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PROJECT NO. 50664

ISSUES RELATED TO THE STATE OF §
DISASTER FOR CORONAVIRUS 2019 §

BEFORE THE PUBLIC UTILITY COMMISSION
OF TEXAS BY



**TEAM'S REQUEST FOR CLARIFICATION
REGARDING RESPONSE TO DISASTER DECLARATION AND
THE COVID-19 ELECTRICITY RELIEF PROGRAM**

The competitive retail electric market in Texas has and will continue to provide quality customer-facing services as our citizens battle against this extraordinary foe that is COVID-19. We realize it is not business as usual for anyone in Texas, and we appreciate the opportunity to work with the Public Utility Commission of Texas ("Commission") to implement mechanisms that ensure the health and safety of our most vulnerable populations. We appreciate the Commission's recognition that we cannot implement a one-size fits all approach across Texas when it comes to a regulatory response for electric, water, and telecommunication services.

Customer Experience in the Competitive Retail Electric Market

As the Commission knows, the experience of a customer in a monopoly market is much different than for customers in a competitive market. In the monopoly market, any waiver of disconnections serves as a deferral of amounts due, but in the end the customer is obligated to that same provider without other options. If a customer is unable to pay their electric bill, the commission order requiring the current provider to offer the customer an extended deferred payment plan is designed to allow customers to get through this transition. In the competitive market, many customers are unable or unwilling to agree to a deferred payment plan with their current retail electric provider ("REP), and these customers may find another provider who will provide electric service instead, even if they are disconnected. The effect of a moratorium on disconnection under current rules can result in the situation where the customer never pays for the power or delivery services received by that customer. This reality creates the need for the COVID-19 Electricity Relief Program ("ERP") – to ensure that cash flow that is not deferred is ultimately directed back into the market, not to support profits, but to ensure that the costs to supply and deliver the power are ultimately paid.

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I. ORDER DIRECTING CERTAIN ACTIONS AND GRANTING EXCEPTIONS TO CERTAIN RULES

Late Fees

The March 26th Order provided an unspecified exception to the rule regarding late fees in the competitive retail electric market, 16 Texas Administrative Code (“TAC”) §25.480(c). In keeping with the efforts to provide as least disruption as possible to the competitive market systems and to incent those who can pay to pay timely, we request clarification that any regulatory mandate for late fees be limited to those customers on the COVID-19 Relief List.¹

The policy reasons underlying this request are consistent with what we understand the Commission’s goals to be in this circumstance. For customers who are able to pay, the contractual late fee serves to encourage customers to pay timely. The timing of the customer payments lags the timing of “REP” payments to power suppliers. Late customer payments also lag the REPs obligation to pay the transmission and distribution utilities (“TDUs”). Further, late fees mitigate (but do not necessarily offset) costs incurred by REPs when carrying the customer’s past due balance, as well as the costs incurred to provide customer services such as communication with customers regarding the unpaid past due balance. Especially in a time where REPs are mandated to extend credit through deferred payment plans, and are incurring losses related to the disconnection moratorium associated with the COVID-19 ERP, it is even more imperative that a blanket late fee waiver not be imposed.

Any waiver of late fees should be narrowed to the customers who are most vulnerable in order to mitigate the financial strain on the entirety of the retail market and the remainder of the customers who pay timely.

Accordingly, we request the Commission consider the following clarifying language:

Based on the exception to 16 TAC 25.480(c) REPs may not charge late fees to premises while the premise is on the COVID-19 ERP eligibility list.

¹ Currently, the COVID-19 ERP List includes customers on the weekly COVID-19 ERP list and customers on the monthly Low Income Administrator List (LILA). The Commission’s third-party administrator, Solix, provides this list to retail electric providers (REPs).

II. ORDER RELATED TO COVID-19 ELECTRICITY RELIEF PROGRAM

Policy Intent of COVID-19 Electricity Relief Program

TEAM stands ready to implement the COVID-19 ERP adopted by the Commission on March 26, 2020. TEAM and its member REPs appreciate the diligent and earnest efforts undertaken by the Commission Chairman, Commissioners, and Staff during this disaster. The COVID-19 ERP is unprecedented and an extraordinary effort to help protect impacted electricity consumers and the competitive retail market. However, there are a few policy points that remain in question. TEAM would appreciate clarity on these points from the Commission. With this additional clarity, we are confident that the Staff can provide any necessary oversight for the stakeholders to work together to implement the response.

The Order Requires Other Solutions to be Emphasized Before Drawing on the Fund.

It should be recognized that under the Commission's Order the ERP Fund is the last resort for providing relief for customers for their unpaid invoices. First, the vast majority of customers appreciate that there is a cost to provide the essential service of electricity to power their homes, and they expect to pay their contracted rates to receive that service. When a customer contacts their REP and expresses an inability to pay, that customer will be encouraged to enter into a deferred payment plan or a payment arrangement to allow the customer time to transition through this difficulty. Affected customers may be unable to enter into a deferred payment plan and will be directed to a number of established mechanisms in the market for customer payment assistance that customers can reach through www.texas211.org. REPs have successfully worked with these social service agencies through established arrangements that allow payment assistance to customers in need.

Ultimately there may be some customers who are unable or unwilling to pay or enter into a DPP. Where there is a regulatory moratorium on disconnection for these customers the COVID-19 ERP provides a mechanism to socialize some of the cost of this financial assistance to customers.

