DOCKET NO. 49673

COMPLAINT OF ASPIRE	§	PUBLIC UTILITY COMMISSION
COMMODITIES, LLC AGAINST THE	§	
ELECTRIC RELIABILITY COUNCIL	§	OF TEXAS
OF TEXAS, INC.	§	

**COMMISSION STAFF'S REPLY TO ASPIRE COMMODITIES, LLC'S EXCEPTIONS
TO THE PROPOSAL FOR DECISION**

COMES NOW the Staff (Staff) of the Public Utility Commission of Texas (Commission), representing the public interest, and files this Reply to Aspire Commodities, LLC's (Aspire) Exceptions to the Proposal for Decision. In support thereof, Staff shows the following:

I. BACKGROUND

On June 25, 2019, Aspire Commodities, LLC (Aspire) filed a complaint against the Electric Reliability Council of Texas (ERCOT) with the Commission. Aspire's complaint alleged that ERCOT allowed an undisputed mistake to create an invalid market solution and as a result Aspire lost money on a futures contract it transacted on the Intercontinental Exchange.[1] Through its complaint, Aspire seeks a decision by the Commission to order ERCOT to re-price the interval.[2]

On August 6, 2020, the Administrative Law Judge (ALJ) issued a Proposal for Decision in this proceeding granting ERCOT's motion for summary decision. On August 19, 2020, Aspire filed exceptions to the Proposal for Decision. Staff now responds to Aspire's exceptions to the Proposal for Decision.

II. APPLICABLE LAW

The main ERCOT Protocol at issue in Aspire's complaint is ERCOT Protocol § 6.3(4), which states:

> (4) **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

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[1] Complaint of Aspire Commodities, LLC Against the Electric Reliability Council of Texas at bates 2 (June 25, 2019). (Aspire Complaint)

[2] *Id.* at 6.

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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 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. [3]

III. REPLIES TO EXCEPTIONS

The Administrative Law Judge correctly analyzed this proceeding under ERCOT Protocol § 6.3(4) – Response to Aspire Exception No. 1

Aspire excepts to the ALJ's analysis of Aspire's claims under ERCOT Protocol § 6.3(4).[4] Aspire states that "[t]he administrative law judge improperly limits analysis of Aspire's claims against ERCOT to Aspire's claims under ERCOT Protocols § 6.3(4)[]" even though its motion for summary decision claimed that ERCOT violated ERCOT Protocols §§ 6.3(4), 6.3(5), and 6.3(6)(b).[5]

The ALJ did not simply limit the analysis of Aspire's claims against ERCOT to ERCOT Protocol § 6.3(4), but rather correctly noted that the resolution of this case hinged on 6.3(4).[6] As

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[3] ERCOT Protocol Section 6.3(4) (emphasis added).

[4] Aspire Commodities, LLC's Exceptions to the Proposal for Decision on Motion for Summary Decision at bates 2 (Aug. 19, 2020) (Aspire's Exceptions).

[5] *Id.*

[6] Proposal for Decision on Motion for Summary Decision at 2 (Aug. 6, 2020) (PFD).

Staff noted in its reply to Aspire's motion for summary decision, ERCOT Protocols §§ 6.3(5) and 6.3(6) must be read in conjunction with ERCOT Protocol § 6.3(4).[7] Under ERCOT Protocol § 6.3(5), if ERCOT determines that re-pricing is required under Section 6.3(4), the repricing must occur by 16:00 on the second Business Day after the Operating Day on which the re-pricing event occurred.[8] Under ERCOT Protocol § 6.3(6)(b), if ERCOT determines that re-pricing is required under § 6.3(4), the ERCOT Board may re-price the interval even after prices become final.[9] Both Protocols §§ 6.3(5) and 6.3(6) are predicated on an ERCOT determination that re-pricing is required under § 6.3(4). Furthermore, Aspire's original complaint only referenced ERCOT Protocol § 6.3(4) as authority requiring ERCOT to re-price the SCED interval.[10]

