



December 6, 2022

Ms. Jennifer Jones  
Executive Director  
Sunset Advisory Commission  
P.O. Box 13066  
Austin, Texas 78711

Re: Texas Solar Power Association (TSPA) Comments on the Sunset Advisory Commission's Report on the Public Utility Commission, Electric Reliability Council of Texas, and Office of Public Utility Counsel.

Dear Ms. Jones:

TSPA appreciates the opportunity to comment on the Sunset Advisory Commission's Report on the Public Utility Commission (PUC), Electric Reliability Council of Texas (ERCOT), and Office of Public Utility Counsel (OPUC). We appreciate the work of the Sunset Commission staff to comprehensively review and make recommendations on these agencies.

TSPA is a trade association that represents the interests of the solar industry in Texas. Our members develop and operate solar generators at the utility scale as well as rooftops throughout Texas.

TSPA has the following comments related to Sunset staff issues and recommendations.

*Recommendation 1.1 The House Appropriations and Senate Finance committees should consider appropriating PUC its exceptional item requests for funding a data analytics team and additional engineering expertise.*

TSPA supports the Sunset staff's recommendation to provide more resources to the PUC. TSPA agrees that the PUC is hampered by an inability to conduct its own analysis of issues and use that analysis to inform regulation.

*Recommendation 1.2 Authorize the PUC to issue directives to ERCOT outside the formal rulemaking and contested cases and authorize stakeholders to formally provide input on these directives.*

TSPA agrees that the PUC should have a more formal, structured way to direct ERCOT to take certain actions. Stakeholders should have an opportunity to comment on all directives. This recommendation not only provides for stakeholder input but also aligns with the Texas Administrative Procedures Act (APA). In addition, oral directives from the dais often lead to confusion for both ERCOT and market participants, and this process could help ensure any misinterpretations or confusion regarding instructions are addressed.

TSPA disagrees with the Sunset Commission staff that the PUC should update its existing rules to eliminate the formal appeal process for ERCOT protocols. ERCOT protocols and revisions to those protocols are currently governed by a stakeholder process that is outside the framework of the APA. The ERCOT stakeholder process recommends changes to these Protocols and those changes are then recommended to the ERCOT Board, who then ultimately approves, modifies, or rejects them. While this process takes place outside of the APA, the process does provide for an APA-type review. Under the PUC's rules, any action of ERCOT can be appealed to the PUC to receive a full contested case review. This appeal process is absolutely essential to protect due process, allow agency review of important regulations, and allow the ERCOT stakeholder process to function. Removing the appeal process would remove this critical due process component from the ERCOT stakeholder process. If the Sunset Commission agrees that changes to the appeal process are necessary, the Sunset Commission could take one of the following recommendations instead of eliminating the appeal process altogether:

- A) **Restore the process that existed before SB2.** Rather than requiring the Commission to approve a “market impact statement” and then potentially consider appeals, only require the PUCT to consider appeals. Appeals can be made by PUCT staff, ERCOT staff, OPUC, or any affected market participant at ERCOT.
- B) **Require any party that intends to appeal an ERCOT action to notify the Commission within seven days of the ERCOT action.** This would allow the Commission to defer approval of a market impact statement.
- C) **Change the ERCOT Board approval process to a more formalized procedure focused on due process.** While this would be burdensome for the ERCOT Board, it would allow for a full review of some items that may be controversial.

*Recommendation 1.6 Direct the PUC to develop a state reliability definition.*

TSPA is opposed to the recommendation for the PUC to develop a single reliability metric. TSPA agrees that reliability of the electric grid in Texas should be an essential goal of the PUC. However, a reliable grid is not necessarily determined by

setting a single reliability standard. In fact, in other markets, reliability standards are used for one purpose: to support a capacity market or similar capacity structure. Texas has a strong, robust energy only market and a move toward a capacity structure will only hamper the existing market without ensuring additional reliability. Alternatively, the PUC could develop multiple metrics that monitor ERCOT reliability but be clear that these metrics are not a reliability metric that necessarily leads to an obligation to create a new capacity market in ERCOT.

Sincerely,

Tonya Miller  
Executive Director