



DEPARTMENT OF ENERGY

[DOE Docket No. 202-22-3]

Emergency Order Issued to the Electric Reliability Council of Texas, Inc. (ERCOT) to Operate Power Generating Facilities Under Limited Circumstances in Texas as a Result of Extreme Weather

AGENCY: Office of Cybersecurity, Energy Security, and Emergency Response, Department of Energy.

ACTION: Notice of emergency action.

SUMMARY: The U.S. Department of Energy (DOE or the Department) is issuing this Notice to document emergency actions that it has taken pursuant to the Federal Power Act. DOE issued an emergency order to the Electric Reliability Council of Texas, Inc. (ERCOT) to operate certain power generating facilities under limited circumstances as described further. ERCOT is the independent system operator for over 26 million people in Texas (ERCOT Region). The state of Texas experienced a severe winter weather system that caused a significant drop in temperatures. While the vast majority of generating units in the ERCOT region continued to operate without any problem, a small number of units experienced operating difficulties due to cold weather or gas curtailments. Additional generation required to serve the ERCOT Region was anticipated to result in a conflict with environmental standards and requirements, therefore DOE authorized only the necessary additional generation for ERCOT to sufficiently supply the amount of energy needed to prevent electrical disruption. Because no facilities operated above permitted levels during the emergency as authorized by the DOE order, no environmental impacts resulted from DOE issuing the order. Consequently, DOE has decided not to prepare a special environmental analysis.

ADDRESSES: Requests for more information should be addressed by electronic mail to AskCR@hq.doe.gov.

FOR FURTHER INFORMATION CONTACT: For further information on this Notice, or for information on the emergency activities described herein, contact Kenneth Buell, (202) 586–3362, Kenneth.Buell@hq.doe.gov, or by mail to the attention of Kenneth Buell, CR–30, 1000 Independence Ave., SW, Washington, DC 20585.

The Order and all related information are available here: <https://www.energy.gov/ceser/federal-power-act-section-202c-ercot-december-2022>.

SUPPLEMENTARY INFORMATION:

Background

Section 202(c) of the Federal Power Act

The Department is issuing this Notice pursuant to 10 CFR 1021.343(a) to document emergency actions taken in accordance with section 202(c) of the Federal Power Act (FPA) (16 U.S.C. 824a(c)). FPA section 202(c) provides that “[d]uring the continuance of any war in which the United States is engaged, or whenever the [Secretary of Energy] determines that an emergency exists by reason of a sudden increase in the demand for electric energy, or a shortage of electric energy or of facilities for the generation or transmission of electric energy, or of fuel or water for generating facilities, or other causes, the [Secretary of Energy] shall have authority, either upon [her] own motion or upon complaint, with or without notice, hearing, or report, to require by order such temporary connections of facilities and generation, delivery, interchange, or transmission of electric energy as in [her] judgment will best meet the emergency and serve the public interest.”

1. Request for Emergency Order from ERCOT

On December 23, 2022, ERCOT filed a Request for Emergency Order Under section 202(c) of the Federal Power Act (Application) to take “measures to ensure the supply of generation will continue to be sufficient to meet system demand and reserve requirements” in response to the severe winter weather impacting much of the United States. The temperature drop, accompanied by high winds in excess of 40 mph resulted in wind chill values across the state generally below

ten degrees Fahrenheit, with some areas of Texas experiencing wind chills values well below zero degrees.

In its Application, ERCOT noted that a small number of generating units experienced operating difficulties due to cold weather or gas curtailments and that one generation owner was limited in its power output due to emissions, effluent, and other limits established by federal environmental permits, or that, due to continuing cold weather conditions, may become subject to such operational limitations. Specifically, ERCOT indicated that the operation of gas-fired generators may be impacted by permit restrictions on nitrogen oxide, carbon monoxide, and ammonia emissions. ERCOT requested the authority to authorize the provision of additional energy from the units identified in Exhibit A of its Application, as well as any other generating units subject to emissions or other permit limitations, subject to the Order (“Specified Resources”). ERCOT stated that the emergency order it was requesting could result in exceedances of environmental limits. Given the permit limits of the Specified Resources, ERCOT anticipated that the additional capacity may not be made available absent an order under FPA section 202(c).