The ALJ correctly analyzed the interpretation of the term "invalid market solution" in ERCOT Protocol § 6.3(4) – Response to Aspire's Exceptions Nos. 2, 3, 4, 5, and 6

Aspire excepted to the ALJ's "analysis regarding whether the term 'invalid' or 'invalid market solution' is meaningfully ambiguous[]" and contends that it is clear that the May 30, 2019 pricing event should be characterized as erroneous or invalid.[11] Aspire's exceptions state that ERCOT's interpretation exceeds its authority and constrains the unambiguous meaning of "invalid market solution."[12] Aspire's exceptions are not on point for three reasons.

First, Staff clarifies that the ALJ specifically concluded that ERCOT correctly applied ERCOT Protocol § 6.3(4) in this case; the ALJ does not define the meaning of "invalid market solution" or "invalid" in the PFD. The ALJ also correctly noted that the term "invalid market solution" is not defined in the ERCOT Protocols.[13]

Second, as a factual matter, Aspire's exception no. 4 incorrectly notes that ERCOT later "corrected" prices.[14] As ERCOT explains in its response to Aspire's motion for summary

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[7] Commission Staff's Response to Aspire Commodities, LLC's. Motion for Summary Decision and Request for a Hearing at 6-7 (Mar. 27, 2020) (Staff' Response to Motion for Summary Decision).

[8] *Id.* at 6.

[9] *Id.* at 7.

[10] *Id.* at 6.

[11] Aspire's Exceptions at bates 2.

[12] *Id.* at bates 2-3.

[13] PFD at 2.

[14] Aspire's Exceptions at bates 3.

decision, ERCOT operators executed a manual SCED run at 14:52, and the data captured in the 14:52 SCED run had a mitigating effect on prices.[15] However, this was not a price correction since no recalculation of prices occurred as a result of the manual SCED run.[16]

Third, regarding the interpretation of ERCOT Protocol § 6.3(4), both ERCOT and Staff explained in response to Aspire's motion for summary decision that while ERCOT Protocol § 6.3(4) states that ERCOT shall correct prices when a market solution is invalid, § 6.3(4) also states that a data input error *may* cause an invalid market solution.[17] The plain language and construction of ERCOT Protocol § 6.3(4) demonstrates that the meaning of "invalid market solution" in § 6.3(4) is subject to more than one interpretation. ERCOT has consistently interpreted § 6.3(4) as not requiring a price correction in cases of erroneous telemetry from a market participant and an external telemetry does not rise to the level of an "invalid market solution."[18] Because the plain language of § 6.3(4) is subject to more than one interpretation, as the ALJ explains "ERCOT's interpretation is not inconsistent with the text of the protocol...."[19]

IV. CONCLUSION

The text of ERCOT Protocol § 6.3(4) is ambiguous in relation to whether external telemetry errors require ERCOT to perform a price correction. Therefore, ERCOT's regular practice and interpretation of not requiring a price correction in case of erroneous external telemetry is consistent with ERCOT Protocol § 6.3(4). Overall, "ERCOT did not act contrary to ERCOT Protocol § 6.3(4) when it determined it could not correct prices impacted by the telemetry error on operating day May 30, 2019."[20]

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[15] Electric Reliability Council of Texas, Inc.'s Response to Aspire Commodities, LLC's Motion for Summary Decision at 3 (Mar. 27, 2020).

[16] *Id.*

[17] *Id.* at 2; Staff's Response to Motion for Summary Decision at 4.

[18] PFD at 4.

[19] *Id.*

[20] PFD at 8.

Dated: August 26, 2020

PUBLIC UTILITY COMMISSION OF
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CERTIFICATE OF SERVICE

I hereby certify that, unless otherwise ordered by the presiding officer, a true and correct copy of the foregoing document was transmitted by electronic mail to the parties of record on August 26, 2020 in accordance with the Order Suspending Rules issued in Docket No. 50664.

/s/ Rashmin J. Asher
Rashmin J. Asher