



Control Number: 51812



Item Number: 64

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PROJECT NO. 51812

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

2021 MAR -4 PM 3:26
BEFORE THE
PUBLIC UTILITY COMMISSION
OF TEXAS
FILING CLERK

**COALITION OF COMPETITIVE RETAIL
ELECTRIC PROVIDERS SECOND
REQUEST FOR EMERGENCY ACTION**

I. Wholesale Market Issues

The Coalition of Competitive Retail Electric Providers¹ (CCR) applauds the action taken by the Commission on March 3, 2021 ordering ERCOT to implement IMM recommendation #2. IMM recommendation #2 sought to invoke the “failure to provide” settlement treatment for all ancillary services that were not provided in real time for operating days February 14 through February 19, 2021.

We also appreciate the Commission’s tentative support for IMM recommendation #1², which seeks to reprice all day-ahead ancillary services clearing prices to cap them at the System-Wide Offer Cap (SWCAP) of \$9,000 per MWh for operating days February 15 through February 20, 2021. We would urge the Commission to order the implementation of IMM recommendation #1 at its Open Meeting on Friday, March 5, 2021.

We believe this action is required by the Public Utility Commission of Texas, (“PUCT” or “Commission”) to avoid irreparable harm to the Texas electric market, its participants, and the public while the Commission, policymakers, and other industry stakeholders consider longer term solutions to what is now a financial crisis. Specifically, the CCR agrees with the IMM that for operating days February 15 through February 20, 2021 ERCOT should, at a minimum,

¹ The Coalition of Competitive Retailers supporting this filing including those in Attachment One.

² See Potomac Economics Letter to Commissioners dated March 1, 2021 filed in Docket 51812

reprice all day-ahead ancillary services (AS) clearing prices to the cap them at the System-Wide Offer Cap (SWCAP) of \$9,000 per MWh.

Additionally, upon Commission approval of IMM Recommendation #1, we agree with the IMM that the Commission should order ERCOT to complete them in the order specified by the IMM; namely to resettle the day-ahead market to cap the AS prices first, then initiate the “failure to provide” settlement.

Finally, we would also continue to urge the Commission to order ERCOT to implement the recommendations advanced by TEAM in its February 19, 2021 filing in this docket. We agree with TEAM that the Commission should instruct ERCOT to remove the administrative price adder consistent with the Commission's Order Directing ERCOT to Take Certain Actions and as of 1:00 am on February 18, 2021. We further urge the Commission to direct ERCOT to correct prices consistent with this Order back to 1:05 am on February 18, 2021 at the time ERCOT removed the firm load shed instructions to the transmission and distribution utilities. The Commission should also remove the administrative price adder, applied as a result of the Commission order from February 15, 2021, in its entirety. This order is inconsistent with the ERCOT tariff and artificially inflated prices in a manner that is prejudicial to generators without merit and is unnecessarily punitive to load serving entities. It is imperative that these steps be taken to avoid, or at least mitigate, irreparable harm to the competitive retail market including both retail electric providers and their customers. Failure to take this measure will likely have a lasting negative impact on the competitive electricity marketplace and will likely discourage future investment in the Texas retail market.

Commission's Authority to Order ERCOT Actions

As discussed in our prior filing, the Commission has previously noted that PURA §39.151(d) gives the Commission complete authority over ERCOT. The Commission can also rely on the following authority:

- 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)(6) 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."

II. Disconnect Moratorium

At its emergency meeting on Sunday, February 21, 2021, the PUCT prohibited retail electric providers (REPs) from sending a request to disconnect a customer for nonpayment to transmission and distribution utilities. Your order further prohibited transmission and distribution utilities from disconnecting a customer for nonpayment. The order also expressly applied to prepaid customers. The order also continued the requirement, existing since the Governor's COVID emergency declaration, that retail electric providers continue to offer a deferred payment plan to customers upon request.