Clarifications of Applicability of the ERP Fund

Accordingly, if the Commission could issue clarifications, the ERP fund can be targeted to reach these customers:

1. Not all low-income and unemployed individuals will need full relief from the ERP Fund for their electric service costs.
2. When a REP seeks reimbursement from the COVID-19 ERP to continue to provide service to a customer who would otherwise be subject to disconnection, the customer should receive relief for the costs reflected in the invoices that forms the basis of what would otherwise be a disconnection.
3. Unless and until a customer becomes current on payment, the customer will continue to receive financial relief under the ERP Fund.

Customer Relief from Delivery Charges

TEAM supports the essential nature of the regulatory asset for the TDUs as indicated in the Commission's Order to support the cost of electric delivery (i.e., wires) charges that are not charged to the REPs and are accordingly, not reflected on the customer's past due balance. There has been some confusion in the market with regard to what customer accounts are eligible for relief and when the customer should see that relief reflected on their account.

The Commission's COVID-19 ERP Order currently states:

TDUs will cease charging REPs for delivery charges, except securitization-related charges, related to customers identified as eligible for the COVID-19 Electricity Relief Program.²

Consistent with the clarifications requested above, TEAM understands the Commission's intent to be that REPs would only be able to seek relief from wires charges and energy cost offsets for eligible customers who meet the following conditions:

1. The customer has an inability to pay,

² Order Related to COVID-19 Electricity Relief Program at 7 (Mar. 26, 2020).

2. The customer is unable to find other means of payment assistance,
3. The customer is unable or unwilling to accept a REP's offer for a deferred payment plan, and
4. The customer is otherwise subject to disconnection.³

Accordingly, clarification of the language in the order is requested as follows:

TDUs will ~~ease~~ not charge REPs for delivery charges, except securitization-related charges, related to customers identified as eligible for the COVID-19 Electricity Relief Program for usage that was subject to disconnection during the Program.

TDU Verification of Fund Eligibility

Because the ERP is requiring all REPs to create new systems to implement the policy, the more opportunities there are to rely on established market mechanisms and to create automated cross-checks that do not rely on the human eye and manual data entry, the higher the chance of successful implementation. In this regard, it would provide a safeguard to ensure that the TDUs have access to the list of ESI-IDs (without customer identifying information). Accordingly, TEAM requests the following clarification be issued:

The Commission shall provide the TDUs with the ESI-IDs that are on the COVID-19 ERP list pursuant to the Commission's standing protective order. This list provided to the TDUs will not include any customer-specific identification.

This provision will help to ensure uniform implementation and mitigate misinterpretations or misunderstandings with regard to implementation of the intended disconnection protections, and will avoid improper submittals for draws on the Fund. Once the Commission authorizes the TDUs to have the list of ESI-IDs eligible for the COVID-19 ERP, the customers and stakeholders can work with Staff to ensure more reliable implementation and cross-checks for the ERP.

III. RECOGNIZING THE EMERGENCY NATURE OF THE PROGRAM

TEAM supports the timely provision relief to Texas' most vulnerable populations to help them through the immediacy of this crisis. The Commission and the Commission Staff have gone

³ If a customer enters into a deferred payment plan, "otherwise subject to disconnection," equates to the time when the customer has defaulted on the terms of that plan.

through herculean efforts to establish a means to get relief to those customers who have had a sudden and unexpected interruption in income. It is important to make sure that this program meets these immediate goals of addressing current bills that the affected customers are unable to pay, and that the COVID-19 ERP remains flexible as we move forward through this pandemic.

This is a rapidly evolving situation, and TEAM supports the Commission's flexible approach to refinement of the COVID-19 ERP upon receipt of new data. Re-evaluation and tailoring of the ERP as new data becomes available and other relief funds are distributed will help this industry and State determine how to continue to best serve the needs of all its citizens. As such, we request that any Commission Order continue to make clear that this program may be revised and not set any long-term expectations.

IV. SUMMARY OF EXTRA-MARKET EMERGENCY ACTIONS

The Commission took swift action following the Governor's Disaster Declaration as reflected in the Emergency Open Meeting held on March 16, 2020. Following that meeting, the TDUs took the Commission's lead and ceased disconnections for all customers regardless of customer class. That disconnection moratorium continued through March 29, 2020. The Commission subsequently ordered the REPs to cease disconnections of all customers who qualify for the COVID-19 ERP. All of these actions have had significant financial impact on the competitive retail electric market.

While the TDUs will experience some deferral of revenue, they will experience no loss of profit, and will in fact, earn a return on any deferred revenues. Payments to wholesale power suppliers and generators are also not directly affected by these extra-market regulatory actions unless REP defaults occur in the ERCOT market. These extra-market regulatory actions have created direct financial losses for REPs that will never be recouped. Even if there is some deferral of revenue through customers voluntarily entering into a deferred payment plan, that deferral does not come with an opportunity to earn a return on the deferred amounts. TEAM is not asking for a redesign of the market and cost of service ratemaking, nor are we looking for a regulatory mechanism for full recovery of REP direct costs and profits; however, we do request that the market be allowed to work, and that where fundamental market rules are changed, REPs not become the shock absorber that is required to support other segments of the market.

V. CONCLUSION

TEAM appreciates the Commission's time and attention to these important matters. The clarifications suggested by TEAM in this filing are intended to ensure alignment of the process of implementing the COVID-19 ERP with the goal of helping customers experiencing genuine financial hardship as a result of the COVID-19 pandemic in the most productive ways possible.

Respectfully submitted,

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