Control Number: 49673

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

PUBLIC UTILITY COMMISSION
OF TEXAS

ELECTRIC RELIABILITY COUNCIL OF TEXAS, INC.'S
MOTION FOR SUMMARY DECISION

COMES NOW, Electric Reliability Council of Texas, Inc. (ERCOT) and files this Motion

for Summary Decision with respect to the complaint against ERCOT filed with the Public Utility

Commission of Texas (Commission) by Aspire Commodities, LLC (Aspire) on June 25, 2019

(hereinafter, the "Complaint"). In support of its Motion, ERCOT respectfully shows the following:

STANDARD OF REVIEW

The presiding officer may grant a Motion for Summary Decision in accordance with the

standard set forth in 16 Texas Administrative Code (TAC) § 22.182(a):

> [t]he presiding officer, on motion by any party, may grant a motion for summary
> decision on any or all issues to the extent that the pleadings, affidavits, materials
> obtained by discovery or otherwise, admissions, matters officially noticed in
> accordance with §22.222 of this title (relating to Official Notice), or evidence of
> record show that there is no genuine issue as to any material fact and that the
> moving party is entitled to a decision in its favor, as a matter of law, on the issues
> expressly set forth in the motion.

In the instant matter, as shown herein, Aspire's Complaint is appropriate for disposition by a

Motion for Summary Decision because there is no dispute regarding facts material to the resolution

of the Motion. Further, this dispute involves the interpretation of an ERCOT Protocol, which is a

purely legal question.

FACTUAL BACKGROUND

On June 25, 2019, Aspire—an entity that is not registered with ERCOT as a Market

Participant—filed its Complaint against ERCOT with the Commission. In its Complaint, Aspire

alleges that it "lost money on ERCOT futures contracts [Aspire] had transacted on the

Intercontinental Exchange [ICE]" and for Operating Day (OD) May 30, 2018, "ERCOT's actions capriciously resulted in a massive increase in the cost of electricity." Aspire asserts that this price increase was due to a "data error" under the ERCOT Protocols, and ERCOT should have corrected prices because the data error led to an "invalid market solution." Aspire appears to claim that ERCOT was required to correct prices under ERCOT Protocol Section 6.3(4) because the May 30, 2019, event resulted in a "market solution" that should have been "determined to be invalid." With respect to the relief it seeks from the Commission, Aspire requests "ERCOT be ordered to re-price the published settlement prices" for a single (five-minute) Security-Constrained Economic Dispatch (SCED) interval.

The pricing issue giving rise to Aspire's Complaint occurred during the 14:50 SCED interval on OD May 30, 2019. At approximately 14:49 on that day, Calpine Power Management LLC (Calpine), a Qualified Scheduling Entity (QSE) registered with ERCOT, sent incorrect telemetry to ERCOT for a fleet of Resources, which was captured in the 14:50 SCED run.[1] Specifically, Calpine telemetered a zero MW value to ERCOT for the High Sustainability Limit (HSL) and Low Sustainability Limit (LSL) of these Resources for the 14:50 SCED run.[2] The Resources at issue had a combined telemetered output of approximately 6,300 MW just prior to the telemetry error.

In conformance with ERCOT Protocol Section 6.5.7.2, ERCOT's Resource Limit Calculator immediately and automatically determined a new High Dispatch Limit (HDL) for the Resources at issue based on the changed telemetry (i.e., the zero MW HSL and LSL values).[3] This

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[1]   Calpine also sent erroneous telemetry at 11:42 on May 30, 2019; however, unlike the error that occurred at 14:49, the earlier erroneous telemetry did not affect prices because it was not captured in a SCED run.

[2]   In this case, the HSL value of zero telemetered by Calpine was considered a valid value in SCED. In contrast, if a QSE telemeters a negative HSL value, that value is blocked as invalid and SCED will instead use the last valid value received.

[3]   Per ERCOT Protocol Section 6.5.7.2, new Resource limits are calculated within four seconds after a change of Resource-specific attributes provided via a QSE's telemetry. These Resource limits are used as inputs in SCED.

