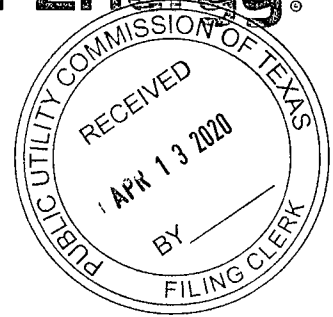


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April 13, 2020

Chairman Deann Walker
Commissioner Arthur D'Andrea
Commissioner Shelly Botkin
Public Utility Commission of Texas
1701 N. Congress Avenue
Austin, Texas 78701

Re: Project No. 50664, *Issues Related to the State of Disaster for the Coronavirus Disease 2019*

Dear Commissioners,

On March 13, 2020, Governor Abbott issued "[a] proclamation certifying that COVID-19 poses an imminent threat of disaster in the state and declaring a state of disaster for all counties in Texas." This proclamation triggered a series of actions within the electric sector and by the Commission.

Direct Energy applauds the Commission and other companies in the electric sector for quickly responding to what has become a significant crisis for individuals, families and businesses in Texas.¹ The Commission continues to rightfully focus our industry's support on assisting the most vulnerable Texans who are enduring hardship due to the COVID-19 pandemic, while also working to provide support for the critically important electric industry. The supply of electricity has been uninterrupted for millions of individuals, families and companies. In these first few weeks after the disaster declaration, much work has been done, as market participants have continued to meet our customers' changing needs.

COVID-19 presents an unprecedented challenge to homes and businesses throughout Texas. Restaurants and businesses have had to close overnight. Hundreds of thousands of Texans have lost their jobs. Direct Energy is committed to supporting these Texans through this disaster. It is also critical that the policies and programs our industry implements are thoughtful, so we can ensure that Texas can come back even stronger.

In working together over the coming months, the Commission, Transmission and Distribution Utilities (TDUs) and Retail Electricity Providers (REPs) must focus on helping those truly in need and providing the right incentives and support for all market participants. While policies must help those facing hardship today, good policy should also be focused on keeping the Texas electricity market working well so it can continue to provide safe, affordable and reliable electricity service into the future.

¹ This letter is sent on behalf of Direct Energy, LP, WTU Retail Energy, CPL Retail Energy, and First Choice Power.

This letter is intended to provide transparency into the voluntary and compliance measures Direct Energy has taken toward serving residential customers. Other than as set forth in this letter, Direct Energy will continue to work with its customers under the terms of their contracts with Direct Energy and the applicable laws and rules, including customer protection rules, which were in effect prior to issuance of the March 26, 2020 Orders.

I. Direct Energy's Actions in Response to COVID-19

Direct Energy undertook the following actions when the magnitude of the crisis became a reality and before the Commission was able to act:

- **Customers** – Direct Energy took the voluntary action to suspend disconnections for our most vulnerable customers, those who had previously qualified for the Low-Income List Administrator list, starting on March 18, 2020 and committed to providing this support until April 30, 2020. In addition, the company complied with a market-wide temporary disconnect moratorium process effectuated by the TDUs which ran from March 17, 2020 until March 30, 2020. While that moratorium is no longer active, Direct Energy will not submit disconnection requests to TDUs for any of its residential customers until April 27, 2020 to allow customers time to transition to the Commission's new polices (as discussed below).
- **Colleagues** – Direct Energy directed its professional office team members to work from home as early as March 9th to enable social distancing and quickly launched its internal "crisis management team" protocols to support employees, customers, and local communities working to stay safe. Wholesale market teams are operating under business continuity planning procedures at multiple sites to ensure power commitments to customers are met. Almost overnight, Direct Energy re-built its call center model to facilitate work-from-home solutions, so we could answer customers' calls away from large, centralized call centers. Recognizing the safety of employees, partners and customers, Direct Energy was the first REP to voluntarily suspend door-to-door and other face-to-face sales in Texas.
- **Community** – Direct Energy announced an additional \$100,000 contribution to customer support, increasing on-going customer assistance in 2020 from \$500,000 to \$600,000. These incremental funds are being distributed directly to customers' bills. The company has also retained all employees on the payroll thus far in recognition of the seriousness of the national economic situation.

The company's employees are proud of what has been accomplished under very trying circumstances and are grateful for the opportunity to contribute.

