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August 27, 2021

Public Utility Commission of Texas
1701 N. Congress Ave.
PO Box 13326
Austin, TX 78711-3326

Subject: Docket No. 51830 REVISED Windrose Power & Gas, LLC Comments

Dear Sir or Madam,

Windrose Power & Gas, LLC filed comments regarding Docket No. 51830. The tracking number for our original submission is OHOJLBYH.

Upon review, we realized a necessary revision which occurs on Page 2 of the document where it states in part, 'We have no problem with the language around "Non-bypassable charges or "LSP customer charge", but we believe there are significant problems with the "LSP energy charge" as currently charged.'

We are filing REVISED comments to change the word "energy" (highlighted in yellow above) and replace the initial comments in their entirety.

Thank you for your consideration in this matter.

Best Regards,

Thomas K. Strickland
President

DOCKET NO. 51830

REVIEW OF CERTAIN RETAIL	**§**	**BEFORE THE**
ELECTRIC CUSTOMER	**§**	**PUBLIC UTILITY COMMISSION**
PROTECTION RULES	**§**	**OF TEXAS**

INITIAL COMMENTS OF WINDROSE ENERGY

Windrose Power & Gas LLC d/b/a Windrose Energy (REP Certificate 10254) files these comments in response to PUCT proposed rules as part of the implementation of HB16 and SB3 as adopted by the 87th Texas Legislature.

Windrose Energy is a small start-up retailer based in The Woodlands, Texas that focuses solely on selling competitively-priced electricity contracts to consumers in the deregulated areas of ERCOT. We appreciate the effort that all parties have put into the current rule making process. After reviewing the stakeholder comments previously filed, and the resulting proposed rule, we believe that there are some areas, that while well intentioned to protect customers, could lead to undesirable and unanticipated outcomes for the market for both REPs and customers.

In general, we see that a balance needs to be struck between ensuring that customers are protected from being exposed to extreme pricing while also allowing a financial incentive for responding to conditions when grid conditions are tight. We believe customers have an important role to play in grid stability especially as more and more uncontrollable renewable generation is added to the supply side of the market, which while having important environmental benefits still makes it harder to balance the grid. We must allow innovation to flourish and have logical regulation that takes into consideration that the market is dynamic and market forces are continually changing.

Changes to the POLR Rate Mechanism

The commission had previously asked the question of interested parties:

> "If the Commission removes the RTSPP from the POLR rate formulas, what would be an equitable approach to POLR pricing moving forward?" (Control Number : 51830 Item Number : 4)

The commission now asks:

> "Should the maximum rate for provider of last resort service that is charged by a large service provider to a residential customer in proposed §25 43(m)(2)(A)(iii) and small and medium non-residential customers in proposed §25 43(m)(2)(B)(iv) include a safety threshold to prevent the energy charge from increasing by more than a certain percentage on a year-to-year basis? If so, what is an appropriate safety threshold? "

We have reviewed the previously filed comments from other market participants and reviewed the proposed rule language now at issue. The current proposal sets the POLR rate in §25 43(m)(2)(A) as follows:

> "LSP rate (in $ per kWh) = (Non-bypassable charges + LSP customer charge + LSP energy charge) / kWh used

We have no problem with the language around "Non-bypassable charges" or "LSP customer charge", but we believe there are significant problems with the "LSP energy charge" as currently proposed. In §25 43(m)(4) it appears that an "adjustment" to the rate is allowed for cost recovery:

> "On a showing of good cause, the commission may permit the LSP to adjust the rate prescribed by paragraph (2) of this subsection, if necessary to ensure that the rate is sufficient to allow the LSP to recover its costs of providing service"

We find this concerning as we believe the POLR rate should be known up front and not subject to "adjustment" through §25 43(m)(4). We believe this will give the market a false sense of certainty that the market "knows" the current POLR rate but the reality is it could be adjusted. We propose deleting §25 43(m)(4) as it will no longer be necessary with the suggestions for §25 43(m)(2)(A)(iii) as outlined below.