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resulted in a significant decrease in the total HDL for the Resource fleet—i.e., from 6,388 MW to 5,125 MW. Consequently, for the 14:50 SCED interval, the calculated total instantaneous capacity available for dispatch was approximately 220 MW less than the total instantaneous demand. In conformance with ERCOT's Other Binding Document (OBD), Methodology for Setting Maximum Shadow Prices for Network and Power Balance Constraints, this result constituted a violation of the Power Balance Penalty Curve and caused the ERCOT System Lambda[4] to reach $9,001.00/MWh.[5] Importantly, at no time was any ERCOT Load shed because of this telemetry error. Further, and contrary to Aspire's assertion in its Complaint, Emergency Response Service (ERS) was not deployed on May 30, 2019.

SCED runs automatically every five minutes; however, the ERCOT Real-Time Operating Procedure Manual gives ERCOT operators discretion to run SCED manually in certain circumstances. At 14:52 on the OD at issue, ERCOT operators executed a manual SCED run due to concerns regarding (a) the potential for high frequency (due to generation responding to the $9,001.00/MWh System Lambda), and (b) dispatch not being as expected.[6] The manual SCED run at 14:52 captured telemetry from Calpine that appeared to more accurately reflect the status of its Resource fleet when compared to the telemetry captured by the automatic SCED run at 14:50.

This manual action by ERCOT operators resolved the price spike caused by the telemetry error.[7] More specifically, the Resource Limit Calculator determined a new total HDL for Calpine's

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[4] System Lambda is the energy component of a Locational Marginal Price (LMP) at each ERCOT Settlement Point.

[5] *See* Section 4.3, *The ERCOT Power Balance Penalty Curve*, in "Methodology for Setting Maximum Shadow Prices for Network and Power Balance Constraints" *available at*: http://www.ercot.com/content/wcm/key_documents_lists/89286/Methodology_for_Setting_Maximum_Shadow _Prices_for_Network_and_Power_Balance_Constraints.zip.

[6] The 14:50 SCED run produced a markedly different outcome than the previous SCED interval, given that the 14:45 SCED run resulted in a System Lambda of $38.62/MWh.

[7] Aspire asserts in its Complaint that the price increase that resulted from the telemetry error had an impact of over $18 million on the cost of electricity in ERCOT. This is incorrect, however, because Aspire's claim is based on an improper assumption that all ERCOT Load for the affected SCED interval was exposed to the spike in Real-

Resource fleet of 6,433 MW using the telemetry captured at 14:52; this resulted in a decrease of the System Lambda to $38.04/MWh. ERCOT did not observe any noticeable issues or errors with Calpine's telemetry for subsequent SCED intervals on the OD at issue.

Within an hour of the telemetry error, ERCOT investigated and determined that SCED properly executed the 14:50 interval in accordance with ERCOT Protocols and OBDs. Further, ERCOT determined that a price correction was not appropriate, because ERCOT has consistently interpreted the ERCOT Protocols as not granting ERCOT the authority to correct prices when a market solution is attributable to an external data error caused by a Market Participant—in this case, inaccurate telemetry submitted by a QSE. Accordingly, ERCOT issued a public notice at 15:44 on May 30, 2019, stating that it would not be performing a price correction for the 14:50 SCED interval.

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ARGUMENT & AUTHORITIES

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The single issue presented by Aspire's Complaint is whether ERCOT correctly interpreted ERCOT Protocol Section 6.3(4) when it determined that Calpine's telemetry error was not the type of error that required a correction of Real-Time prices. As explained below, ERCOT's decision to not correct prices on May 30, 2019, was a proper interpretation of the ERCOT Protocols.

I.   ERCOT's decision to not correct prices on May 30, 2019, conformed with the plain language of the ERCOT Protocols.

The key Protocol section at issue in this matter, ERCOT Protocol Section 6.3(4), provides as follows:

> ERCOT shall correct prices when: (i) a market solution is determined to be invalid, (ii) invalid prices are identified in an otherwise valid market solution, (iii) the Base Points received by Market Participants are inconsistent with the Base Points of a valid market solution, unless accurate prices cannot be determined, or (iv) the Security-Constrained Economic Dispatch (SCED) process experiences a failure as

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Time prices. Aspire ignores the fact that Load for the affected SCED interval could have also been cleared in the Day Ahead Market (DAM) or covered by hedge transactions that occur outside of the ERCOT market.

described in Section 6.5.9.2, Failure of the SCED Process. The following are some reasons that may cause these conditions.

