

UNITED STATES DEPARTMENT OF ENERGY
BEFORE THE DEPARTMENT OF ENERGY
OFFICE OF ELECTRIC DELIVERY AND ENERGY RELIABILITY

AEP Energy Partners Application to Export Electric Energy) OE Docket No. EA-318-B

COMMENTS OF ELECTIC RELIABILITY COUNCIL OF TEXAS, INC.¹

I. Background

On December 19, 2012, AEP Energy Partners, Inc. (AEPEP) filed a request with the Department of Energy Office of Electric Delivery and Energy Reliability (DOE) to renew its permit to export electric energy to Mexico.² On February 9, 2012 the Sierra Club moved to intervene and protested the AEPEP request. On February 16, 2012 AEPEP filed an emergency request for a continuance and temporary extension of its existing export authority, or, alternatively, for the issuance of a 6-month temporary permit. Sierra Club then filed in opposition to AEPEP's emergency request. On February 22, 2012 the DOE issued an order extending AEPEP's export authority pending the issuance of a final decision on the AEPEP permit application, subject to the restriction that it could only export power to assist Mexico during emergency periods.

II. Comments³

A. ERCOT Position

Electric Reliability Council of Texas, Inc. (ERCOT) takes no position with respect to DOE action on the AEPEP request to renew its export authority. ERCOT files these comments to provide clarity with respect to the relationship between the AEPEP export permit and electric reliability. The comments are not intended to support or oppose any position in this proceeding. Rather, they are submitted to assist DOE in its consideration of reliability matters that may be relevant factors in any action taken in this docket.

¹ ERCOT is the independent system operator (ISO) for the ERCOT region of Texas. ERCOT's functions include system operations, system planning and administration of the wholesale electric markets.

² On June 27, 2007, DOE issued Order No. EA-318-A to AEPEP, which granted AEPEP the right to export power to Mexico.

³ ERCOT is filing these comments in response to the January 10, 2012 notice in the federal register. Comments were due on February 9, 2012. ERCOT did not plan on participating in this proceeding and, therefore, did not file comments by the noticed deadline. ERCOT is filing late because the Sierra Club protest presented arguments related to the reliability impact of the AEPEP export authority, and the Sierra Club arguments were based, in part, on the statements made by ERCOT in a declaration that supported a market participant motion to stay the Environmental Protection Agency Cross State Air Pollution Rule. ERCOT is filing these comments because of the Sierra Club reliance on ERCOT statements and its representations related to reliability of the ERCOT grid, which is managed by ERCOT. As noted in the comments, ERCOT believes its comments may assist the DOE in its consideration of the reliability issues raised in this proceeding. A copy of these comments has been provided to the parties to the proceeding by electronic mail.

B. Reliability Comments

i. ERCOT has the Mandate And Authority to Manage AEPEP Exports to Respect Reliability and the Export Authorization Order Requires AEPEP to comply with ERCOT Reliability Directives

Section 202(e) of the Federal Power Act governs electricity exports to foreign countries. That section states that export orders shall be issued “unless, after opportunity for hearing, it finds that the proposed transmission would impair the sufficiency of electric supply within the United States or would impede or tend to impede the coordination in the public interest of facilities subject to the jurisdiction of the Commission.” DOE has interpreted this to mean, in essence, that exports cannot compromise resource adequacy or transmission security.⁴ The explicit terms of the DOE order implement this standard by, among other things, requiring exports to comply with all NERC and ISO/RTO reliability rules.⁵ Accordingly, AEPEP exports must comply with NERC and ERCOT rules.