II. Direct Energy's Actions in Response to the Commission's ERP

While Direct Energy and other REPs were taking actions to help their customers, Direct Energy was also working with the Commission as it began to put in place a market-wide program that

could provide affected Texas families with a consistent and uniform approach to helping our community's most vulnerable. To this end, the Commission unanimously approved and implemented the COVID-19 Electricity Relief Program (ERP) on March 26, 2020. The ERP is currently scheduled to run for 6 months unless the Commission modifies the end date due to other circumstances or a directive is issued from the Governor. Through the ERP the Commission determined that all REPs shall offer additional protections beyond the Commission's standing rules to a specific segment of residential customers who are either already on the Low-Income List Administrator list or who are unemployed because of COVID-19 and who self-enroll through Texas Workforce Commission (TWC) protocols (hereafter referred to as "eligible customers"). As the Commission stated, the relief "should be reserved for those in dire circumstances."²

The ERP is also established to ensure adequate financial support for REPs so they can continue to provide service to their customers and pay their customer TDU costs, their generation supply costs, their employees and all their other suppliers. This network of companies working together is the bedrock for continuous and reliable power in Texas.

Importantly, the ERP establishes a reimbursement framework under which a REP can request from a TDU, only for eligible customers, the suppression of some, but not all, TDU charges, along with reimbursement of \$0.04 per kilowatt-hour to compensate for a portion of the REP's charges related to the usage of the eligible customer. This reimbursement is funded through a new nonbypassable TDU charge to all consumers in the competitive ERCOT market.

While the Commission has determined to begin the reimbursement process as of April 20, 2020, it is critical to remember that all customers have been under a disconnection moratorium since March 17, 2020 given the action of the TDUs. Direct Energy is hopeful that the Commission will conclude that reimbursement for all unpaid balances since the earliest responses to this crisis – and through the end of the ERP – will eventually be paid. Direct Energy appreciates the Commission's efforts to establish the ERP and looks forward to ongoing discussions about the effectiveness of the program as the COVID-19 situation continues to develop in our state.

In addition to the ERP providing eligible customers with financial benefits through the reimbursement framework mentioned above, there are other benefits provided to customers in the ERP, such as market-wide opportunity for deferred payment plans and on-going disconnect moratorium for eligible customers.

Direct Energy will convey to all its customers who contact the company and express bill payment hardship that they may opt for a COVID-19 Deferred Payment Plan (referred to as CDPP here for ease of reference) during the ERP period. Further, Direct Energy will provide customers who were already under a DPP before the ERP additional time to make payment. However, once a customer breaks an existing DPP or CDPP, Direct Energy will not necessarily offer the customer another DPP. Customers are neither required to provide any documentation to avail themselves of the CDPP, nor to make the initial down payment of the CDPP. Direct Energy is communicating

² PUC COVID-19 FAQ available at <http://www.puc.texas.gov/images/facts/PUCTX-COVID19-FAQ-FAQ.pdf>.

with both customers and local media to ensure that they understand this protection for eligible customers. Direct Energy will also disclose to all customers on a CDPP but who are not also eligible customers that they will be placed on a switch hold and they must make payments according to their payment plan or they may face disconnection for non-payment in accordance with the Commission's rules.

We expect that most but not all customers who experience payment difficulties caused by the COVID-19 pandemic will choose a CDPP and will also seek to enroll through the TWC protocols and become eligible customers. But these are really three distinct processes: (1) calling Direct Energy to inform the company about the customer's situation caused by COVID-19, (2) obtaining a CDPP from Direct Energy, and (3) working with the Texas Workforce Commission to enroll in unemployment assistance and be placed on the SOLIX data files.

For customers who call to inform of their hardship but do not want a CDPP but believe they would be an eligible customer, Direct Energy will provide a grace period of 30 calendar days ("hardship grace period") from the date of the phone call so they may enroll with the Texas Workforce Commission. Direct Energy will also provide the customer with contact information to the Texas Workforce Commission. If the customer does not become an eligible customer within the hardship grace period as reflected by the SOLIX data files, Direct Energy will initiate appropriate customer procedures, up to and including disconnect for non-payment in accordance with the Commission's rules. Direct Energy intends to send a disconnection notice to the customer, when warranted by the customer's balance, no earlier than the 15th day after the customer's phone call. But in no event will Direct Energy send a disconnection request to the TDU prior to end of the hardship grace period. Direct Energy will also inform the customer that there is only one hardship grace period during the ERP program. For customers who call us to inform us of their hardship and who do want a CDPP, Direct Energy will also provide a hardship grace period and will implement a CDPP as described above.