(a)   Data Input error: Missing, incomplete, stale, or incorrect versions of one or more data elements input to the market applications may result in an invalid market solution and/or prices.

(b)   Data Output error: These include: (i) incorrect or incomplete data transfer, (ii) price recalculation error in post-processing, and (iii) Base Points inconsistent with prices due to the Emergency Base Point flag remaining activated even when the SCED solution is valid.

(c)   Hardware/Software error: These include unpredicted hardware or software failures, planned market system or database outages, planned application or database upgrades, software implementation errors, and failure of the market run to complete.

(d)   Inconsistency with the Protocols or Public Utility Commission of Texas (PUCT) Substantive Rules: Pricing errors may occur when specific circumstances result in prices that are in conflict with such Protocol language or the PUCT Substantive Rules.

In its Complaint, Aspire argues that ERCOT was required to correct prices under ERCOT Protocol Section 6.3(4) because the May 30, 2019, event resulted in a "market solution" that should have been "determined to be invalid." ERCOT, however, does not agree that Calpine's telemetry error resulted in an invalid market solution on May 30, 2019, because there was no failure of the SCED process, no internal data errors caused by ERCOT, no failure of ERCOT's hardware or software, and the resulting market solution was not inconsistent with ERCOT Protocols or PUCT Rules.[8] Moreover, ERCOT has never performed a price correction under ERCOT Protocol Section 6.3(4) due to an external telemetry error. Accordingly, ERCOT's actions on May 30, 2019, were consistent with long-standing practice.

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[8]   In cases where ERCOT does determine that a condition set out in Protocol Section 6.3(4) has occurred and requires a price correction, ERCOT must correct prices by 16:00 on the second Business Day after the impacted OD. *See* ERCOT Protocol Section 6.3(5). If ERCOT fails to correct prices within that time, but believes a price correction is required under Protocol Section 6.3(4), it must obtain ERCOT Board approval for the price correction within 30 days of the impacted OD. *See* ERCOT Protocol Section 6.3(5).

ERCOT Protocols do not place mandatory limits on what can constitute an "invalid" "market solution" requiring a correction of Real-Time prices. However, and relevant here, ERCOT Protocol Section 6.3(4)(a) provides that a data input error "may" be a condition that results in a need for a price correction. *See* ERCOT Protocol Section 6.3(4)(a) ("incorrect versions of one or more data elements input to the market applications *may* result in an invalid market solution and/or prices"). The fact that the ERCOT Protocols use the word "may" in ERCOT Protocol Section 6.3(4)(a) signifies that not every possible "data input error" must be a condition requiring a price correction. Rather, the use of the term "may" indicates a grant of discretion to ERCOT to determine whether a particular type of data input error qualifies as an error requiring a price correction.[9] ERCOT has exercised this discretion by consistently interpreting ERCOT Protocol Section 6.3(4)(a) as applying only to *internal* data input errors caused by ERCOT, and not to external data errors caused by ERCOT Market Participants.

II. Because ERCOT Protocol Section 6.3(4) is subject more than one interpretation, the Commission may construe the language in a manner that is reasonable and consistent with other ERCOT Protocols.

The ERCOT Protocols are subject to Commission oversight and review. Because of this, Texas courts have held that the Commission's interpretation of an ERCOT Protocol will be given deference unless it is "plainly erroneous or inconsistent with the text of the protocols."[10] In this case, the language of ERCOT Protocol Section 6.3(4) is ambiguous to the extent it does not clearly mandate, nor does it clearly prohibit, price corrections when prices in ERCOT are impacted by external telemetry errors. Accordingly, it is entirely within the Commission's discretion to adopt

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[9] *See* TEX. GOV'T CODE § 311.016(1) use of the word "may" in a statute "creates discretionary authority or grants permission or a power"); *Haig v. Agee*, 453 U.S. 280, 294 n. 26 (1981) (use of word "may" in statute "expressly recognizes substantial discretion").

[10] *Pub. Util. Com'n v. Constellation Energy Commodities Group, Inc.*, 351 S.W.3d 588, 595 (Tex. App.—Austin 2011, pet. denied) (courts defer to the Commission's interpretation of a protocol if it "is reasonable and in harmony" with relevant statutes).

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ERCOT's interpretation of ERCOT Protocol Section 6.3(4) and find that the ERCOT Protocols do not require price corrections in cases of external data errors.

