Code	Unit Code	Summer Net Maximum Sustainable Rating (MW)	Summer Net Minimum Sustainable Rating (MW)
WA Parish Unit 8	Coal	Opacity	NRG Texas Power LLC	Harris	77469	WAP_WAP_G8	610	153