Direct Energy understands and confirms that we shall not disconnect for non-payment any eligible customer during the duration of the ERP program. Direct Energy understands that we will receive SOLIX data files each Friday during the ERP program which will allow us to identify in our systems eligible customers and suppress any disconnection requests.³ We will continue to bill eligible customers during the ERP program to ensure the customer knows their on-going balance, but we will not charge eligible customers any late fees. Direct Energy may elect to send a "disconnection for non-payment" notice to eligible customers but will not disconnect them for the term of the ERP.⁴

³ There is the possibility that Direct Energy may have a pending DNP request previously submitted and then receive a new SOLIX data file. We will work to reconnect these customers as quickly as possible and ask the Commission to forbear penalties if this situation occurs. Given that processing the SOLIX data file may be an intensive process, Direct Energy would recommend that the SOLIX data file be sent on Wednesday, so we have appropriate processing capacity, rather than on Friday as is currently scheduled.

⁴ Although Direct Energy will not disconnect eligible customers, as some Community Action Agencies require a disconnection notice from the company to receive financial benefits, it is important to not stop this process.

In terms of seeking reimbursement through the ERP process on behalf of our eligible customers, Direct Energy intends to follow the below described process. First, in no event will Direct Energy submit any MarkeTrak related to reimbursement earlier than April 20, 2020. Second, the company must have received confirmation that the customer is an eligible customer and must be on the SOLIX data files. Third, the company will offer all available tools to assist the customer with payments including a CDPP.⁵ But failure by the customer to accept a CDPP will not limit the company's submitting the MarkeTrak. The company will use outbound call blasting for postpaid customers and texting for prepaid customers to communicate the payment arrangement options. Fourth, the eligible customer must have a past due balance, and a "disconnect for nonpayment" notice must have been mailed for postpaid customers or a negative balance incurred and communicated for prepaid customers. When these four conditions have been met, Direct Energy will submit the appropriate MarkeTrak to receive the reimbursement and the suppression of some, but not all TDU charges. Considering the purpose for the Commission's plan to help customers and maintain a strong industry, Direct Energy would ask the Commission to focus all industry participants on processing these claims and distributing funds under the ERP as quickly as possible.

Our plans are to directly apply the benefits to each eligible customer's bill. The \$0.04 per kilowatt-hour reimbursement amount will be applied only after the cash is received from the TDU. Any TDU costs suppressed by the TDU will be automatically applied to the customer's bill as soon as those transactions occur. While these amounts will cover a significant portion of the customer's bill, the customer will still be liable for any outstanding amount.

Although the reimbursement is intended to help customers with their bills, it is also intended to help stabilize the electric industry with what will undoubtedly be significant bad debt expense, cash flow shortfalls, and much higher working capital costs for REPs. The Commission stated publicly in its FAQs that the "losses" from the ERP will be borne exclusively by REPs.⁶ The company is hopeful that the Commission will undertake reasonable measures to ensure just and fair compensation to all market participants who are stepping up to help stabilize the power market during this uncertain time.

Direct Energy remains committed to serving its customers and to supporting the communities in which the company operates during this unprecedented time. In the interest of ensuring continuing functionality of the Texas electricity market, Direct Energy will continue to treat customers who are not eligible customers as defined above according to the terms of their existing contracts, including the accrual of any applicable fees, except for making CDPP's available as discussed above for any customer who requests a deferred payment plan. The employees of Direct Energy commend the Commission for its leadership and support for Texas

⁵ If an eligible customer has not contacted us to discuss their participation in the ERP program, Direct Energy will seek to communicate with the customer to proactively offer a CDPP or other payment arrangement. Direct Energy will make at least three (3) efforts to reach the customer.

⁶ PUC COVID-19 FAQ available at <http://www.puc.texas.gov/images/facts/PUCTX-COVID19-FAQ-FAQ.pdf>.

consumers. Please contact Edward Ross at edward.ross@directenergy.com to answer any questions.

Sincerely,

Edward A. Ross III

Edward A. "Ned" Ross III
Director, Governmental Affairs