This interpretation would be the most consistent with other language in the ERCOT Protocols. For example, the ERCOT Protocols expressly *require* ERCOT to use a Market Participant's telemetered data in SCED, and that is precisely what happened in this case. Further, the ERCOT Protocols make clear that every QSE that represents a Resource is responsible for providing ERCOT with accurate telemetry. ERCOT Protocol Section 6.4.6 states, "ERCOT shall use the telemetered Resource Status for all applications requiring status of Resources during the Operating Hour, including SCED and Load Frequency Control (LFC). *QSEs shall provide ERCOT with accurate telemetry of the current capability of each Resource including the Resource Status, Ramp Rates, HSL, and LSL.*"[11] ERCOT Protocol Section 6.5.7.1.13 also requires QSEs to telemeter Resource HSL and LSL for input in SCED. Finally, ERCOT Protocol Section 6.5.7.3(1) provides that SCED must use the Resource Status provided by telemetry from the QSE, and not the Resource Status in the Current Operating Plan (COP).[12] Given these ERCOT Protocol requirements, ERCOT properly complied with ERCOT Protocols when it used Calpine's telemetered data for the 14:50 SCED run.

If the Commission were to adopt Aspire's interpretation of ERCOT Protocol Section 6.3(4) and order ERCOT to correct prices, ERCOT would be required to disregard the telemetry values

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[11] ERCOT Protocol Section 6.4.6 (emphasis added).

[12] While the ERCOT Protocols require ERCOT to validate certain QSE telemetered data, those requirements were not applicable to the data at issue in this matter. ERCOT Protocol Section 6.4.6(2)(b) provides that ERCOT must identify inconsistencies between a QSE's telemetered Resource status and its Current Operating Plan (COP) five minutes before the end of each hour; accordingly, this requirement had no applicability to the 14:50 SCED run at issue. Because nothing in the ERCOT Protocols required ERCOT to validate the Calpine telemetry that is at issue, ERCOT did not act in violation of any Protocol when SCED utilized the QSE's erroneous telemetered data for the 14:50 SCED run. Moreover, although ERCOT's systems are designed to disregard certain telemetry data that is clearly outside of any acceptable range, the data telemetered by Calpine on May 30, 2019, was within the range of values deemed presumptively valid by ERCOT systems—i.e., the HSL value of zero telemetered by Calpine was considered an acceptable value in this case.

Calpine sent to ERCOT—an action contrary to ERCOT Protocol Section 6.4.6—in order to determine what the "correct" prices would have been for the impacted interval on May 30, 2019. Given this, Aspire's proposed interpretation of ERCOT Protocol Section 6.3(4) is "inconsistent with the text of the protocols" and should not be adopted by the Commission.[13]

Aspire also argues that the event on May 30, 2019, falls within the requirements of a price correction under ERCOT Protocol Section 6.3(4) because impacted prices were "disconnected from the reality" of the market and should therefore be deemed an "invalid" market solution. However, adopting an interpretation of ERCOT Protocol Section 6.3(4) that requires price corrections when prices are "disconnected from the reality" of the market could cause serious concern regarding the future enforcement of such an ambiguous standard. Without the establishment of clear benchmarks regarding what magnitude of price impact would warrant treatment as an "invalid" market solution, ERCOT staff would have to make internal judgment calls regarding whether a price impact was sufficiently severe to warrant a correction. Although the ERCOT Board of Directors (Board) has been granted such discretion in the rare cases where a Board-approved price correction is performed under ERCOT Protocol Section 6.3(6), Aspire's proposed interpretation of ERCOT Protocol Section 6.3(4) would require ERCOT staff to start making such discretionary decisions.[14] This could lead to increased market uncertainty due to injection of additional discretion into the price correction process. Accordingly, the more reasonable interpretation of ERCOT Protocol Section 6.3(4) is that this Protocol language only requires price corrections by ERCOT staff when the conditions warranting a correction are

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[13] *See Constellation Energy Commodities Group, Inc.*, 351 S.W.3d at 595.

[14] As noted previously, ERCOT staff may only correct prices before they become final two Business Days after the OD. Otherwise, the ERCOT Board must approve a price correction, and it can only do so if notice of the potential need for a correction was given to the market within 30 days of the OD.

present—regardless of the magnitude of impact on prices—and such a condition was not present on May 30, 2019.

