



Winter Storm Uri: New Texas legislation aims to improve power grid, restructure the grid's overseeing agency

Commodities Alert

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Texas Governor Greg Abbott recently signed into law two bills aiming to improve the Texas power grid and the structure of the agency that oversees it. This legislation responds to calls for sweeping changes to the power infrastructure in Texas, particularly in the wake of Winter Storm Uri, which left more than 4.8 million homes and business without electricity, resulted in more than 100 deaths, and caused an estimated \$90 billion in damages. As Governor Abbott stated, “During the winter storm, too many Texans were left without heat or power for days on end...These laws will improve the reliability of the electric grid and help ensure these problems never happen again.”

Analysts explain that the storm could have such dramatic effects because of the condition of the Texas power infrastructure and the state's electricity pricing mechanisms. Nearly 50 percent of Texas is powered by natural gas, 20 percent by coal, another 20 percent by wind and solar, and 10 percent by nuclear energy, according the US Energy Information Administration. As the storm progressed, it became increasingly harder to generate and deliver electricity. Key equipment in coal plants froze, leading to shutdowns; solar panels and wind turbines were blanketed with snow, limiting their production; and upstream producers of natural gas struggled with an array of challenges, like frozen wellheads, which compromised the functionality of natural gas pipelines.

Furthermore, in light of this resulting scarcity of electricity, the Public Utilities Commission of Texas (PUCT) directed ERCOT (the Electric Reliability Council, which operates the Texas grid and the Texas Interconnection) to recalibrate the price of wholesale electricity consistent with electricity scarcity. Consequently, ERCOT set real-time electricity rates at the maximum price cap of \$9,000 per MW/hour, and that price remained in place for approximately 32 hours.

Because ERCOT services roughly 24 million Texas customers, the price increase left some commercial ratepayers with exorbitantly high electricity bills, leading to several notable corporate bankruptcies, including a filing by the state's largest power cooperative.

In response, Texas Senate Bills 2 and 3, signed by Governor Abbott on June 8, aim to improve the Texas power grid by, among other ways, (1) requiring power generators to become weatherized; (2) increasing awareness among consumers about electricity shortages; and (3) changing the governance structure of ERCOT.

Senate Bill 3

Senate Bill 3 has both generator-focused and consumer-focused aspects. Regarding power generators, Senate Bill 3 requires certain power generators – such as gas supply chain facilities – to “implement measures to prepare to operate during a weather emergency.” Part of this preparation may be for the operator to weatherize its equipment. Non-compliance with certain regulations may result in fines up to \$1 million *per day*.

From an electricity consumer perspective, the bill requires that the PUCT establish an emergency pricing program for the wholesale electricity market. This emergency pricing program will take effect if the high system-wide offer cap has been in effect for 12 hours within a 24-hour period after initially reaching the high system-wide offer cap.

Currently, the high system-wide offer cap is \$9,000 per MW/hour. The emergency pricing program in SB3 seeks to prevent another market situation such as that arising from Uri, when prices remained at the high system-wide offer cap for 32 hours, and, consequently, to keep residential and commercial consumers' bills from rising to the same levels. Although SB3 does not appear to provide direct relief to consumers who incurred large electricity bills incurred because of Winter Storm Uri, it directly affects consumers by establishing a mechanism to install an alert that will be activated when the power supply may be inadequate to meet demand. Increased awareness may help electricity consumers take precautions against electricity shortages, which in turn may help prevent the same degree of property damage from freezing temperatures as seen during Winter Storm Uri. The requirement to winterize equipment, the price structure change and the electricity scarcity alert system are three measures that may protect against similar experiences in the future.

Senate Bill 2

Senate Bill 2 alters ERCOT's governance structure in several ways. Most notably, it makes the following three modifications: it (1) changes the requirements for qualifications of those who may serve as directors; (2) changes the total number of directors; and (3) changes the composition of the selection committee which elects these directors.

Number and qualification. Senate Bill 2 shrinks the ERCOT board from 16 members to 11. Of these 11, nine will be voting members, and eight of these nine must be people with executive-level experience in finance, business, engineering, trading, risk management, law, or electric market design. Directors must be residents of Texas, and legislators and persons who own or have assets in the electricity market of ERCOT are ineligible to serve as board members. These requirements underscore SB2's emphasis on the independence of the ERCOT board.

Choosing directors. Under SB2, the ERCOT board selection committee will be composed of persons appointed by politicians: one member appointed by the governor; one member appointed by the lieutenant governor; and one member appointed by the speaker of the house of representatives.

Conclusion

Senate Bills 2 and 3 are reactive measures adopted by the Texas legislature to forestall the level of physical and financial damage Texans experienced during and after Winter Storm Uri. Companies are encouraged to monitor the Texas legislature's continuing responses to Winter Storm Uri to ensure they remain compliant with the most current rules.

To learn more about the legislative and regulatory developments arising from Winter Storm Uri, please contact either of the authors.

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