The "LSP energy charge" is proposed to be set as follows per §25 43(m)(2)(A)(iii)

"LSP energy charge ~~shall~~must be the ~~sum~~average of~~ver~~ the actual Real-Time Settlement Point Prices (RTSPPs) for the customer's load zone for the ~~billing period hourly average of the~~

previous 12-month period ending September 1 of the preceding year~~'s of the actual hourly Real Time Settlement Point Prices (RTSPPs) for the customer's load zone that is~~ multiplied by the number of kWhs the customer used during that ~~hour~~ billing period and ~~that is~~ further multiplied by 120%"

Below we highlight a situation where we feel it is very likely the POLR rate would be lower than the REPs cost to serve the customer. As all market participants are aware the price for power typically peaks in summer (and now) winter months. Prudent REPs will mitigate their exposure to real time prices by purchasing forward wholesale power contacts to "hedge" the fixed price contracts they have sold to their retail customers. Historically we have seen REPs fail and customers go to POLR when real time prices spike, customer load increases and REPs find themselves unhedged. High real time pricing is the precise reason why REPs fail and customers are forced to POLR. The POLR process can happen quickly so it may well be the case that wholesale market prices are still high as the POLR customers are transferred to their new REP.

As we saw post the winter storm Uri event in February, the event can also have ripple effects in later months. For example the price spikes and ERCOT Conservation Alert we saw in April this year were due to higher than average maintenance outages likely due to the issue that generators faced as a result of the winter storm. Ultimately if a REP acquires a customer through the POLR process it is "unexpected load" and the REP will not have hedged the load for these POLR customers. Without a hedge in place the cost to serve the customer will be the wholesale price which is why the current rule sets the POLR rate based on the wholesale price, it ensures that the REP will be able to recover the wholesale costs they are charged. It would therefore be reasonable that if wholesale pricing is extreme the REP would use §25 43(m)(4) to argue that the PUC should "permit the LSP to adjust the rate … to ensure that the rate is sufficient to allow the LSP to recover its costs of providing service". The REP would argue that a load weighted real time price is its cost that it should be allowed to recover, and as such this effectively leaves a "back door" open to charge the customer the real time cost of

their energy. Clearly this is not the intent of the rules, and not the outcome the commission is looking for. We would argue §25 43(m)(4) should be removed as it effectively means that there is no known POLR rate.

We view a POLR customer very much like a variable rate customer. They are a customer that is under no contract and they are free to leave at any point in time. Most REPs will purchase short term forward contracts (often a month at a time) to hedge their variable load and then set their variable rate pricing in line with these forward hedge costs. When a REP knows its allocation of POLR customers it will immediately create a load forecast for the customers and attempt to hedge the exposure of the new customers in a similar way using short term (often monthly) forward contracts.

Need for a Different POLR Energy Charge Mechanism

As this is the rational action a REP would take, we believe the POLR rate should be set based on the short term forward market price at the time of transition. As ERCOT already uses Intercontinental Exchange data in its credit calculations, we suggest that ERCOT obtain "balance of month" and next (prompt) month contract information in the same way.

We suggest the peak contract price is used as it is a more liquid product to set the POLR price and would propose the following used instead for §25 43(m)(2)(A)(iii) :

> "LSP energy charge must be the average price for the next 30 days for the Intercontinental Exchange (ICE) *ERCOT North 345KV Real-Time Peak Fixed Price Future* contract, multiplied by the customers' usage during the billing period, multiplied by 200%."

We multiply by 200% to take into account all non-energy costs associated with serving the customer such as losses, ancillaries etc. and also to take into account the fact that the customer load is shaped hourly and the customer will likely be using the most load in the most expensive hours.

For purposes of generating an EFL and showing the cost at the 500, 1000, 2000 kWh usage levels, we suggest that the EFL remains unchanged using the assumption of an expected price of $50/MWh and $100/MWh as is currently used for the current POLR Rate.

Sample Centerpoint EFL

(https://www.puc.texas.gov/consumer/electricity/polr/Centerpoint_Res.pdf)

Average monthly use	500 kWh	1000 kWh	2000 kWh
Minimum price per kWh	13.7¢	13.3¢	13.1¢
Average price per kWh at RTSPP of $50/MWh	16.3¢	15.9¢	15.6¢
Average price per kWh at RTSPP of $100/MWh	22.3¢	21.9¢	21.6¢

Proposed EFL template

Average Monthly Use	500 kWh	1000 kWh	2000 kWh
Minimum price per kWh			
Average price per kWh at ICE Forward Price of $50/MWh			
Average price per kWh at ICE Forward Price of $100/MWh			

We believe the POLR rate must be based on the short term cost of energy and reflect current market conditions. With any backward looking proposal there will always be the risk that market fundamentals are different, and the historical pricing will not allow a REP to cover their costs and it will be necessary to have an "adjustment" mechanism to the POLR rate such as proposed in §25 43(m)(4). Our proposal provides certainty for all parties while ensuring the REP will always be able to recover their costs while also ensuring that the customer receives a fair price based on current market conditions.