III. ERCOT's consistent practice of not correcting prices impacted by external data errors helps ensure market certainty.

Both before *and* after May 30, 2019, there have been instances where erroneous telemetry received from an ERCOT Market Participant impacted prices. In none of these cases, however, did ERCOT interpret ERCOT Protocol Section 6.3(4) as requiring it to correct prices. For example, in May 2015, incorrect line ratings received from a Transmission Service Provider (TSP) likely impacted prices due to impacts on congestion pricing; however, ERCOT did not correct prices in that case.[15] Notably, an entity managed by the same personnel as Aspire, Raiden Commodities LP, complained to the PUC about ERCOT's decision not to correct prices in that instance but then later withdrew its complaint.[16] Further, at least one request for Alternative Dispute Resolution (ADR) has been filed with ERCOT since Nodal go-live in which a Market Participant argued that prices should be corrected due to an external telemetry error (incorrect line ratings); again, ERCOT did not correct prices in that instance. Finally, as recently as February 25, 2020, an external telemetry error occurred when a QSE for a Generation Resource with approximately 5,000 MW of generation experienced a technical issue that caused telemetered values to temporarily go to zero. Although this recent external data error appears to have had little, if any, impact on prices, ERCOT did not consider adjusting prices, consistent with its prior practice.

ERCOT's interpretation of ERCOT Protocol Section 6.3(4) as *not* requiring a price correction when a market solution if found to be due to erroneous data sent to ERCOT from an

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[15] *See, e.g., ERCOT's Response to Complaint of Raiden Commodities LP and Motion to Dismiss*, PUC Docket No. 45542.

[16] *See id.*

external source makes sense as a matter of market certainty. ERCOT Protocol Section 6.3 does not give ERCOT staff discretion to perform a price correction when a pricing error is of a particular magnitude.[17] Rather, ERCOT Protocol Sections 6.3(4) and (5) mandate that ERCOT perform a price correction every time the conditions stated in ERCOT Protocol Section 6.3(4) are satisfied. *See* ERCOT Protocol Sections 6.3(4) and (5) (both providing that "ERCOT *shall* correct prices"). Interpreting ERCOT Protocol Section 6.3(4) in the manner suggested by Aspire would require ERCOT to perform a price correction every time it discovered an external data input error that had a price impact and ERCOT could accurately determine correct prices—regardless of whether the price impact of the error was nominal or significant. Using such an interpretation, price corrections would become more frequent and lead to market uncertainty. Adopting such a practice would be contrary to the sound policy that price corrections should be performed rarely.

The ERCOT Board does have discretion under ERCOT Protocol Section 6.3(6) to authorize a price correction if it finds prices were "significantly" affected by an error that resulted in an invalid market solution. The discretion to make a determination of "significance" before authorizing a price correction, however, is granted only to the ERCOT Board; ERCOT staff do not have the discretion to make a finding of "significance" before performing a price correction under ERCOT Protocol Sections 6.3(4) and (5).[18] Further, the ERCOT Board may only authorize a price correction under ERCOT Protocol Section 6.3(6) if notice was given to Market Participants of the

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[17] By way of contrast, ERCOT Protocol Section 9.2.5(2) requires ERCOT to issue DAM Resettlement Statements only when errors (other than errors in prices) result in an absolute value impact greater than 2% of the total DAM Statement amount for any single Statement Recipient for the Operating Day, and the impact to a Statement Recipient is greater than $200.00. ERCOT Protocol Section 9.5.6(2) requires ERCOT to issue Real-Time Market (RTM) Resettlement Statements only when errors (other than errors in prices) result in an absolute value impact greater than 4% of the total RTM Statement amount for any single Statement Recipient for the Operating Day, and the impact to a Statement Recipient is greater than $400.00.

