



DEPARTMENT OF ENERGY

[DOE Docket No. 202-23-1]

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 in this section. ERCOT is the independent system operator for over 26 million people in Texas (ERCOT Region). The State of Texas experienced a sustained heat wave that resulted in abnormally high electric demand. Because the additional generation required to serve the ERCOT Region was anticipated to result in a conflict with environmental standards and requirements, DOE authorized only the necessary additional generation for ERCOT to sufficiently supply the amount of energy needed to prevent electrical disruption. However, 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*, to *AskCR@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-september-2023>.

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 September 7, 2023, ERCOT filed a Request for Emergency Order Under Section 202(c) of the Federal Power Act (Application) to allow ERCOT to operate certain electric generating units up to their maximum generation output levels to preserve the reliability of the bulk power system.

In its Application, ERCOT noted that the region was experiencing extreme heat conditions resulting in especially high electric demand. On September 6, 2023, ERCOT reported that it established a September load record, and, on the same day, it declared an Energy Emergency

Alert (EEA) Level 2 due to low reserve margins coupled with a post-contingency transmission overload. ERCOT observed high loading on a certain transmission element in similar circumstances in the weeks preceding September 7, 2023, and assessed that a post-contingency overload could occur again during the later afternoon and evening hours of September 7, 2023, and September 8, 2023. Such an overload would have required ERCOT to reduce output of resources impacting the loading on that element, exacerbating ERCOT's scarcity concern. The extreme heat and high electric demand were expected to continue through September 8, 2023. 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 September 7, 2023, the Secretary of Energy issued Order No. 202-23-1 (the ERCOT Order). As set forth in the ERCOT Order, the Secretary for Energy found that given the emergency nature of the expected load stress, the responsibility of ERCOT to ensure maximum reliability on its system, and the ability of ERCOT to identify and dispatch generation necessary to meet the additional load, 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 September 7, 2023, for the hours of 5 p.m. through 9 p.m. CDT and 5 p.m. and 9 p.m. CDT on Friday, September 8, 2023, 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, the unit would be allowed to exceed any such limit only between the hours of 5 p.m. and 9 p.m. CDT on Thursday, September 7, 2023, and 5 p.m. and 9 p.m. CDT on Friday, September 8, 2023, and only if ERCOT has declared an EEA Level 2 or Level 3 that remained 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 declares that it is no longer in an EEA Level 2 or 3, or at 9 p.m. CDT, 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.

(ii) For any Generation Resource whose operator notifies ERCOT that the unit will be offline at any point between the hours of 5 p.m. and 9 p.m. CDT Thursday, September 7, 2023, and 5 p.m. and 9 p.m. CDT 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 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 p.m. and 9 p.m. CDT on Thursday, September 7, 2023, and 5 p.m. and 9 p.m. CDT Friday, September 8, 2023, for which ERCOT has declared an 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 p.m. CDT,

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.

The Order required that ERCOT provide a report by October 6, 2023, for the dates between September 7, 2023 and September 8, 2023, 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 was required to 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 have included 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; September 8, 2023; 4 hours; 04:00-08:00 CDT”; (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 required that ERCOT submit a final report by November 6, 2023, with any revisions to the information reported on October 6, 2023. However, 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 September 26, 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, D.C., on September 27, 2023.

Treena V. Garrett,
Federal Register Liaison Officer,
U.S. Department of Energy.

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