2. ERCOT Order

On December 23, 2022, the Under Secretary of Energy for Infrastructure, acting pursuant to Delegated authority, issued Order No. 202-22-3 (the Order). As set forth in the Order, the Under Secretary of Energy for Infrastructure found that because of the expected shortage of electric energy, shortage of facilities for the generation of electric energy, and other causes in Texas and within the ERCOT region, the issuance of the Order would meet the emergency and serve the public interest.

The Order authorized ERCOT to dispatch the Specified Resources for the period beginning with the issuance of the Order on December 23, 2022, to 10:00 a.m. Central Time on December 25, 2022, under the conditions set forth in the Order, including the following:

- (i) 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 at any point before 12:00 p.m. Central Time on Saturday, December 24, 2022, and between 18:00(6:00 p.m.) Central Time on Saturday, December 24, 2022 and 10:00 Central Time on Sunday, December 25, 2022, the unit would be allowed to exceed any such limit only during any period for which ERCOT has declared an Energy Emergency Alert (EEA) Level 2 or Level 3¹. This incremental amount of restricted capacity would be offered at a price no lower than \$1,500/MWh. Once ERCOT declares that the EEA Level 2 event has ended, the unit would be required to immediately return to operation within its permitted limits. And at all other times, the unit would be required to operate within its permitted limits.
- (ii) For any Generation Resource whose operator notifies ERCOT that the unit is offline or would need to go offline at any point before 12:00 p.m. Central Time on Saturday, December 24, 2022, and between 18:00 (6:00 p.m.) Central Time on Saturday, December 24, 2022 and 10:00 a.m. Central Time on Sunday, December 25, 2022 due to an emissions or other limit in any federal environmental permit, ERCOT may issue a Reliability Unit Commitment (RUC) instruction 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. In this circumstance, the operator would be allowed to make all of the unit's capacity available to ERCOT for dispatch during any period for which ERCOT has declared an Energy Emergency Alert (EEA) Level 2 or Level 3. This incremental amount of restricted capacity would be offered at a price no lower than \$1,500/MWh. Once ERCOT declares that such an EEA Level 2 event has

¹ For more information on EEA levels, see <https://nercstg.nerc.com/pa/rrm/ea/Pages/Energy-Emergency-Alerts.aspx>.

ended, the unit would be required to immediately return to operating at a level below the higher of its minimum operating level or the maximum output allowable under the permitted limit.

The Order required that ERCOT provide a report by January 25, 2023, for the dates between December 23, 2022 and December 25, 2022, inclusive on which the Specified Resources were operated, the hours of operation, and exceedance of permitting limits, including sulfur dioxide, nitrogen oxide, mercury, carbon monoxide, and other air pollutants, as well as exceedances of wastewater release limits. The report must include, “(i) emissions data in pounds per hour for each Specified Resource unit, for each hour of the operational scenario, for CO, NO_x, PM₁₀, VOC, and SO₂; (ii) emissions data must include emissions (lbs./hr.) calculated consistent with reporting obligations pursuant to operating permits, permitted operating/emission limits, and the actual incremental emissions above the permit limits; (iii) the number and actual hours each day that each Specified Resource unit operated in excess of permit limits or conditions, *e.g.* “Generator #1; December 24, 2022; 4 hours; 04:00-08:00 CT”; (iv) the amount, type and formulation of any fuel used by each Specified Resource; (v) all reporting provided under the Specified Resource’s operating permit requirements over the last three years to the United States Environmental Protection Agency or local Air Quality Management District for the location of a Specified Resource that operates pursuant to the Order; (vi) additional information requested by DOE as it performs any environmental review relating to the issuance of the Order; and (vii) information provided by the Specified Resource complied with applicable environmental requirements to the maximum extent feasible while operating consistent with emergency conditions.

The Order also requires ERCOT to submit a final report by February 25, 2023, with any revisions to the information reported on January 25, 2023. In this case, because no facilities operated above permitted levels during the emergency as authorized by the DOE order, no environmental impacts resulted from DOE issuing the order. Consequently, DOE has decided not

to prepare a special environmental analysis.

Signing Authority

This document of the Department of Energy was signed on February 10, 2023, by Puesh M. Kumar, Director for the Office of Cybersecurity, Energy Security, and Emergency Response, pursuant to delegated authority from the Secretary of Energy. That document with the original signature and date is maintained by DOE. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DOE Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of the Department of Energy. This administrative process in no way alters the legal effect of this document upon publication in the *Federal Register*.

Signed in Washington, DC, on February 13, 2023.

Treena V. Garrett,

Federal Register Liaison Officer,

U.S. Department of Energy.

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