[18] The ERCOT Board can only authorize a price correction under ERCOT Protocol Section 6.3(6) if ERCOT has provided Market Participants notice within 30 days of the relevant OD that there is a need for a price correction. If ERCOT has not provided such notice, then prices may only be corrected by order of the Commission or as part of the resolution of an ERCOT Alternative Dispute Resolution request.

need for an ERCOT Board-authorized price correction within 30 days of the impacted OD. Since

no such notice was given to Market Participants regarding the May 30, 2019, event—because

ERCOT determined that the external telemetry error was not an error that qualified for a price

correction under ERCOT Protocol Section 6.3(4)—ERCOT Protocol Section 6.3(6) cannot now

be used to support a price correction in this case. Accordingly, to the extent Aspire argues some

sort of a "significance" metric should be applied to the determination of the need for a price

correction in the instant matter, doing so would be contrary to the express language of Protocol

Section 6.3.[19]

IV. ERCOT's practice of not correcting prices for external errors caused by Market Participants is consistent with the practice of other Independent System Operators.

ERCOT's determination that it should not correct prices caused by Market Participant

errors is consistent with other Independent System Operators (ISOs). For example, ISO-New

England (ISO-NE) has represented as follows:

> [P]rice correction based on asserted market participant errors is inadvisable…in practice, where a participant seeking price correction claims to be injured through its own market "error," it will be difficult to distinguish whether the asserted error is truly an inadvertent mistake or instead stems from the participant's intentionally speculative behavior…[P]rotection of pecuniary interests could encourage a market participant to assert that it has made an error, whereas [the ISO] has no pecuniary interests to protect and can assess objectively whether its own actions constitute an error…[M]ost participant errors appear to be self-correcting, as they tend to harm the participant that made the error[,] [t]hus, …there are strong incentives to avoid such errors. Moreover,…the market offers tools such as price-sensitive demand bidding and other forms of virtual bidding that participants may use to protect themselves from various types of errors by other market participants…[S]ome risk-averse market participants may also choose to protect themselves through longer-term bilateral contracts that transfer risk to other market participants that are better able to manage, or more willing to bear, the risk.[20]

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[19] The issue of whether ERCOT Protocol Section 6.3 should be revised to include clear benchmarks for determining when a price impact is "significant" and warrants a price correction is currently up for discussion in various ERCOT stakeholder forums and could result in future revisions to ERCOT Protocol Section 6.3.

[20] *ISO New England, Inc.*, 108 FERC ¶ 61069, 61362 (2004) at https://www.ferc.gov/EventCalendar/Files/20040726095309-ER04-798-000.pdf. Although the focus of this Federal Energy Regulatory Commission

The reasoning set forth by ISO-NE also applies to the ERCOT market.[21] Additionally, California ISO (CAISO) has represented that it does not price correct due to errors caused by market participants.[22]

V. No ERCOT Market Participant has advocated for a price correction for May 30, 2019, and no correction should take place at this late date.

ERCOT notes that since May 30, 2019, it has discussed the pricing event that occurred on that OD in multiple ERCOT stakeholder forums.[23] Tellingly, no ERCOT Market Participant has ever disputed ERCOT's decision not to correct prices on that day, even though Market Participants had a right to do so through the ERCOT ADR process and—unlike Aspire—numerous Market Participants were directly impacted by the pricing event on May 30, 2019. The fact that no Market Participant sought to dispute ERCOT's decision not to correct prices lends further support to a determination that ERCOT's interpretation of ERCOT Protocol Section 6.3(4) is correct. Additionally, since May 30, 2019, no Market Participant—including the ERCOT Market Participant owned and operated by the same individual who owns and operates Aspire (i.e., Aspire

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(FERC) proceeding was ISO-NE day-ahead price corrections, the principles articulated relating to not correcting for market participant errors applies in a similar manner to price corrections in the ERCOT Real-Time Market.

[21] FERC found ISO-NE's price correction proposal—i.e. its decision not to correct prices for market participant errors— "effective and fair approach that balances the goals of price certainty and accuracy." *Id.*

[22] California Independent System Operator Corporation, 152 FERC ¶ 61195, 61926 (2015) at https://www.ferc.gov/CalendarFiles/20150914154128-ER15-2204-000.pdf ("CAISO does not implement the price correction procedures of its tariff because the charges to which other market participants are exposed are due to a bid-in error by the [market participant] self-scheduler, which is not a circumstance in which the tariff permits price correction."). While the Southwest Power Pool (SPP) does have a price correction rule that permits it to correct prices impacted by third party data errors, under the rule SPP retains "sole discretion" as to whether to perform such a correction. *See Southwest Power Pool, Inc. Open Access Transmission Tariff*, Sixth Revised Volume No. 1 at Attachment AE, § 1.1 D (definition of "data error"), § 8.4(1). Because SPP's discretionary rule is very different from ERCOT's, it does not support a conclusion that ERCOT should correct for third party errors.