We urge the Commission to rescind the disconnect for nonpayment (DNP) moratorium it imposed. The CCR understands that in adopting its order the Commission was protecting consumers who may have been enrolled on prepaid, indexed plans tied directly to the wholesale price of electricity. As we all know, that price spiked the week of February 14, 2021 leaving these customers with enormous credit balances owed on their accounts. However, it is the CCR's belief that the REP offering this plan is no longer serving customers in Texas. As a result, the need for this type of emergency, blanket protection has ended.

As REPs return to their normal billing practices (for both prepay and postpay customers), REPs need customers to pay their bills. REPs are already obligated to work with customers who express an inability to pay per the requirement to offer access to deferred payment plans. The imposition of a broad disconnect moratorium on this market only serves to incent customers to believe they will not have to pay the bills they are accruing for electricity. Further, by imposing a DNP moratorium on REPs while simultaneously allowing ERCOT to resume normal invoicing and settlement timelines under its protocols, only serves to further hamper REPs abilities to meet its market obligations.

If the Commission finds elimination of the existing DNP moratorium untenable, the CCR would propose keeping the DNP moratorium through March 31, 2021 but allow REPs to automatically place delinquent (or prepay accounts that have a negative account balance greater than \$50) accounts on a deferred payment plan (DPP) with a switch-hold for all bills issued (or negative account balances) on or before March 31, 2021.

This solution provides REPs some certainty that the customer bill will be paid while providing the customer additional time to make such payments. By creating a mechanism that incents customer payment, REPs would not be forced to raise their rates in the future to socialize the cost of higher customer defaults created by this DNP moratorium. Should this option be

chosen, the Commission could mandate the DPP terms as those already specified in §25.480(j)(2)(B) for postpay customers or §25.498(i)(6) for prepay customers, or other terms the Commission may find appropriate. The CCR's would further agree that all DPPs automatically entered into by operation of this provision be provided to the customer as normally required by §25.480(j)(5) for postpay customers or §25.498(i)(9) for prepay customers.

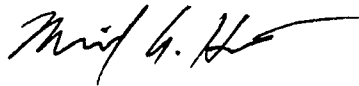
III. Late Fees

At your open meeting on March 3, 2021 you discussed allowing REPs to resume their normal billing and late fee processes given that accurate meter reading information had been provided by the TDUs. However, the orders issued following the open meeting failed to rescind your order dated February 21, 2021 whereby you granted an exception to §25.480(c) as relates to a REPs ability to impose a late fee on delinquent bills. The CCR's would ask the Commission to rescind its order so that REPs can resume assessing late fees on delinquent accounts in accordance with §25.480(c).

IV. Prayer

WHEREFORE, PREMISES CONSIDERED, the Coalition of Competitive Retailers respectfully requests that the Commission immediately order ERCOT to take the actions described herein. Additionally, we request that the Commission immediately rescind its February 21, 2021 order as relates to the imposition of late fees and the ability of REPs to disconnect delinquent accounts, or alternatively with respect to the DNP moratorium, limit its scope as addressed above. The CCR further requests such other and further relief to which it shows itself entitled.

Respectfully Submitted,

By: 
Miguel A. Huerta
State Bar No. 00787733

**THE LAW OFFICE OF MIGUEL A.
HUERTA, PLLC**

7500 Rialto Blvd., Ste. 250
Austin, Texas 78735
512-502-5544 (Telephone)
512-532-0757 (Facsimile)
miguel@mhuertalaw.com

**ATTORNEY FOR THE COALITION OF
COMPETITIVE RETAILERS**

Attachment One

Coalition of Competitive Retail Electric Providers Supporting this Motion

Background

The Coalition of Competitive Retailers is an ad hoc group of competitive Retail Electric Providers that joined together in its desire to address the market issues stemming from the February 2021 Winter Weather Emergency.

Participants in this filing:

GridPlus Texas Inc. (GridPlus)

LPT LLC (Liberty Power)

Summer Energy LLC

Brooklet Energy Distribution LLC

Pogo Energy LLC

Alliance Power Company LLC

3000 Energy Corp. (Penstar Power)

Pulse Power LLC

Volt Electricity Provider LP

174 Power Global Retail Texas LLC dba Chariot Energy