There are several authorities that give ERCOT the right to take all necessary actions to maintain reliability, including the right to cut exports from the ERCOT region. This right exists under state and federal authorities, including the NERC standards and the ERCOT Protocols and Operating Guides, as well as pursuant to the bilateral support agreement between ERCOT and the Comision Federal de Electricidad (CFE), which is a public agency that provides electric service in Mexico.⁶

a. NERC Standards

The Emergency Preparedness and Operations (EOP) standards impose the obligation, and the corresponding right, that ERCOT, as Balancing Authority (BA) and Reliability Coordinator (RC), to take any actions necessary to respect reliability. Specifically, ERCOT has the authority to take any action to maintain reliability of the system, and they also require ERCOT to alleviate energy/capacity emergencies.⁷

The Interconnection Reliability Operations and Coordination (IRO) standards establish similar obligations and rights. Requirement 3 of IRO-001 (R3) gives ERCOT, as RC, complete authority to act and to direct others to act to ensure the reliability of the system. Pertinent to AEPEP exports, AEPEP is acting as a Purchasing - Selling Entity (PSE) in exporting power to Mexico. R3 gives ERCOT the explicit right to direct the actions of PSEs to preserve the integrity and reliability of the electric system. AEPEP, as a PSE, is required to follow ERCOT directives.⁸ Conflicting interests of any entity, including market participants such as AEPEP, are subservient to the interests of interconnection/system reliability and the NERC standards make this hierarchy explicit with respect to the actions of the RC. Specifically, IRO-001

⁴ See DOE Order No. EA-318-A at 2-3.

⁵ *Id* at Ordering Paragraph D.

⁶ *System Support Agreement for Emergency Assistance Between Comision Federal de Electricidad and Electric Reliability Council of Texas, Inc.* (ERCOT-CFE Agreement). Pursuant to that agreement, ERCOT and CFE provide emergency assistance to each other.

⁷ See EOP-002 R1.

⁸ See IRO-001 Requirement 8.

R9 states that the RC shall act in the interests of the reliability of its RC Area and the Interconnection before concerning itself with the interests of any particular entity.

Similarly, the Transmission Operations (TOP) standards give ERCOT broad authority to maintain reliability. TOP-001 R1 states that ERCOT, as a Transmission Operator, has the responsibility and authority to take whatever actions are needed to maintain reliability, and it also requires ERCOT to alleviate operating emergencies. TOP-001 R2 requires ERCOT, as TOP, to take all actions necessary to alleviate operating emergencies. Such actions include curtailing transmission service or energy schedules. TOP-001 R8 obligates ERCOT, as the BA and Transmission Operator (TOP), to maintain real and reactive power balances, respectively. When necessary, the BA and TOP shall request the assistance of the RC to comply with this obligation, which then implicates the broad authority of the RC to maintain system reliability.

Finally, the Personnel Performance, Training and Qualification (PER) standards require that ERCOT, as the TOP and BA, give its operators the responsibility and authority to act, in real-time, to maintain system reliability.⁹ This complements the obligations of the RC, TOP and BA, as an organization, to act in a manner that respects reliability.

The broad authority established by the NERC standards/requirements would give ERCOT the right to manage exports from the ERCOT region, including those executed pursuant to the AEPEP permit, to ensure the reliability of the ERCOT grid. In addition, the ERCOT Protocols and Operating Guides provide similar authority.

b. ERCOT Regional Rules

Section 6.5.1.1 of the ERCOT Protocols gives ERCOT broad authority to direct actions to ensure compliance with NERC standards and relevant Protocols and Operating Guides. This includes the ability to direct operation of breakers on transmission lines. This section also gives ERCOT the right to act to prevent imminent emergencies to the ERCOT grid. Protocol Section 6.5.9.4, which implicates Energy Emergency Alerts involving energy/capacity emergencies, explicitly gives ERCOT the right to curtail energy schedules (imports or exports) over the DC Ties, which, by definition, includes any non-synchronous tie, and, therefore, would include AEPEP exports to Mexico. This right is also established in Section 4.5.3 of the Operating Guides. Finally, the Operating Guides give ERCOT system operators broad authority to take any actions necessary to address emergency or adverse conditions.¹⁰

c. ERCOT – CFE System Support Agreement

As noted above, ERCOT is a party to a bilateral system support agreement with CFE (ERCOT-CFE Agreement). Pursuant to the terms thereof, each entity is required to supply emergency assistance to the other party in accordance with the agreement. The AEPEP export authority is implicated in this agreement because AEPEP serves as the Qualified Scheduling Entity (QSE) for CFE under the

⁹ See PER-004 R1.