[23] *See e.g.,* June 5, 2019, Wholesale Market Subcommittee (WMS) meeting agenda at http://www.ercot.com/calendar/2019/6/5/165239-WMS; June 24, 2019, Wholesale Market Working Group (WMWG) meeting agenda at http://www.ercot.com/calendar/2019/6/24/169158-WMWG; and March 4, 2020, WMS meeting agenda at http://www.ercot.com/calendar/2020/3/4/189319-WMS.

Power Ventures, LP, formerly Raiden Commodities, LP)—has proposed a Protocol revision to require price corrections for external telemetry errors.

It is also significant that more than nine months have elapsed since the price event at issue. Ordering a price correction of OD May 30, 2019, at this late date would be disruptive to Market Participants and counter to the principle that such corrections should occur rarely and, when done, be executed as quickly as possible.

Finally, the Commission should not grant the extraordinary relief of a price correction based solely on the request of a single entity that is not an ERCOT Market Participant and has suffered no direct injury due to the price event at issue. This is particularly true given that Aspire has not shown that ordering a price correction for May 30, 2019, will actually afford Aspire any real relief. At most, Aspire appears to be arguing that it may be affected by an ERCOT price correction for May 30, 2019, because there is a "potential" for the price correction to impact other financial exchanges. Aspire has never explained, however, how a price correction by ERCOT for a single Settlement Interval for May 30, 2019, could actually impact any other financial market now that more than nine months have elapsed since the impacted OD. Moreover, Aspire has not and cannot show that an ERCOT price correction would definitively lead to any pricing adjustments in the futures market—i.e., the Intercontinental Exchange (ICE).
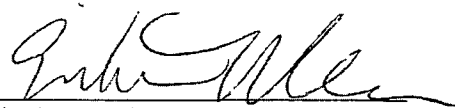
Given there has been no showing that Aspire's requested relief would remedy any alleged injury, the Commission should deny the request for a price correction, particularly given that such a correction would be highly disruptive to actual ERCOT Market Participants at this late date.

CONCLUSION

For the reasons set forth above, ERCOT acted in conformance with ERCOT Protocols by not correcting prices on OD May 30, 2019. Therefore, ERCOT respectfully requests that the

Commission grant ERCOT's Motion for Summary Decision and deny the relief requested by

Aspire. ERCOT further requests all other relief to which it may be granted.

Respectfully submitted,

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ATTORNEYS FOR ELECTRIC
RELIABILITY COUNCIL OF TEXAS,
INC.

CERTIFICATE OF SERVICE

I hereby certify that a copy of this document was served on all parties of record to this proceeding on March 5, 2020, by hand delivery, fax, or first-class U.S. mail.

AFFIDAVIT OF KENAN OGELMAN

STATE OF TEXAS   §
                              §

COUNTY OF TRAVIS   §

       BEFORE ME, the undersigned authority, Kenan Ogelman, who, being first duly sworn, deposes and states:

       "My name is Kenan Ogelman. I am Vice President of Commercial Operations with Electric Reliability Council of Texas, Inc. (ERCOT), having its principal place of business at 7620 Metro Center Drive, Austin, Texas. I am over the age of twenty-one and am competent to make the following statement:

       "I affirm that I have reviewed Electric Reliability Council of Texas, Inc.'s Motion for Summary Decision. I further affirm that I have personal knowledge of the facts stated in the Motion for Summary Decision and that I have the authority to submit this Affidavit on behalf of ERCOT.
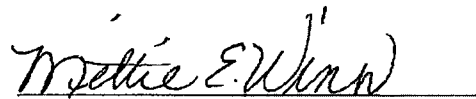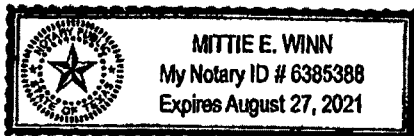
       I certify that the factual allegations contained in this response are true and accurate to the best of my knowledge, information and belief."

       Further affiant sayeth not.

                                      Kenan Ogelman

SUBSCRIBED AND SWORN TO BEFORE ME this __4th__ day of March 2020.

Notary Public, State of Texas