



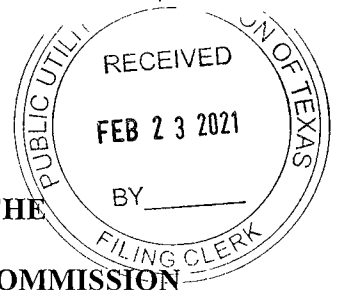
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DOCKET NO. 51812



OVERSIGHT OF THE ELECTRIC §  
RELIABILITY COUNCIL OF TEXAS §  
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BEFORE THE  
PUBLIC UTILITY COMMISSION  
OF TEXAS

**REQUEST FOR EMERGENCY ACTION**

COMES NOW, Young Energy, LLC dba Payless Power and requests that the Public Utility Commission (“Commission”) order the Electric Reliability Council of Texas (“ERCOT”) to deviate from its protocol deadlines and timing related to settlements, collateral obligations, and invoice payments and suspend the execution or issuance of invoices or settlements until issues are finalized by State leaders considering solutions to the financial challenges caused by the winter event. In support thereof, Petitioners show as follows:

I.

On February 21, 2021, the Commission issued an “Order Directing ERCOT to Take Action and Granting Exception to ERCOT Protocols” (hereafter simply “Order”) which explained:

In an attempt to protect the overall integrity of the financial electric market in the ERCOT region, the Commission concludes it is necessary to authorize ERCOT to use its sole discretion in taking actions under the ERCOT Nodal Protocols to resolve financial obligations between a market participant and ERCOT. It is appropriate that ERCOT's discretion include, but not be limited to, ERCOT's ability to take the following actions:

- Deviate from protocol deadlines and timing related to settlements, collateral obligations, and invoice payments;
- Utilize available funds, such as undistributed congestion revenue right auction revenues, to cover short-paying invoice recipients;
- Relax credit requirements and releasing cash or other collateral to provide short-term market-participant liquidity;
- Deviate from protocol requirements regarding the maximum amount of default uplift invoices;
- Suspend breach notifications to certain market participants for failure to make payment or provide financial security; and
- Produce reconciliation settlements following market stabilization.

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## II.

In Response to the Order, ERCOT issued this notice on February 22, 2021:

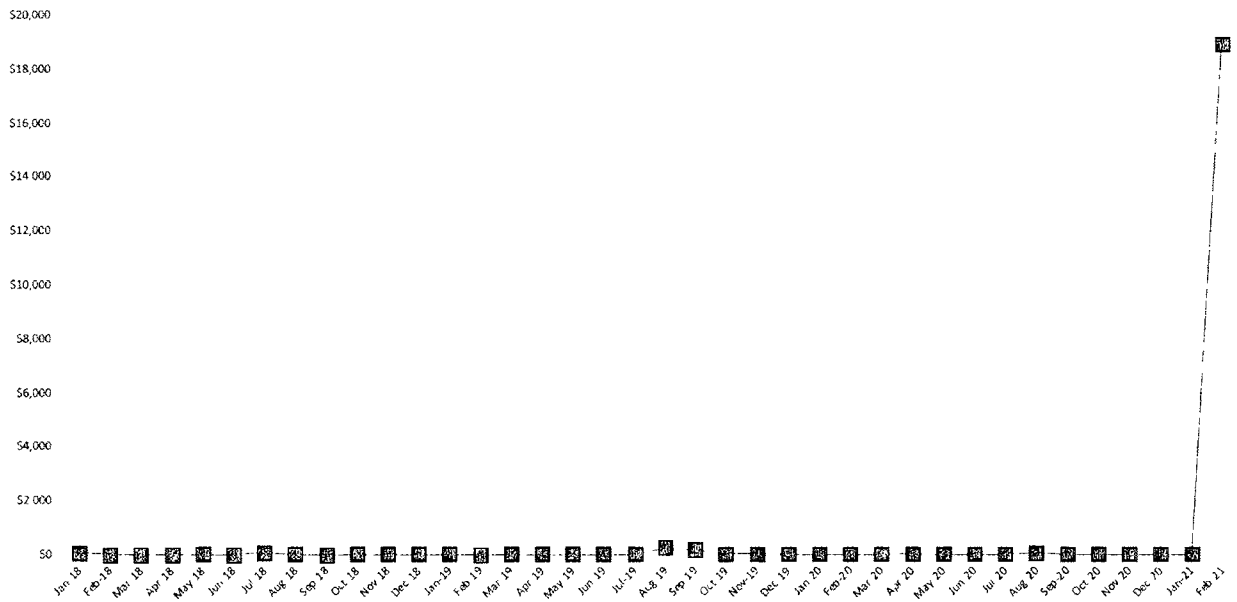
ERCOT is temporarily deviating from Protocol deadlines and timing related to settlements, collateral obligations, and Invoice payments while prices are under review. Invoices or settlements will not be executed until issues are finalized by State leaders considering solutions to the financial challenges caused by the winter event, which is anticipated to occur this week.

Then one day later and without any explanation, ERCOT issued a new notice saying that "ERCOT has ended its temporary deviation from protocol deadlines and timing related to settlements, collateral obligations, and invoice payments. Invoices and settlement will be executed in accordance with Protocol language."

Apparently, ERCOT no longer wishes to provide opportunity to State leaders to finalize issues relating to the challenges of the recent winter weather events. Thus, REPs such as Payless Power must turn to the Commission for emergency relief. Payless Power, REPs generally, and their customers will suffer irreparable injury without Commission action. The exorbitant and extraordinary costs expected to be passed on to REPs in billings for charges for the past week can be expected to drive many REPs from the marketplace thereby decreasing consumer choice and consolidating market shares to a very few survivors. Such a result would be anti-competitive and undermine the competitive marketplace that has heretofore benefitted consumers.

The following chart shows the dramatic cost increase anticipated by Payless Power for Ancillary Services:

Ancillary Service Costs by Month



III.

The Commission’s Order noted that PURA §39.151(d) gives the Commission complete authority over ERCOT. The Commission can also rely on the following:

- 16 TEX. ADMIN CODE § 25.501(a) provides that ERCOT determines market clearing prices of energy and other ancillary services in the ERCOT market unless otherwise directed by the Commission.
- PURA § 39.151(d-4) provides that the Commission may “resolve disputes between an affected person and an independent organization and adopt procedures for the efficient resolution of such disputes.”
- PURA §35.004(e) provides: “The commission shall ensure that ancillary services necessary to facilitate the transmission of electric energy are available at reasonable prices with terms and conditions that are not unreasonably preferential, prejudicial, discriminatory, predatory, or anticompetitive. In this subsection, ‘ancillary services’ means services necessary to facilitate the transmission of electric energy including load following, standby power, backup power, reactive power, and any other services as the commission may determine by rule.”
- PURA § 39.001(d) provides: “Regulatory authorities ... shall authorize or order competitive rather than regulatory methods to achieve the goals of this chapter to the greatest extent feasible and shall adopt rules and issue orders that are both practical and limited so as to impose the least impact on competition.”

WHEREFORE, PREMISES CONSIDERED, Payless Power requests that the Commission immediately restore the deviation to ERCOT Protocols as was originally issued by ERCOT on February 22, 2021, and provide such other and further relief as may be appropriate and necessary.

Respectfully Submitted,

*Mark Foster*

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