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PUC DOCKET NO. 51617

51812

<p>OVERSIGHT OF THE ELECTRIC</p> <p>RELIABILITY COUNCIL OF TEXAS</p>	<p>§</p> <p>§</p> <p>§</p> <p>§</p> <p>§</p>	<p>BEFORE THE</p> <p>PUBLIC UTILITY COMMISSION</p> <p>OF TEXAS</p>
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EMERGENCY REQUEST TO ENFORCE COMMISSION ORDER

On February 15, 2021, the Public Utility Commission of Texas (“PUC” or “Commission”) adopted an Order instructing ERCOT to set the Real Time Settlement Point Price at the high offer cap (HCAP) when there was firm load-shedding on the grid.¹ ERCOT rescinded all load shed instructions early in the morning of February 18; however, it failed to simultaneously return to scarcity pricing mechanisms under the Commission’s rules and ERCOT Nodal Protocols. Texas Energy Association for Marketers (“TEAM”)² therefore requests that the Commission enforce its Order and instruct ERCOT remove the administrative price adders that set prices to \$9,000/MWh from the time the firm load shed instruction from ERCOT was reduced to zero on the grid. While ERCOT has lifted the price adders as of 9:00 am, time is of the essence, and every minute of out-of-market pricing that was imposed in contravention of the Commission’s Order, when no load shed was ordered, costs the market and costumers millions of dollars and does irreversible harm. ERCOT is and will be issuing collateral calls to market participants that will be unduly inflated

¹ That Order was later replaced by an Order on February 16, 2021, however those changes do not affect the request here.

² TEAM members participating in this emergency request at this time include: Amigo Energy, Constellation New Energy, Hudson Energy, Just Energy, and Tara Energy. While other REPs may likely support, there was not time to widely circulate this pleading in these conditions.

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based on these erroneous prices. Immediate action is necessary to avoid irreversible defaults associated with collateral requirements that are based on pricing that is inconsistent with the Commission's Order. These defaults not only disrupt Texas businesses and their employees, it will also disrupt existing customer choice and the customer's contracts.

I.

TEAM recognizes and appreciates the herculean efforts of the Commission, ERCOT, market participants, and especially Texas customers during this extraordinary weather emergency. This Emergency Request is necessary, however, because ERCOT's continued actions in contravention to the Commission's Order have immediate and irreversible effects on customers and their suppliers of electricity. Unless the Commission's Order is enforced, and price corrections adopted, the price impacts will be devastating to retail electric providers in Texas and ensure that consumers bear the economic effects of this storm long after the immediate weather event has passed.

The Commission's Order made clear that it was a response to directives from ERCOT to the transmission operators to shed firm load:

... on February 15, 2021, the Electric Reliability Council of Texas, Inc. (ERCOT) declared its highest state of emergency, an Emergency Energy Alert Level 3 (EEA3), due to exceptionally high electric demand exceeding supply. ERCOT has directed transmission operators in the ERCOT region to curtail more than 10,000 megawatts (MW) of firm load. The ERCOT System is expected to remain in EEA3, and firm load shed is expected to continue, for a sustained period of time in light of the expected duration of the extreme weather event.³

The Commission reasoned that "as long as customer load is being shed, scarcity is at its maximum, and the market price for the energy needed to serve that load should also be at its

³ Order at p. 1.

highest.”⁴ Accordingly, the Commission concluded that “. . . adjustments are needed to ERCOT prices to ensure they accurately reflect the scarcity conditions in the market. Accordingly, the Commission directs ERCOT *to ensure that firm load that is being shed in EEA3 is accounted for in ERCOT’s scarcity pricing signals. . .*”⁵

As of 1:05 am on February 18, 2021, ERCOT issued an Operations message that it had “completed the restoration of all firm load shed.” In a notice issued by ERCOT at 7:45 am Senior Director of System Operations Dan Woodfin stated: “We’re to the point in the load restoration where we are allowing transmission owners to bring back any load they can related to this load shed event.” In addition, this ERCOT statement said that there was “no additional load shed occurring at this time.” Nevertheless, ERCOT remained in EEA3 status and continued imposing administrative price adders to set the Real Time Settlement Point Price at the HCAP.

While TEAM is not challenging ERCOT’s specific declaration of EEA3, continued declaration of EEA3 on the ERCOT system since 1:05am on February 18 did not reflect the existence of load shed conditions. The ERCOT Protocols make clear that ERCOT may declare EEA Level 3 conditions without actually directing load shed. Section 6.5.9.4.2.(3) of the ERCOT Protocols specify that:

- (a) ERCOT may declare an EEA Level 3 when the clock-minute average system frequency falls below 59.91 Hz for 20 consecutive minutes. ERCOT will declare an EEA Level 3 when [physical responsive capability] cannot be maintained above 1,430 MW or when the clock-minute average system frequency falls below 59.91 Hz for 25 consecutive minutes. Upon declaration of an EEA Level 3, ERCOT will implement any measures associated with EEA Levels 1 and 2 that have not already been implemented.

