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Docket No. 51812

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

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BEFORE THE
PUBLIC UTILITY COMMISSION
OF TEXAS

Docket No. 51812

OVERSIGHT OF THE ELECTRIC
RELIABILITY COUNCIL OF TEXAS

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BEFORE THE
PUBLIC UTILITY COMMISSION
OF TEXAS

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PUBLIC UTILITY COMMISSION

**PETITION FOR EMERGENCY RELIEF
OF CHEVRON PHILLIPS CHEMICAL COMPANY LP
FOR EXTENSION OF TEXAS ADMINISTRATIVE CODE FILING DEADLINES**

On Friday March 12, 2021, the Public Utility Commission (the “Commission”) issued its ORDER DIRECTING ERCOT TO EXTEND CERTAIN DEADLINES AND GRANTING AN EXCEPTION TO CERTAIN SECTIONS OF THE ERCOT NODAL PROTOCOLS, Item Number 162 Control Number 51812 (the “3-12 Order”). Petitioner Chevron Phillips Chemical Company LP (“CPChem”) faces a situation comparable to that of the parties that petitioned for the relief granted by the 3-12 Order. However, CPChem and other similarly situated parties impacted by the February 2021 Winter Weather Event may not be permitted to utilize procedures in ERCOT Nodal Protocols 9 or 20 to pursue relief related to ERCOT pricing. CPChem requests, on an emergency basis, that the Commission issue a further order that likewise extends, by six months, any applicable deadlines for complaints directly to the Commission, including the 35-day formal complaint deadline at 16 Texas Administrative Code § 22.251(d).

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I.

CPChem is a leading manufacturer of chemicals and polymers and is one of the largest industrial electricity users in Harris County, Texas. CPChem also operates substantial facilities in other parts of Texas. During the February 2021 Winter Weather Event, CPChem reduced electricity usage, but still required electric power to maintain critical functions such as safe and effective storage of volatile and/or potentially hazardous chemicals.

CPChem contracts with an intermediary electric power provider to purchase power for its facilities and, through that arrangement, has exposure to prevailing rates and charges implemented by ERCOT. CPChem has not yet received its invoice for electric usage during the February 2021 Winter Weather Event, but based on available information calculates that such invoice could reflect tens of millions of dollars in above-normal charges due to ERCOT pricing decisions during the February 2021 Winter Weather Event.

II.

CPChem desires to preserve and pursue its rights to challenge ERCOT's pricing determinations as necessary to protect its rights and interests. However, CPChem cannot properly present such a challenge at present, as required by ordinarily applicable administrative deadlines. It may take weeks or months for ERCOT, the Commission, the legislature, and private actors including CPChem's electricity provider to sort out the related facts. In addition to the broader uncertainties, CPChem has not even received from its provider its electric power invoice reflecting the degree and amounts to which ERCOT's pricing determinations may have impacted CPChem's charges. CPChem would be irreparably harmed and prejudiced if forced to immediately make a formal complaint to the Commission with respect to pricing determinations during the February 2021 Winter Weather Event.

III.

The circumstances described above place CPChem in a situation comparable to parties directly affected by the Commission's 3-12 Order providing for extended deadlines for certain ERCOT dispute resolution mechanisms. However, it appears that the 3-12 Order is not broad enough to afford such relief to CPChem.

CPChem is an ERCOT *member*, but does not have a Market Participant membership, and for purposes of any action seeking to vindicate rights related to the February 2021 Winter Weather Event, CPChem may be required to file directly with the Commission under 16 Tex. Admin. Code §22.251(c) rather than the ERCOT Nodal Protocols. Past administrative decisions acknowledge that dispute resolution provisions of the Nodal Protocols may be inapplicable to certain parties.¹

Section 22.251(d) states that a “formal complaint shall be filed [with the Commission] **within 35 days** of the ERCOT conduct complained of.” If this provision applies to ERCOT actions taken during the February 2021 Winter Weather Event, such deadlines could be as early as the week of March 22, 2021, and the Commission could begin receiving such filings from CPChem and others as parties make efforts, based on less-than-full information currently available, to preserve their rights.

For reasons similar to those which led to the Commission's 3-12 Order, CPChem would be irreparably harmed and prejudiced if required to file a formal complaint directly with the Commission by a deadline falling within the week of March 22, 2021, with respect to issues related to the February 2021 Winter Weather Event.

¹ See, e.g., Docket No. 49673, Complaint of Aspire Commodities, LLC Against the Electric Reliability Council of Texas, Inc., Order No. 6 Denying Motion to Dismiss and Addressing Other Procedural Matters at 4–6; Docket No. 50852, Complaint of JBJQ Ranch for a Review of the Conduct of the Electric Reliability Council of Texas, Inc. Under 16 TAC § 22.251, Order No. 4 Relating to the ERCOT Nodal Protocols at 1.

IV.

WHEREFORE, PREMISES CONSIDERED, CPChem petitions the Commission, on an emergency basis, to issue an order similar and complementary to the Commission's 3-12 Order, extending for six months any deadline under the Texas Administrative Code, including 16 Tex. Admin. Code § 22.251(d), for a party to file a formal complaint with the Commission relating to the February 2021 Winter Weather Event. In the alternative, CPChem requests, at a minimum, that such relief be granted specifically to CPChem.

Respectfully Submitted on March 18, 2021, by:

REYNOLDS FRIZZELL LLP

/s/ Jean C. Frizzell _____

Jean C. Frizzell

State Bar No. 07484650

jfrizzell@reynoldsfrizzell.com

Nathan M. Smith

State Bar No. 24053060

nsmith@reynoldsfrizzell.com

1100 Louisiana Street, Suite 3500

Houston, Texas 77002

Phone: (713) 485-7200

Fax: (713) 485-7250

**ATTORNEYS FOR CHEVRON PHILLIPS
CHEMICAL COMPANY LP**