

Heat Wave Underscores Urgency Of Texas Grid Policy Reform

By [Keith Goldberg](#) · [Listen to article](#)

Law360 (July 14, 2022, 6:50 PM EDT) -- Texas utility regulators on Thursday boosted electricity conservation incentives amid heat wave-induced supply crunches, but experts say the grid's recent close shaves will increase the pressure to finalize changes to the state's power sector spurred by last year's deadly winter blackouts.

The [Public Utility Commission of Texas](#) approved a proposal to immediately increase annual funding for the state's Emergency Response Service program — under which industrial consumers are paid for using less power during high-demand periods — from \$50 million to \$75 million and allow the new cap to be exceeded by up to \$25 million for consumers that renew their participation in the program.

The move came soon after grid operator the [Electric Reliability Council of Texas Inc.](#) issued a pair of conservation pleas as electricity demand threatened to outpace available supply during an extended stretch of triple-digit temperatures.

"I'm not sure that the amount we're authorizing is enough, but I know we can come back and do this again if we have to," PUCT Commissioner Jimmy Glotfelty said at a Thursday open meeting. "This is a critical tool in our toolbox."

It's the latest short-term step taken by regulators to maintain grid reliability in extreme weather conditions as they work on long-term reforms in [response](#) to February 2021's deadly Winter Storm Uri, which left millions of Texans in the dark and caused chaos in the state's electricity markets as power prices skyrocketed.

The conservation requests issued this week, with two months of summer still left, show that the PUCT and ERCOT can't afford to delay any long-term changes as climate change makes extreme weather events more common, experts say.

"You have to build more capacity and reduce demand," said [Locke Lord LLP](#) senior counsel Carrie Collier-Brown, who focuses on Texas energy and power regulation. "As this

becomes more of a normal summer environment — it's going to keep getting hotter — those are the two things they've got to work on."

Regulators are considering several potential paths to encourage new electric generation, including a potential reliability obligation for load-serving entities. Experts say that would be a major change to the energy-only market run by ERCOT, since such a policy would essentially function as a capacity market where power producers are paid for supplying electricity to meet future demand.

But a load-serving entity reliability option or similar path could take a while for regulators to fully implement, experts say.

"What they're striving to do is to get the decision made before the end of the year in order to start implementation," said Diana Liebmann, who leads [Haynes and Boone LLP's](#) power and renewables practice group. "Depending on the route that they go, it will be the implementation that will take the longest time."

On the demand side, regulators are being pushed to bulk up energy efficiency programs and demand response programs similar to the Emergency Response Service program. Doug Lewin, who runs Austin-based Stoic Energy Consulting, said energy efficiency has been an afterthought for Texas policymakers.

"It is not an exaggeration to say that it has been completely neglected," Lewin said. "If you don't do energy efficiency, you are wasting money."

ERCOT officials said at Thursday's PUCT meeting that they deployed more than 1,000 megawatts of ERS demand response on Wednesday. But Collier-Brown of Locke Lord said there currently isn't a good way for residential customers to get paid to voluntarily reduce their electricity usage, as there is for industrial customers.

Given the stakes, it's more important for regulators to get any overhaul of the state's power market right, even if they can't do it as fast as some might hope, said [Balch & Bingham LLP](#) energy regulatory partner Todd Kimbrough, who's based in Austin.

"A bad market design can be catastrophic," Kimbrough said. "To the extent we're talking about the construction of new power plants and new transmission lines, those are long lead

time projects. Whether you take an extra two or three months in the design of the market, it is not the biggest driver of what you're going to see in terms of infrastructure deployment and long-term build-out."

But interim measures can only go so far — and have costs of their own, experts say. For example, post-Uri, ERCOT has been purchasing more reserve capacity and requiring more power plants to be available in real time. But the grid operator's independent market monitor said in a May report that requiring those plants to be ready increased consumer costs by between \$300 million and \$400 million in the second half of 2021.

"They're less economic in the market, and it's creating more wear and tear on the units," Liebmann of Haynes and Boone said.

At Thursday's PUCT meeting, commissioners acknowledged that while the grid may have avoided outages this week, that can't be taken as a sign to sit still on making changes. Glotfelty, for one, said he's eager to dive into revising ERCOT's market design to get more electric generation built, as well as boosting energy efficiency and ensuring regulators can better manage rolling blackouts.

"I'm not ready to pat myself on the back, since it's only July," Glotfelty said. "We've got a lot of work to do."

--Editing by Alanna Weissman and Daniel King.