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PROJECT NO. 51812

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ISSUES RELATED TO THE STATE OF §
DISASTER FOR THE FEBRUARY 2021 §
WINTER WEATHER EVENT §

PUBLIC UTILITY COMMISSION AM 10:19
OF TEXAS PUBLIC UTILITY COMMISSION
FILING CLERK

**REQUEST FOR IMMEDIATE ACTION
REGARDING FINANCIAL IMPACTS OF THE
2021 WINTER WEATHER EVENT**

COMES NOW, Algonquin Power & Utilities Corp, Arevon USA, Capital Dynamics, Copenhagen Infrastructure Partners, Fengate Asset Management, Mariah Del Norte LLC, Onward Energy Holdings, Rattlesnake Power, LLC, and Scout Clean Energy and files the following comments and request for immediate action regarding the February 2021 Winter Weather Event, including the impact it had on the ERCOT market and participants in the market, and the need for an investigation and immediate action by the Public Utility Commission of Texas (Commission) into the financial impacts of the Event.

On February 15, the Commission issued its Order Directing ERCOT to Take Action and Granting Exception to Commission Rules (the "Order").¹ In its Order, the Commission instructed ERCOT to "ensure that firm load that is being shed in EEA3 is accounted for in ERCOT's scarcity pricing signals."² Following the Commission's Order, ERCOT issued a Market Notice stating, "ERCOT will implement the pricing outcomes directed by the order by making an administrative adjustment to the Generation To Be Dispatched value in the Real-Time Reliability Deployment Price Adder process during all intervals in which ERCOT has directed firm Load shed."³ The

¹ The Commission revised its February 15 Order on February 16, but the modification does not affect the requests herein.

² February 15, 2021 Order at 2.

³ ERCOT M-C021521-01 Emergency Order of the Public Utility Commission Affecting ERCOT Market Prices (February 15, 2021), available at [M-C021521-01 Emergency Order of the Public Utility Commission Affecting ERCOT Market Prices](#).

effect of the Commission's Order and ERCOT's subsequent implementation of it resulted in setting the Real Time Settlement Point Price Point at the high offer cap (HCAP) of \$9,000/MWh. As we all have been seeing over the past few days, the impact of the Commission's Order and ERCOT's implementation thereof has had unnecessary, unreasonable and unforeseeable financial consequences for many sectors of the Texas energy industry including the state's 13 million retail customers.

As a result of the Commission's order, the ERCOT region was subjected to HCAP ceiling level pricing for a sustained period during the week of February 14. The Commission's rules, in particular 16 TAC § 25.505(g)(6), were intended to limit the market's exposure to HCAP pricing to no more than approximately 35 hours per year or the point where the peaker net margin threshold has been crossed. During the week of February 14, it is clear that the Commission's intent to protect the market through the Low System-Wide Offer Cap (LCAP) failed in the face of continued inflated HCAP prices coupled with the massive spike in natural gas prices and the reliance on the WAHA hub index as opposed to Henry Hub or others. The result made the LCAP effectively unworkable due to the potential for the LCAP to equal 50 times the natural gas index, setting a cap well in excess of the HCAP. The spike in natural gas pricing was so extreme that it thwarted the Commission's intent to limit HCAP exposure by causing the LCAP to result in even higher price caps.

Administratively setting the price cap to \$9,000/MWh for so many hours broke with Commission and ERCOT precedents for running the ERCOT market and caused further unpredictable market disruption to the ERCOT system and rendered the Commission Order and ERCOT's implementation thereof a "change in law." It also potentially resulted in a massive redistribution of wealth with immense losses to generators, load-serving entities, loads, and many

other integral participants in the ERCOT market much of which already has or ultimately will be passed on to Texas customers. If enforced, the so-called winners from the extended period of administratively set pricing generally would see unexpected windfalls when the ultimate goal of the sustained HCAP pricing – to bring more generation into the market – clearly failed.

Further, there are many thermal and renewable generation companies, municipal and cooperative utilities, financial institutions, marketers, retail energy providers, and retail customers, who were directly harmed by the artificially high, administratively imposed prices. While the full extent of the financial losses are not yet known, some recent public announcement from some publicly traded companies point to the magnitude of the impacts. BloombergNEF estimates that the cost of electricity sold during the week of Monday, February 15, 2021 to Friday, February 19, 2021 is \$50.6 billion.⁴ These costs may impose an enormous financial burden on many of these parties and the losses stand to create a chilling impact on future investment in Texas.