⁴ *Id*

⁵ *Id.* at p. 2 (emphasis added).

(b) When [physical responsive capability] falls below 1,000MW and is not projected to be recovered above 1,000 MW within 30 minutes, or when the clock-minute average frequency falls below 59.91 Hz for 25 consecutive minutes, ERCOT shall direct all TSPs and ESPs or their agents to shed firm Load . . .⁶

As of 1:05 am on February 18, market participants were notified that ERCOT completed the restoration of all firm load shed. In addition, physical responsive capability was greater than 1,750MW and ERCOT had sufficient regulation to control frequency to 60 hz. No load shed directive under this section of the protocols from ERCOT was in place after 1:05 am.

Since the lifting of the load shed instructions, the ERCOT grid has had ample resources online and there was no justification for continued out of market price instructions to \$9,000/MWh. For example, at 12:30 pm CT on January 18, LMPs were \$58/MWh, the ORDC adders⁷ were \$8,975 and ERCOT was carrying over 10,500 MWs of reserves. Likewise, at 4:45 pm CT, LMPs were \$16/MWh, the ORDC adders were \$8,975 and ERCOT was carrying over 16,000 MWs of reserves. Despite this level of reserves, ERCOT continued to administratively reset prices to \$9,000/MWh from 1:05 am on 2/18 to 9:00 am on 2/19, which is inconsistent with the Commission's directive that prices remain at \$9,000/MWh "to ensure that firm load shed is reflected in ERCOT's scarcity pricing signals." It is contrary to the interest of Texans to have prices set administratively at \$9,000/MWh when supply is outstripping demand and 15,300 MWs of reserves are being maintained.

⁶ See Section 6, p. 6-168 of the ERCOT Protocols, available at <http://www.ercot.com/mktrules/nprotocols/current>.

⁷ The price adders shown by ERCOT are listed as ORDC adders, but the amounts are not reflective of the standard ORDC calculation in the protocols and instead are administratively set to result in a RTSP of \$9,000/MWh.

II.

This urgency of this request is based on the continued damaging effects of ERCOT's actions on businesses providing retail electric service and on their customers. Immediate instruction to ERCOT is required to address the ability of businesses authorized to provide retail electric service to customers in Texas to remain in the market. Exit of these market participants will result in customers being served by a provider of last resort that is not reflective of their choice. Further, this POLR service may well be priced higher than the customer's current rate. Not only do the out-of-market price instructions have an effect on the cost of power to REPs, it also has a multiplier effect on the calculation of collateral that must be posted at ERCOT in order to continue to provide service. These factors jeopardize the ability of customers to continue to be served by the provider of their choice at their contract rate. Customers coming back online after having been without power are using 20 to 30% more power than would normally be forecast for the current weather conditions. As such, every hour at \$9,000/MWh equates to an energy cost of at least \$10 per hour for an average residential customer. For a REP serving 100,000 customers, the cost above market is very conservatively stated at \$1 million dollars per hour. It is incredibly important that ERCOT prices reflect the Commission's clear directives as promptly as possible, as collateral calculations are ongoing and depend on this pricing. Every minute counts in these conditions as businesses work to meet these obligations or face decisions to exit the market. Now that prices have returned to market rules, these same market participants are expected to be able to continue to honor customers contracts if they are not otherwise forced to exit the market.

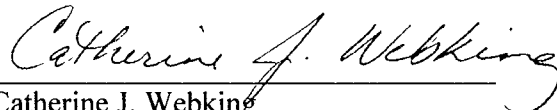
Finally, should there be any claims that generation resources brought online after the load shed instructions were lifted cannot recover costs with removal of the administrative price adder, the Commission should clarify that any generator that is unable to recover its verifiable fuel costs that

it reasonably incurred to produce power through the applicable ERCOT Nodal Protocols will be permitted to file with the PUC for recovery of those costs.

III.

WHEREFORE, PREMISES CONSIDERED, we urge the Commission to immediately instruct ERCOT to remove the administrative price adder consistent with the Commission's Order Directing ERCOT to Take Certain Actions and as of 1:00 am on 2/18. We further urge the Commission to direct ERCOT to correct prices consistent with this Order back to 1:05 am on February 18, 2021 at the time ERCOT removed the firm load shed instructions to the transmission and distribution utilities. It is imperative that these steps be taken to avoid, or at least mitigate, irreparable harm to REPs and their customers.

Respectfully submitted,



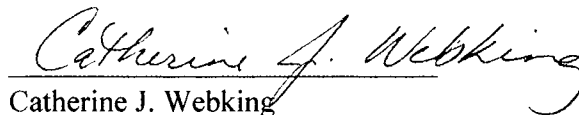
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ATTORNEYS FOR TEAM

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing instrument has been filed electronically and made available on the Commission's website and will be emailed to ERCOT immediately on February 19, 2021.



Catherine J. Webking