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Addendum StartPage: 0

ATG Clean Energy

Green Energy Exchange

PUBLIC UTILITY COMMISSION OF TEXAS
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Public Utility Commission of Texas
1701 N. Congress Avenue
PO Box 13326
Austin, TX 78711-3326

Dear Commissioners:

ATG Clean Energy Holdings Inc. is a retail electric provider in the ERCOT market (Cert #10263). We supply mainly under the trade name Green Energy Exchange and have been operational since Summer 2019. Given the unprecedented situation with the Covid-19 pandemic, ATG respectfully provides these comments to the Commission as part of docket 50664 as it examines the best path forward for the electric market. As a retailer, we wanted to provide our views on the state of the market and potential efforts that could be undertaken to mitigate impacts to consumers and other market providers.

The market is functional today, but ATG recognizes there are a number of potential impacts if the current conditions persist in the market. To be blunt, no electric market was designed to operate in the current conditions and certainly not for any lengthy period of time. If the impacts of this outbreak are long-lived as many public health officials suggest, action is required to ensure that customers are kept with utility supply and industry players are not forced to bear undue hardship in these trying times. ATG agrees it is paramount that customers be afforded safeguards to ensure they have power in this time of unprecedented need. We also understand that a thoughtful approach must be undertaken to ensure proper market functionality up and down the value chain.

The retail business model is built upon the idea that a retailer can obtain customers, forecast load, secure supply and secure payment on that supply. We are charged with managing those supply and credit risks and ensuring transparent reporting to our customers. Recently, a number of utilities decided to voluntarily restrict disconnect operations. ATG Clean Energy does not disagree with that action, but it cannot be a stand-alone effort or become a prolonged action without causing unintended impacts.

Patrick Woodson
Founder
(512) 680-6036
Woodson@atgcleanenergy.com

34

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As background, the threat of losing service is one of the most powerful tools a retailer has to ensure payment. When we have seen disconnection moratorium's in the past, bad debt ratios increase dramatically even in short-term moratoriums (usually imposed around summertime heat). The market has not built in safeguards to withstand long periods of moratoriums or non-payment. Ensuring customers get power and that someone pays for that power are paramount to ensuring the market works as designed. Covid-19 poses a major risk to the most basic fabric of the market.

When a moratorium is put in place, there is often no consideration for the providing party's obligations. In this instance, the Transmission utilities (TDU) instituted a voluntary moratorium this week but retailers are still required to pay bills due to the transmission utilities under normal operating rules whether a customer pays or not. So, the retailer bears a disproportionate amount of risk during times of disconnection moratoriums. Cash flow is already a challenging aspect of the retail market. A customer uses energy and that energy must be paid for in the day ahead or real time markets seven days after purchase, while payment for that use will not occur for at least 45 days. If you are buying from a trading supplier, you can have additional time to pay for your energy supply but that often comes with collateral or margining requirements. Because this is a high-functioning and highly competitive market there are no shock absorbers built into the pricing to deal with disasters of this scale.

For the first time in my lifetime, we are seeing cities openly discuss not requiring people to make utility payments at all. While we agree it is appropriate to offer consumers necessary concessions like disconnection moratoriums, we want the commission to understand that additional mitigation measures may be necessary for other segments in the market as well.

The retail market is robust and contains very different types of players. There are very large billion-dollar corporations and there are small providers run by small business owners like myself. These small players often offer some of the most affordable choices to consumers and play an important role in the market. Our concern with an event like this is that a number of market participants large and small are at risk of losing their licenses, succumbing to large bad debt ratios from unpaid bills and ultimately going out of business. It is in the best interest of the market, the State and the end use consumer if the Commission begins to start thinking about extraordinary measures in these extraordinary times.