There is no doubt that many generators have potentially suffered significant losses as a result of the Commission's Order and ERCOT's implementation thereof. More specifically, the extreme winter weather restricted electricity production at many generating facilities in ERCOT. Many of these facilities were financed with a mixture of long-term unit-contingent power purchase agreements, market energy settlements, and hedges/swaps. The hedges/swaps help reduce the cost of energy, but impose an obligation to deliver energy and, as a result of the production impacts caused by the weather, the relevant facilities may, absent force majeure or other defenses, be required to settle at the Commission's unforeseeably imposed pricing of \$9,000/MWh in order to meet their obligations.

⁴ <https://www.bloomberg.com/news/articles/2021-02-22/texans-will-pay-for-the-state-s-power-crisis-for-decades-to-come?sref=xfyivTX>


It appears that at least 46 mostly wind projects totaling 9 GW would suffer severe financial losses as a result of the \$9,000/MWh HCAP prices during the power market crisis. It does not serve any public policy goals for any of these projects, or any companies in the energy industry, to be severely financially harmed as a result of an unforeseeable administrative change to ERCOT's pricing structure and the operation of ERCOT's Protocols on a moment's notice. The impacts that are reverberating throughout the power and financial industries will have serious and long-lasting effects on the economy of Texas. ERCOT will be seen as an unstable electric power market, potentially creating a very unfavorable environment for investment in the energy industry as well as other sectors of the Texas economy. Reform of the market going forward is an important goal, but addressing the effects of pricing issue during the crisis now will be necessary to prevent destabilization of the Texas generation and retail market for no apparent gain. The excessive pricing offered no benefit in terms of bringing on new generation, but it set off a cascade of financial consequences that will destabilize generators heading into the busy summer season and beyond.

The wind and solar industries are important contributors to the Texas economy. They have invested more than \$62 billion in the Texas economy, employ a workforce of 36,700 people, and invest \$631 million annually in the rural communities of the State: \$381 million in property and state and local taxes, and \$250 million in extra income to farmers, ranchers and other private landowners. We respectfully submit that the wind and solar communities must be included in all proceedings at the PUCT about the causes and consequences of the extraordinary ERCOT market conditions during the week of February 12, 2021 – February 19, 2021, as well as all proceedings dealing with remedial and regulatory actions that follow.

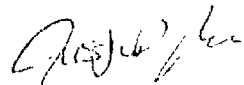
The undersigned request the Commission initiate an immediate and thorough investigation into the financial impacts of the Commission's February 15, 2021 Order. The investigation needs to gather factual information for the record about both ERCOT market operations, such as the increase in generation, if any, in response to the \$9,000 HCAP pricing, and the financial impacts associated with the \$9,000 pricing. The Commission also should investigate whether there were less intrusive measures the Commission or ERCOT could have taken to achieve the goals that have been stated as the basis for Commission action. Once the Commission has completed this investigation, we respectfully request that the results of the investigation be used to reprice the ERCOT Real Time market price from February 15, 2021 to February 19, 2021. The repricing should apply standards of equity and consider the redistributive effects of the Commissions' market intervention and ERCOT's implementation of the Commission's Order. Furthermore, unreasonable and unintended windfalls and losses need to be mitigated and shared more broadly throughout the market in an equitable manner.

The undersigned appreciate the opportunity to provide these comments. We, and the wind and solar industries more broadly, welcome the opportunity to work collaboratively with the Commission and all other State agencies in these efforts.

Respectfully submitted,



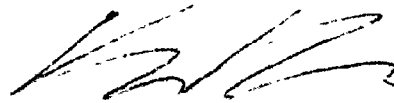
Johnny Johnston
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Justin Johnson
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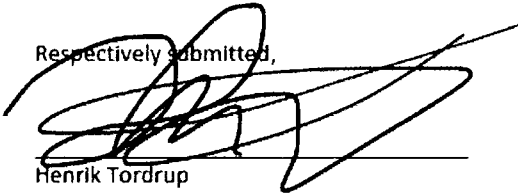


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Kathryn Carpenter
Director, Clean Energy Infrastructure, Capital Dynamics

Respectfully submitted,

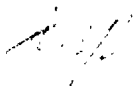


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Respectfully submitted.

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