We believe the intent of the legislature with HB16 was narrow in scope to limit only wholesale index products, not any other type of product, with the intent to protect consumers from the extreme pricing swings that can occur in real time. The price for all fixed and variable price retail contracts are currently based on the underlying wholesale forward prices so setting a POLR rate based on forward prices is in line with how the market currently prices other products, and also does not conflict with the new legislation that the PUC must enact.

PREPAID RATE CAP

In addition to requesting comments on the formation of the POLR rate itself, the commission also asked for comments on how the POLR rate should apply to the rules around prepaid service §25.498:

> "What other considerations should the Commission take into account in determining whether and how to remove RTSPP from the POLR rate formulas (e.g. the role the POLR 23 rate plays in §25.498, related to prepaid service, etc.)?"

The current proposals §25.498 (c)(15) states that:

> "A REP that provides prepaid service to a residential customer ~~shall~~ must not charge an amount for electric service that is higher than the price charged by the POLR in the applicable TDU service territory. The price for prepaid service to a residential customer calculated as required by §25.475(g)(2)(A)-(E) of this title ~~shall~~ must be equal to or lower than at least one of the tests described in subparagraphs (A)-(C) of this paragraph"

Windrose proposes that this language be modified slightly to read:

> "A REP that provides prepaid service to a residential customer ~~shall~~ must not charge an amount for electric service that is higher than the price charged by the POLR in the applicable TDU service territory. The average price over a calendar month or TDU billing cycle for prepaid service to a residential customer calculated as required by §25.475(g)(2)(A)-(E) of this title ~~shall~~ must be equal to or lower than at least one of the tests described in subparagraphs (A)-(C) of this paragraph"

The reason we propose this slight change is it could be taken to mean for any length of time whereas we believe the intention of the commission is to ensure the average price charged over the billing cycle or a typical billing period. Many REPs have developed products that offer "free nights" for example where both energy and TDU charges are zero overnight, but they are then charged a higher rate during peak hours. We want to ensure that such a REP would not be deemed to have charged too high a price for the peak power when the customer is

also receiving lower priced or free power at night. It therefore makes sense to clarify that the price not to exceed is the average price for all usage over a period of time in line with standard industry billing procedures.

If the currently proposed POLR language is adopted Windrose has a concern that it will set an unrealistically low price for prepaid service. Although the proposed language calls for "the actual Real-Time Settlement Point Prices (RTSPPs) for the customer's load zone for the previous 12-month period ending September 1 of the preceding year" taking the annual average real time price as reported in the state of the market report[1] in 2016 the real time average price across the ERCOT system was relatively low at $24.62/MWh. Under the proposed rules the total charge allowed for energy on prepaid service would be "the average of the actual Real-Time Settlement Point Prices (RTSPPs) for the previous 12-month period multiplied by the number of kWhs the customer used during that billing period further multiplied by 120%". So, using this RTSPP historical average price the LSP energy charge would be $24.62 * 120% = $29.54/MWh or 2.954 cents/kWh. The LSP customer charge remains 6 cents/kWh giving a total allowed charge of 8.954 cents / kWh. As all market participants are aware wholesale power prices in the ERCOT market are driven to a large extent by gas prices. According to the same ERCOT state of the market report during 2016 gas averaged $2.45/MMbtu. What would happen if gas prices went to $12/MMbtu? Well this actually happened in 2008, and if we go back to the 2008 State Of The Market Report[2] the chart shows wholesale power prices spiking in line with gas to $120/MWh. So if gas were to suddenly increase in price then the POLR rate would not be high enough to cover the REPs cost to

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We urge the Commission to consider our proposal for setting the POLR rate as to avoid a scenario where the POLR rate is below the actual cost to serve the customer.

SUMMARY

Windrose appreciates the opportunity to comment as we as an industry look to tackle these very important issues. We look forward to engaging further with the Commission and

other interested parties on the ideas we have presented in this document, and being an active participant in this important rule making process.

Thomas K. Strickland
President
Windrose Power & Gas LLC
Phone: 281-364-8382
Email: strick@WindroseEnergy.com

Date: August 27, 2021

DOCKET NO. 51830

REVIEW OF CERTAIN RETAIL ELECTRIC CUSTOMER PROTECTION RULES	§ § §	**BEFORE THE PUBLIC UTILITY COMMISSION OF TEXAS**

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Proposed EFL template

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