Patrick Woodson
Founder
(512) 680-6036
Woodson@atgcleanenergy.com

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First and foremost, the Commission should consider a plan that will offer customers assistance with paying for electric service if this pandemic drags on for months as many are predicting it will. There previous programs like this in place and it may be time to resurrect this concept on a much broader scale. ATG recognizes this is not something solely within the purview of the Commission, but it is something we should be discussing right now across the state to ensure there is a plan in place if the need persists. A 2019 study by career builder estimated that 78% of Americans live paycheck to paycheck *(source: USA Today 8/14/19)*. If those same people are out of work for several months, we are potentially looking a utility crisis the likes of which we have never seen. If many are out of work for several months, we are estimating that if long-term disconnection moratoriums are put in place we could see as much as 30% non-payment among our customer base by the summertime. The market or the business model was not designed to handle this type of a prolonged disaster situation especially if those rates are high when price spike risks are at their highest as well. It is a brewing storm that can threaten market stability. If nothing is done and we see incredibly high non-payment rates for several months, we believe there will be widespread impacts across the sector up to and including the bankruptcy of several providers.

Second, we think the commission should impose a market standard of conduct during the emergency period such that no REP can charge late fees during the emergency measure period. The Commission could also take steps to ensure things like price-gouging or other predatory activities are expressly prohibited.

Third, the commission should create a new timetable for retail electric providers to pay TDU bills. We believe that during any period of a disconnection moratorium, the time for a REP to pay a TDU bill should be extended to 45 or 60 days to better align REP cash flow.

Fourth, creating payment extension timetables for ERCOT is another potential mitigation effort. Currently, a customer will use power and if the market supplies that power the retailer will get a bill five days later with two days to pay the invoice. Again, the retailer will not get paid for that power for at least 45 days. Failure to pay either a TDU or ERCOT is grounds for a retailer to its license to operate. The Commission could direct ERCOT to extend payment deadlines for 30 days as well during this emergency. This would greatly reduce the cash needs for market participants and offer needed relief if the default rates get very high. If ERCOT extensions are not possible, we would request the Commission at least require ERCOT to adopt a policy of netting invoices. At present, if a retailer owes ERCOT $10,000 and ERCOT owes that same provider $8,000 due on the same day the current approach requires the provider to send ERCOT a $10,000 check and then ERCOT sends a credit for $8,000. Under our proposal, a provider would simply pay or receive the amount of the two invoices.

Patrick Woodson
Founder
(512) 680-6036
Woodson@atgcleanenergy.com

ATG Clean Energy

Fifth, the PUCT currently requires all licensed retailers to post collateral to ensure operational activities. For those with Letters of Credit posted, the PUCT requires each REP post $500,000. We would propose the Commission drop that collateral requirement to $100,000 and allow existing retailers access to funds currently held as collateral. This could provide a short-term cash infusion and decrease the failure rate for some retailers. It makes little sense in this environment to not allow companies to access capital already raised to support their own operations during a period of emergency conditions.

Sixth, the Commission could work with industry to help seek assistance from either the state or federal government to grant short-term working capital loans at either low or no-interest to providers to ensure market continuity. This could be the most impactful endeavor to ensure the competitive retailers remain viable. Doing so will prevent the transfer of a number of customers to out of the market POLR rates and allow for better continuity as we all work through this crisis.

Our company certainly recognizes the benefits of the competitive market we are in, but we remain concerned the market design never contemplated an issue of this scale. We would be happy to elaborate on these topics further and would be happy to provide any additional context if that would be helpful to the Commission. We are strong supporters of this market and of competition, but given we are in unchartered waters we believe the Commission needs to take action to ensure market continuity.

This letter did not address specific measures the TDUs may seek to mitigate their issues, but given the magnitude of this crisis, ATG would support any efforts that strengthened the market as a whole. This is a crisis that will affect all of us, and we look forward to working to find solutions that are best for the market and best for Texas.

Sincerely,

Patrick Woodson

Patrick L. Woodson
President

Patrick Woodson
Founder
(512) 680-6036
Woodson@atgcleanenergy.com