



Control Number: 51812



Item Number: 155

Addendum StartPage: 0

PROJECT NO. 51812

RECEIVED
2021 MAR 11 PM 4:34
PUBLIC UTILITY COMMISSION
TRAINING CLERK

ISSUES RELATED TO THE STATE §
OF DISASTER FOR THE FEBRUARY §
2021 WINTER WEATHER EVENT §

BEFORE THE
PUBLIC UTILITY COMMISSION
OF TEXAS

REQUEST FOR COMMISSION ACTION
AND RELIEF

For the reasons stated below, Hartman Income REIT Management, Inc.¹ hereby requests that the Commission take immediate action to preserve the integrity of the retail electric market on behalf of retail commercial customers.

We acknowledge that the pricing issues currently pending are creating a great deal of market uncertainty. Until those issues can be fully and appropriately addressed, we believe the Commission can “calm” the market by preventing negative outcomes that would affect retail commercial customers. We ask the Commission to take the following steps:

1. Order ERCOT to stop enforcing its protocols related to settlement timelines with respect to invoices with charges for the period of February 13-19, 2021.
2. Order ERCOT to stop enforcing its protocols related to defaults and mass transitions;
3. Require Retail Electric Providers (REPs) to bill customers who were on indexed plans tied to the wholesale rate during the period of February 13-19, 2021 a fixed rate;
4. Waive 16 TAC §25.214(d) and Section 4.6.2.1 of the Tariff for Retail Deliver Service, which related to TDU remedies for defaults by Competitive Retailers; and
5. Find that there exists a public emergency and imperative public necessity that constitutes good cause for granting exceptions to 16 TAC § 25.480(c), which relates to assessment of late fees on customers for delinquent bills.

Each of these requests is addressed in more detail, below.

ACTION THE COMMISSION SHOULD TAKE

1. Order ERCOT to stop enforcing its protocols related to settlement timelines with respect to invoices with charges for the period of February 13-19, 2021.

We would respectfully request, that until the issue of whether prices, as billed, should stand or be adjusted, that the PUCT order ERCOT to stop enforcing its protocols related to settlement timelines with respect to invoices which contain charges related to Winter Storm 2021. This will remove the pressure from market participants to pay those invoices and allow time for a deliberative process as to what the appropriate market solution. Specifically, pursuant to ERCOT Protocol 9.5.2(2)(b) and 9.5.2(d), we would ask the Commission to refrain from issuing the RTM Final Statement, which would otherwise be issued at the end of the 55th day following the operating day and the RTM True-Up Statement, which would be issued at the end of the 180th day after the Operating day, for operating days February 13-19, 2021. Further ERCOT

¹ Hartman Income REIT Management, Inc., currently owns and manages over 60 commercial real estate properties throughout Texas, including in Houston, Dallas and San Antonio.

protocol 9.5.12 allows the ERCOT Board to direct ERCOT to suspend the issuance of any settlement statement for the RTM to address unusual circumstances. We believe Winter Storm 2021 meets the intent of this protocol and believe the Commission can order this suspension.

2. Suspend Certain ERCOT Protocols related to Defaults and Mass Transitions

In most instances, the financial trauma inflicted upon the market was created by the sustained high energy prices from February 13-19, 2021. Those high energy prices have resulted in higher collateral calls, increased ancillary service charges, and could result in uplift to the remaining market participants. The question at issue is whether the market needs to receive payment now for charges resulting from the high energy prices (i.e., payment for higher collateral calls, increased ancillary service charges and uplift) while these underlying decisions are vetted through the deliberative process? In other words, can the Commission order ERCOT to forbear on their normal collections and default protocols while these underlying issues are heard by the Commission? The answer is yes, as the Commission has already acknowledged it has “complete authority” over ERCOT pursuant to §39.151(d).

Specifically, the Commission should order ERCOT to waive the following protocols stemming from a market participant’s payment default if such default stems from non-payment of collateral, ancillary service charges, or uplift charges stemming from Winter Storm 2021: 15.1.3.1, 16.1.1, 16.11.6.1.1, 16.11.6.1.2, 16.11.6.1.3, 16.11.6.1.6, 16.11.6.2.5, 16.11.6.2.6, 16.11.6.2.7.

We believe that retail commercial customers will directly benefit if they have the ability to remain with the REPs they chose, and those REPs are not forced out of the market due to the pricing anomalies they are facing. Forcing REPs to exit the market because they cannot pay bills that are suspect only serves to frustrate the competitive market and the retail customers it serves. By suspending the enforcement of ERCOT protocols related to REP defaults and mass transitions stemming from unpaid invoices related to Winter Storm 2021, the Commission can reassure the retail market that their chosen provider will not be unnecessarily forced out of business, leaving their customers to scramble for new contracts at a moment’s notice.

3. Require REPs to adjust prices for customers who were on indexed plans tied to the wholesale market during the period February 13-19, 2021.

Until the Commission has the ability to determine whether indexed plans were fully compliant with existing Commission rules, the Commission should order REPs to adjust the rates paid by customers on such plans until that issue is resolved. Pursuant to §25.475(d)(3), nothing prevents a REP from charging a price lower than what the contract would have otherwise required as that is beneficial to the customer and can be done so without notice to the customer.

Additionally, since each retail customer could file a complaint disputing the rates for that period of time, and by virtue of filing a complaint be relieved of any payment obligation until that dispute is heard², we simply request that the Commission consider all customer bills for indexed products to be in a state of dispute.

Under the normal provisions of §25.485(e)(2)(A), while a bill is under dispute a REP “shall not

² Pursuant to Subst. Rule 25.480(f)

initiate collections activities, including disconnection of service or report the customer's delinquency to a credit reporting agency with respect to the disputed portion of the bill." By ordering REPs to reprice the disputed period of the bill, REPs would be free to then collect the amount "not in dispute" pursuant to §25.485(e)(2)(B). By taking this step proactively, the Commission would avoid the necessity of having individual customers file complaints to seek this relief.

4. Waive 16 TAC §25.214(d) and Section 4.6.2.1 of the Tariff for Retail Deliver Service, which related to TDU remedies for defaults by Competitive Retailers

Further, the Commission should also find that good cause exists to waive section 4.6.2.1 of TDU tariffs related to defaults by Competitive Retailers for bills related to Winter Storm 2021. This would effectively prevent TDUs from taking any negative action against a REP that cannot pay its TDU invoices that may involve disputes related to Winter Storm 2021 particularly since the REP is effectively precluded by the Commission from collecting amounts owed to it by end-use customers through the imposition of the retail disconnect moratorium.

5. Find that there exists a public emergency and imperative public necessity that constitutes good cause for granting exceptions to 16 TAC § 25.480(c), which relates to assessment of late fees on customers for delinquent bills.

We believe that while the Commission resolves the pricing disputes that customers should not be asked to pay late fees for bills containing charges stemming from Winter Storm 2021, until such time as those pricing disputes are resolved by the Commission.

Sincerely,

Shane Cawood
Director of Operations – Asset Services
Hartman Income REIT
2909 Hillcroft Ave., Suite 420
Houston, TX 77057