



Control Number: 27706



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INFORMATIONAL FILING
OF ELECTRIC RELIABILITY
COUNCIL OF TEXAS, INC.

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PUBLIC UTILITY COMMISSION
OF TEXAS

**ELECTRIC RELIABILITY COUNCIL OF TEXAS, INC.'S
NOTICE OF NON-COMPLIANT QUALIFIED SCHEDULING ENTITIES**

TO THE HONORABLE PUBLIC UTILITY COMMISSION OF TEXAS:

NOW COMES, Electric Reliability Council of Texas, Inc. ("ERCOT") and files this informational filing providing Notice to the Public Utility Commission of Texas ("Commission") of Qualified Scheduling Entities ("QSEs") who have failed to comply with Section 16.2.8 of the ERCOT Protocols and respectfully shows the following:

I. FACTUAL BACKGROUND

Section 16.2.8, Monitoring of Creditworthiness by ERCOT, of the ERCOT Protocols requires QSEs to provide quarterly unaudited financial statements and annual audited financial statements. Specifically, Section 16.2.8, in part, states:

ERCOT shall monitor the creditworthiness and credit exposure of each QSE or its guarantor, if any. To enable ERCOT to monitor creditworthiness, each QSE shall provide to ERCOT:

- (1) Its own or its guarantor's quarterly (semi-annually, if the guarantor is foreign and rated by a rating agency acceptable to ERCOT) unaudited financial statements no later than sixty (60) days (ninety (90) days if the guarantor is foreign and rated by a rating agency acceptable to ERCOT) after the close of each of the issuer's fiscal quarters; and
- (2) Its own or its guarantor's annual audited financial statements no later than one hundred twenty (120) days after the close of each of the issuer's fiscal year.

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PUBLIC UTILITY COMMISSION

While not required by the ERCOT Protocols, ERCOT, as a reminder to all QSEs, sent a Market Notice on April 2, 2009 indicating an April 30, 2009 due date to provide annual audited financial statements for QSEs/guarantors whose fiscal year ended on December 31, 2008. Attached as **Exhibit A** is the Market Notice sent to all QSEs reminding them of the Protocol Section 16.2.8 requirement and the annual audited financial statement deadline. Several QSEs failed to timely comply with this requirement. As a follow-up to the Market Notice, ERCOT sent an additional e-mail to non-compliant QSEs asking that they comply with the Protocol Section 16.2.8 obligation by May 22, 2009 in order to avoid being listed in this information filing.

To date, the following QSEs have failed to meet their financial reporting obligation under Section 16.2.8: (1) Alliance Power Company LLC, (2) Andeler Corporation, (3) APN Starfirst LP, (4) Chain Lakes Power LP DBA Simple Power, (5) Clearview Electric Inc, (6) Commerce Energy, (7) Coral Energy Management LLC, (8) Electric Now LP, (9) Freedom Group LLC DBA Freedom Power, (10) Glacial Energy of Texas Inc, (11) Louis Dreyfus Energy Services LP, (12) Scurry County Wind LP, (13) Shell Energy North America (US) LP, (14) Spark Energy LP, (15) Stream Gas and Electric LTD, (16) Texas Utility Solutions LLC, (17) Topaz Power Management LP, and (18) Urban Energy Source LLC. Each QSE listed above is currently not in compliance with Section 16.2.8, as ERCOT has not received each QSE's annual audited financial statements, despite a Market Notice and an e-mail reminder sent to each QSE.

II. REQUEST FOR RELIEF

Pursuant to Public Utility Regulatory Act (PURA) § 39.151, the Commission has oversight over ERCOT and its Protocols. All Market Participants, including QSEs, must

comply with the procedures of ERCOT (which include ERCOT Protocols). See PURA § 39.151(j). Violation of the ERCOT Protocols is, therefore, a violation of PURA. At this time, ERCOT is making an informational filing only and no relief is being sought by ERCOT. ERCOT is currently evaluating its remedies against non-complaint QSEs, which may include suspension of the QSE or notice of breach under the Standard Form Market Participant Agreement. It is, however, ERCOT's intention to file quarterly with the Commission a list of QSEs who have failed to comply with Section 16.2.8 of the ERCOT Protocols. Additional relief may be sought in these future filings.

III. PRAYER

WHEREFORE, PREMISES CONSIDERED, ERCOT respectfully submits this informational filing to the Commission; no further relief is being requested at this time.

Respectfully submitted,

Electric Reliability Council of Texas, Inc.

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Spells, Vanessa

From: ERCOT Client Relations
Sent: Thursday, April 02, 2009 4:37 PM
To: 'notice_legal_notifications@lists.ercot.com'
Cc: 1 ERCOT Client Service Reps
Subject: M-A040209-01 QSE Financial Statements due by April 30, 2009

NOTICE DATE: April 2, 2009

NOTICE TYPE: M-X040209-01 Legal Notification

SHORT DESCRIPTION: QSE Financial Statements due by April 30, 2009

INTENDED AUDIENCE: QSE Financial Personnel

DAY AFFECTED: April 30, 2009

LONG DESCRIPTION: ERCOT Protocol Section 16.2.8 requires each Qualified Scheduling Entity (QSE) to provide its own or its guarantor's: (1) quarterly unaudited financial statements (semi-annually, if the guarantor is foreign and rated by a rating agency acceptable to ERCOT) not later than sixty (60) days (ninety (90) days if the guarantor is foreign and rated by a rating agency acceptable to ERCOT) after the close of the issuer's fiscal quarters; and (2) annual audited financial statements not later than 120 days after the close of the issuer's fiscal year.

For QSEs/guarantors whose fiscal year ended on December 31, 2008, the annual financial statements are due by April 30, 2009.

ACTION REQUIRED: QSEs/guarantors, whose annual financial statements for 2008 and quarterly financial statements for 2008 or 2009 are due (or past due) should provide these statements to ERCOT as soon as possible to avoid any remedial action as authorized under the Standard Form Market Participant (MP) Agreement, the ERCOT Protocols and/or the Public Utility Regulatory Act (PURA).

ERCOT will submit the names of those QSEs that fail to timely comply with this requirement to the Public Utility Commission of Texas (PUCT) in an informational filing in PUCT Docket No. 27706. *QSE or guarantor financial statements that are publicly available electronically need not be provided to ERCOT.*

Please forward financial statements to vspells@ercot.com or

ERCOT
7620 Metro Center Dr.
@Vanessa Spells
Austin, TX 78744
PHN: 512 225 7014

CONTACT: If you have any questions, please contact your ERCOT Account Manager. You may also call the general ERCOT Client Services phone number at (512) 248-3900 or contact ERCOT Client Services via e-mail at ClientRelations@ercot.com.

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