



Control Number: 49673



Item Number: 30

Addendum StartPage: 0

RECEIVED

COMPLAINT OF ASPIRE  
COMMODITIES, LLC AGAINST THE  
ELECTRIC RELIABILITY COUNCIL  
OF TEXAS

§  
§  
§  
§  
§

PUBLIC UTILITY COMMISSION  
OF TEXAS  
2019 JUN 21 PM 2:35

COMMISSION STAFF'S COMMENTS

COMES NOW the Staff (Staff) of the Public Utility Commission of Texas (Commission), representing the public interest and files its Comments to the Complaint of Aspire Commodities, LLC against the Electric Reliability Council of Texas. In support thereof, Staff shows the following:

I. BACKGROUND & PROCEDURAL HISTORY

On June 25, 2019, Aspire Commodities LLC (Aspire) filed a complaint against ERCOT with the Commission (Aspire Complaint). Aspire's complaint alleges that on May 30, 2019, Aspire lost money on a futures contract that it had transacted on the Intercontinental Exchange (ICE).<sup>1</sup> In its complaint, Aspire alleges that they "had the correct position yet [] lost money because ERCOT at approximately 2:50PM allowed an undisputed mistake to create an invalid market solution."<sup>2</sup> Through its complaint, Aspire seeks a decision by the Commission to order ERCOT to re-price the interval.<sup>3</sup> According to Aspire, ERCOT Protocol 6.3(4) requires this result.<sup>4</sup>

In response to Aspire's complaint, on July 24, 2019, ERCOT filed a Motion to Dismiss and a Response to the Complaint of Aspire. On August 2, 2019, Aspire filed a reply ERCOT's Motion to Dismiss and Response to the Complaint of Aspire (Aspire's Reply). On August 9, 2019, ERCOT responded to Aspire's Reply.

On December 5, 2019, the Administrative Law Judge (ALJ) issued Order No. 6 denying ERCOT's Motion to Dismiss. On December 6, 2019, the ALJ issued Order No. 7 requiring Staff

<sup>1</sup> Complaint of Aspire Commodities, LLC Against the Electric Reliability Council of Texas (Aspire Complaint) at bates 2 (June 25, 2019).

<sup>2</sup> *Id.*

<sup>3</sup> *Id.* at 6.

<sup>4</sup> *Id.*

30

to file comments on Aspire’s Complaint by January 21, 2020. Therefore, this pleading is timely filed.

## II. RELEVANT FACTS

Aspire’s complaint centers on the 14:50 Security Constrained Economic Dispatch Interval (SCED). For that SCED interval, Calpine Power Management LLC (Calpine), a Qualified Scheduling Entity (QSE) registered with ERCOT telemetered erroneous data to ERCOT.<sup>5</sup> As ERCOT states in its Motion to Dismiss:

[s]pecifically, for a single SCED interval (14:50), Calpine’s portfolio of Resources telemetered High Sustainability Limits (HSLs) and Low Sustainability Limits (LSLs) of zero, which were captured by SCED in the 14:50 interval. Thus, for the 14:50 SCED interval, the instantaneous capacity available for dispatch appeared to be less than instantaneous demand.<sup>6</sup>

As a result, energy prices in the ERCOT market shot up to \$9/kWh.<sup>7</sup> Aspire alleges that, as a result of the mistaken data input, the price of the ERCOT Balance of the Day Contract on ICE increased from \$30 to \$86, and, as a result, Aspire lost money from ICE that it believed it was due.<sup>8</sup> ERCOT issued a public notice on May 30, 2019 (within an hour of the SCED run interval at issue) informing ERCOT market participants that it would not be performing a price correction.<sup>9</sup>

## III. ASPIRE’S ARGUMENT

According to Aspire, ERCOT Protocol Section 6.3(4) requires ERCOT to re-price the 14:50 SCED interval because ERCOT Protocol Section 6.3(4) states that “ERCOT *shall* correct prices when (i) a market solution is determined to be invalid (*emphasis added*).”<sup>10</sup> Further, Aspire states that Section 6.3(4)(a) clearly lists “data input error” as a reason that may cause an invalid market solution.<sup>11</sup>

Aspire states that a data input error occurred when “ERCOT received telemetered incorrect information from Calpine . . . regarding the Resource status of their generators.”<sup>12</sup>

---

<sup>5</sup> Electric Reliability Council of Texas, Inc.’s Motion to Dismiss and Response to the Complaint of Aspire Commodities LP (ERCOT’S Response) at 2 (July 29, 2019).

<sup>6</sup> *Id.* at 2-3.

<sup>7</sup> Aspire Complaint at bates 3.

<sup>8</sup> *Id.* at 4.

<sup>9</sup> *Id.* at 3.

<sup>10</sup> Aspire Commodities, LLC’s Reply to the Electric Reliability Council of Texas’ Motion to Dismiss and Response to the Complaint of Aspire Commodities, LLC (Aspire’s Reply) at bates 3 (Aug. 2, 2019).

<sup>11</sup> *Id.* at 4.

