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DOCKET NO. 24770

REPORT OF THE ELECTRIC
RELIABILITY COUNCIL OF TEXAS
(ERCOT) TO THE PUCT REGARDING
IMPLEMENTATION OF THE ERCOT
PROTOCOLS

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BEFORE THE
PUBLIC UTILITY COMMISSION
OF TEXAS

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FILED CLERK

THE TXU MERCHANT ENERGY COMPANIES'
REPLY COMMENTS PURSUANT TO ORDER NO. 13

TO THE HONORABLE PUBLIC UTILITY COMMISSION OF TEXAS:

NOW COMES TXU Energy Trading Company LP and TXU Energy Retail Company LP, (collectively referred to as the "TXU Merchant Energy Companies") and file this their Reply Comments pursuant to Order No. 13 in this Docket.

The TXU Merchant Energy Companies offer Reply Comments in response to a new issue in this Docket that was raised in Commission Staff's Response to, and Motion to Clarify Order No. 13 (referred to herein as the "Staff's Response"). In Staff's Response, the Staff has, for the first time in this Docket, raised the issue of removing through the final order in this Docket the July 4, 2003, expiration date for the \$1,000/MWh balancing energy generator bid cap. First of all, this is not an issue that was addressed in the ERCOT Report that initiated this Docket, nor should it have been, since the Commission's Order on Rehearing in Docket 23220 did not request that ERCOT report back on this issue by October 1, 2001. This is not an issue that was raised in either the Initial or the Reply Briefs in this Docket. More importantly, this is not an issue that was presented to the Commission in the Proposed Decision Point List for this Docket, filed with the Commission on April 9, 2002. Imposing permanent bid caps in the ERCOT market is an issue that must be taken extremely seriously and needs to be fully vetted.

The TXU Merchant Energy Companies understand that some parties may be concerned that the sunset date could allow the bid caps to expire without the appropriate administrative review. However, simply eliminating the sunset review date provides the market with no assurance that the bid caps will ever be reviewed such that their effectiveness and impact on the market are honestly and openly assessed. The TXU Merchant Energy Companies offer that, as an alternative to the sunset review date, the most practical way for the Commission to address this concern is a commitment to an annual review to determine if, going forward, bid caps continue to be necessary. Part of the review process should include the collection of comments

by market participants. The Companies view such an annual review as a necessary and proper evaluation point for the market and for the bid caps themselves. Indeed, if after its annual review the Commission determines that bid caps continue to be necessary, the Commission should also evaluate whether the level of those bid caps is appropriate and effective. In other words, are the bid caps set at an appropriate level given the state of the market? Are the bid caps acting as a backstop while not discouraging the entrance of new generation to the ERCOT market? Contrary to the intimation in the Staff's Response, the FERC's *proposed* standard market design ("SMD") does not mandate that the "safety-net bid caps" must be \$1,000.¹ The FERC's SMD leaves it to the Market Monitor to determine the appropriate amount for the bid caps.² The Commission should not take it for granted that \$1,000 will always be the appropriate number. This is an issue that should be fully evaluated on an annual basis.

The Commission may well determine in 2003 that bid caps continue to be appropriate for the ERCOT market. However, if the Commission makes such a determination, it should revisit its decision in the next annual review. This review will then provide the Commission with a new market evaluation point. For now, the Commission should either comply with its Order on Rehearing in Docket 23220 or order an annual review that includes stakeholder input. The Commission should reject the Staff's proposal to prematurely waive the July 4, 2003 expiration date for the \$1,000/MWh balancing energy generator bid. Additionally, the TXU Merchant Energy Companies respectfully request that the Commission include in its final order in this Docket a review date of July 4, 2003 for the interim generator bid cap of \$1,000/MWh for all ancillary services provided to the ERCOT system that was imposed in Order No. 13 in this Docket.

WHEREFORE, PREMISES CONSIDERED, the TXU Merchant Energy Companies pray that the Commission fully consider these Reply Comments and grant the TXU Merchant Energy Companies the relief requested herein and any other relief to which it may be entitled.

¹ FERC Docket No. RM01- 12-000, Notice of Proposed Rulemaking (7/31/02), p. 229-230 and Appendix B, p. 160.

² Id.

Respectfully submitted,

HUNTON & WILLIAMS

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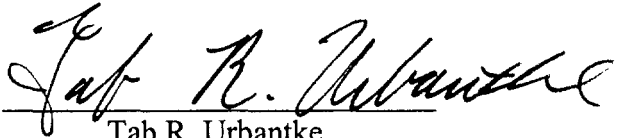
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**ATTORNEYS FOR TXU ENERGY
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CERTIFICATE OF SERVICE

It is hereby certified that a copy of the foregoing has either been hand delivered or mailed by first class United States mail, postage prepaid, to the Office of Regulatory Affairs and to all other parties of record in this Docket, all on this the 13th day of August, 2002



Tab R. Urbantke