¹⁰ See Operating Guide Section 4.5.2.

agreement.¹¹ Similar to other AEPEP export transactions, export transactions as the CFE QSE pursuant to the ERCOT-CFE Agreement will not affect reliability of the exporting system because the exporting entity has the right to cancel scheduled transactions if it is experiencing its own Emergency Condition.¹²

Another issue regarding the AEPEP export authority relationship to the ERCOT-CFE Agreement involves the impact that termination of AEPEP export authority would have on the agreement. As discussed above, to execute emergency assistance to Mexico, CFE is required to have a QSE. If AEPEP loses its export authority, it cannot act as the QSE for exports to CFE pursuant to the agreement. Although any QSE with export authority can serve this role under the ERCOT –CFE Agreement, if AEPEP could no longer serve this role, ERCOT could not export emergency power to Mexico until CFE found another QSE with export authority.¹³

Although it is ERCOT’s position that CFE would still be obligated under the Agreement to provide emergency power to ERCOT, that capability would depend on AEPEP being retained as the QSE until a replacement was established. If CFE terminated its agreement with AEPEP (before replacing it with another QSE) because it could not act as exporting QSE as a result of losing its export authority, ERCOT would not be able to receive emergency assistance from CFE. This is because imports from CFE to ERCOT also require a QSE.

A final point on this issue is related to CFE’s continuing obligation to assist ERCOT even if ERCOT could not assist CFE as a result of AEPEP losing its export authority. Although it is ERCOT’s position that CFE would still be obligated to assist ERCOT (assuming CFE did not immediately terminate its agreement with AEPEP to serve as the QSE for CFE under the ERCOT –CFE Agreement), practically speaking, CFE may be hesitant to do so. However, any such risk is speculative.

Collectively, ERCOT's authority to preserve reliability under state and federal authorities, as well as the terms of the ERCOT-CFE Agreement, gives ERCOT the right to manage exports from the ERCOT system where such transactions could compromise system reliability. This authority exists with respect to managing transmission security and energy/capacity emergencies. AEP must respect this authority pursuant to the obligations imposed on it by DOE in the export order, as well as independent obligations under the NERC and ERCOT rules. Accordingly, exports pursuant to the AEPEP export authority should not raise reliability concerns because ERCOT has the mandate and authority to manage those exports to respect system reliability.

¹¹ The ERCOT rules require energy transactions to be administered by a QSE. This applies to the emergency assistance transactions pursuant to the ERCOT-CFE Agreement. Accordingly, in order to effectuate transactions to and from CFE, CFE is required under the agreement to have a QSE.

¹² ERCOT-CFE Agreement, Section 8.C. Emergency Condition is defined very broadly and includes any condition “adversely affecting system security or reliability”.

¹³ It is unclear how long it would take CFE to find a replacement for AEPEP if it was not able to serve in that role under the ERCOT-CFE Agreement because it lacked export authority. ERCOT takes no position on the potential for this interruption to occur and, if it did, associated reliability impact is unknown because it would depend on certain variable including, but not limited to, the emergency assistance needs of Mexico during the relevant interruption period.

ii. *Sierra Club Comments*

Because the Sierra Club comments are based, in part, on statements made by ERCOT in relation to the impact of the Cross-State Air Pollution Rule (CSAPR) to the ERCOT region,¹⁴ ERCOT provides the following comments. ERCOT is not taking an advocacy position in this proceeding, and is addressing this particular aspect of the Sierra Club comments to assist DOE in its consideration of the relationship between the positions presented in the Lasher Declaration and the reliability matters before DOE in this proceeding. As the entity charged with operating the ERCOT grid and preserving the reliability thereof, ERCOT believes its input may assist DOE by facilitating an informed decision based on pertinent information, including the objective position of the system operator.