Aspire argues that there is no distinction between an external data input error and internal data input error and that since the prices of the 14:50 SCED interval were disconnected from the reality of electricity supply and demand, the May 30<sup>th</sup> SCED pricing event at issue was an invalid market solution.<sup>13</sup> Overall, Aspire argues that under ERCOT Protocol Section 6.3(4), the Commission should require ERCOT to re-price the 14:50 SCED interval because an invalid market solution resulted from ERCOT's SCED process arising as a result of a data input error.

#### **IV. ERCOT'S ARGUMENT**

According to ERCOT, the "ERCOT Protocols do not give express guidance on what constitutes an invalid market solution . . . ."<sup>14</sup> Furthermore, ERCOT states that, although ERCOT Protocol 6.3(4)(a) provides that a "data input error" may be a condition that results in an invalid market solution or prices, "ERCOT [] has consistently interpreted this language as applying only to internal data input errors caused by ERCOT, and not to external data errors caused by ERCOT Market Participants."<sup>15</sup> ERCOT interprets "data input error" language in this manner because ERCOT Protocols require that ERCOT to use a Market Participant's telemetered data in SCED.<sup>16</sup> Furthermore, ERCOT explains that ERCOT Protocols require a QSE, like Calpine in this matter, is responsible for providing ERCOT with accurate telemetry.<sup>17</sup> Overall, ERCOT argues that since that data input error was external, the market solution for the 14:50 SCED interval was not determined to be invalid. Therefore, ERCOT should not be required to re-price the interval under ERCOT Protocol 6.3(4).

#### **V. STAFF'S COMMENTS**

In considering Aspire's complaint, Staff agrees with ERCOT. Under ERCOT Protocol 6.3(4), there was no invalid market solution since the prices for the 14:50 SCED interval were based on data telemetered to ERCOT by Calpine, not an internal data input by ERCOT. As explained by ERCOT, ERCOT Protocols require ERCOT to use a Market Participant's telemetered data in SCED and requires that data to be accurate. Therefore, while Calpine's portfolio of Resources incorrectly telemetered High Sustainability Limits (HSLs) and Low

---

<sup>12</sup> *Id.* at 5.

<sup>13</sup> *Id.* at 3-6.

<sup>14</sup> ERCOT'S Response at 14.

<sup>15</sup> *Id.*

<sup>16</sup> *Id.* at 15.

Sustainability Limits (LSLs) of zero, this external data input was correctly captured by SCED in the 14:50 interval.<sup>18</sup>

Additionally, as ERCOT explains, since ERCOT Protocol Section 6.3(4) does not give ERCOT discretion to perform a price correction based on the magnitude of the pricing error, interpreting ERCOT Protocol Section 6.3(4) as requiring ERCOT to re-price the 14:50 SCED interval for OD May 30, 2019 would then require ERCOT to perform a price correction every time an external data input error has a price impact.<sup>19</sup> Since, “on any given day, at least some telemetry sent to ERCOT by QSEs and/or TSPs is inaccurate or sent in error[]” price corrections could occur on a weekly or even daily basis.<sup>20</sup>

Lastly, Aspire only seeks for the Commission to order ERCOT to re-price the SCED interval at issue and that Aspire seeks no other remedy.<sup>21</sup> Aspire seeks no other remedy, because, as Aspire explains in its complaint, Aspire was not a direct counterparty to the ERCOT market and its “exposure to the fictitious prices was through [] ICE where [Aspire] had forward positions.”<sup>22</sup> Further, Aspire is a sophisticated investor who clearly knew that there can be inaccuracies in the SCED process<sup>23</sup> and yet still chose to take a position on a contract for trading on ICE. Overall, Staff takes the position that ERCOT Protocol Section 6.3(4) does not require re-pricing of the 14:50 SCED interval for OD May 30, 2019.

---

<sup>17</sup> *Id.*

<sup>18</sup> Staff notes that the ERCOT Real-Time Operating Procedure Manual gives ERCOT operators the discretion to run SCED manually in certain circumstances. On the OD at issue, ERCOT operators executed a manual SCED run at 14:52 which captured telemetry from Calpine that more accurately reflected the actual status of the Resource fleet and effectively resolved the price spike caused by the telemetry error from 14:52 until the end of the 5-minute SCED interval. *See* ERCOT’S Response at 12.

<sup>19</sup> *Id.* at 16-17.

<sup>20</sup> *Id.* at 16.

<sup>21</sup> Aspire’s Reply at bates 4-5.

<sup>22</sup> Aspire’s Complaint at bates 6.

<sup>23</sup> *Id.* at 3-4.

**PUBLIC UTILITY COMMISSION OF  
TEXAS LEGAL DIVISION**

Thomas S. Hunter  
Division Director

Rachelle Nicolette Robles  
Managing Attorney



Rashmin J. Asher  
State Bar No. 24092058  
1701 N. Congress Avenue  
P.O. Box 13326  
Austin, Texas 78711-3326  
(512) 936-7216  
(512) 936-7268 (facsimile)  
Rashmin.Asher@puc.texas.gov

**DOCKET NO. 49673**

**CERTIFICATE OF SERVICE**

I certify that a copy of this document will be served on all parties of record on January 21, 2020 in accordance with 16 TAC § 22.74.



Rashmin J. Asher