ERCOT appreciates the Sierra Club's concerns regarding the reliability of the ERCOT grid. As the electric industry moves forward with the integration of new technologies intended to facilitate an operationally and economically efficient grid, reliability must always be respected. System operations and accompanying reliability issues are a somewhat complex subject, and, therefore, when considering reliability issues they must be assessed in the appropriate context.

As Sierra Club notes, the Lasher Declaration discussed potential operational issues that could arise, depending on the impact of the CSAPR rule on capacity in the ERCOT region.¹⁵ It is important to understand that ERCOT can maintain the reliability of the grid despite CSAPR impacts.¹⁶ The concerns raised by ERCOT were not related to the inability to maintain system security. Rather, they were related to the potential need to shed firm load on a more frequent basis to respect reliability parameters.¹⁷ This could occur if supply reductions resulting from CSAPR compromised the applicable planning reserve margin. While shedding load is not desirable from an operations perspective, and, in essence, is a "last-ditch" action, it is an acceptable operating action and system reliability can be maintained utilizing that means. This fact was made clear in the declaration referenced by the Sierra Club.¹⁸

Therefore, even assuming exports were permitted to occur during stressed conditions pursuant to the AEPEP export authority, system reliability would be maintained. However, the key fact for the purposes of this discussion is that such exports *would not be allowed* when the ERCOT system is stressed. As discussed above, ERCOT has the obligation and the right to maintain the reliability of the ERCOT grid and can take all necessary actions to do, including cutting exports as necessary.

¹⁴ See *Declaration of Warren P. Lasher, Manager of Long Term Planning and Policy, Electric Reliability Council of Texas, Inc.* (Lasher Declaration). The Lasher Declaration was filed as an exhibit to a motion to stay the CSAPR rule filed by Luminant Generation Company, LLC, against the EPA in the United States Court of Appeals for the District of Columbia.

¹⁵ The ultimate impact of the CSAPR rule will depend on several factors, including, but not limited to, the prescriptions of the final rule and other variables such as generator compliance plans, liquidity of associated allowance markets and prospective system conditions.

¹⁶ Lasher Declaration at P 18 – when reserves are inadequate to respect system security firm load shedding via rotating outages is utilized to respect relevant operating restrictions.

¹⁷ Lasher Declaration at PP 33, 35, 36 and 38.

¹⁸ Lasher Declaration at PP 17-18.

Another important point regarding the relationship between ERCOT's CSAPR Statements and this proceeding is the distinction between the net loss of capacity contemplated in the referenced ERCOT declaration, and the temporary export of capacity with no net supply loss. The former implicates potential planning and/or operational concerns, while the latter does not present either reliability matter because the export can be cut and the capacity recalled if needed for reliability in the ERCOT region.¹⁹ An export would only be a concern if it compromised the amount of supply needed for reliability on a net relative basis – i.e. relative to available capacity if the export authority was not in place. As discussed, ERCOT can take any action necessary to perform this function, including the interruption of exports. Thus, exports, including any that occur pursuant to the requested authority, should not compromise reliability, either from a planning or operational perspective.

III. Conclusion

Consistent with the above comments, electricity exports to Mexico pursuant to existing or future AEPEP export authority should not present reliability concerns for the ERCOT region. In essence, reliability matters can be broken down into two categories – transmission security and resource adequacy. Both issues are relevant in the planning and operations horizon. Exports would only raise reliability concerns in either case if they resulted in a net loss of supply during periods when the exported capacity was needed for reliability. ERCOT has the authority to cut exports if necessary to respect the system security of the ERCOT region, and will take such action when necessary. Because exports can be cut they do not present reliability concerns.

Respectfully submitted,

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Date: February 29, 2012

¹⁹ The CSAPR rule introduces the possibility that the ERCOT region may lose capacity relative to present and forecasted supply, which could compromise compliance with the operational and planning reserves requirements. It is the potential capacity reduction to levels that are below the planning reserve margin and, from an operations perspective, below levels required to reliably operate the system without firm load shedding that created the operational concerns raised by ERCOT in regards to CSAPR.

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing document was electronically served upon all parties in this proceeding.

/s/ Matt Morais _____
Matt Morais