



Control Number: 51812



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PROJECT NO. 51812

ISSUES RELATED TO THE STATE OF TEXAS PUBLIC UTILITY COMMISSION
DISASTER FOR THE FEBRUARY 2021 WINTER WEATHER EVENT
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PETITION FOR EMERGENCY RELIEF

TO THE HONORABLE PUBLIC UTILITY COMMISSION OF TEXAS:

Rayburn Country Electric Cooperative, Inc. (“Rayburn”) requests that the Public Utility Commission of Texas (the “Commission”) order the Electric Reliability Council of Texas, Inc. (“ERCOT”) to deviate from the deadlines and timing in its Protocols and Market Guides and direct ERCOT (i) to refrain from sending any additional invoices or settlement statements for electric energy or collateral calls, (ii) to issue a formal forbearance notice and suspend the obligation to pay or settle any such invoices or statements that have been or are subsequently delivered, (iii) to refrain from sending any notice of breach or default for failure to pay such invoices or settlement statements, and (iv) to refrain from terminating any agreement with ERCOT, for or relating to power purchases and sales during the period of February 14, 2021 through and including February 19, 2021 (the “February Winter Storm”) unless and until the Texas executive and legislative branches investigate, address and otherwise resolve the issues related to the February Winter Storm and the resulting financial crisis in the ERCOT market on a statewide basis across the entire energy industry.

In support, Rayburn shows as follows:

I. BACKGROUND

Rayburn is a Texas-based not-for-profit generation and transmission electric cooperative that provides wholesale electric energy to its four electric distribution cooperative members.¹ Rayburn, through its four members, provides power to approximately 225,000 customers — of which 90% are residential customers — in Eastern Dallas County and Northeast Texas. Rayburn and its members are the sole source of electricity for those customers.

On February 14, 2021, ERCOT began issuing public appeals for energy conservation. Shortly after midnight on February 15, 2021, ERCOT declared an Energy Emergency Alert Level 1 calling on all available power supplies, including power from other grids. Over the next hour, ERCOT elevated to an Energy Emergency Alert Level 2, and at 1:25 AM on February 15, 2021, elevated to an Energy Emergency Alert Level 3. At Energy Emergency Alert 3, ERCOT ordered transmission providers to shed load in order to reduce demand on the system. The load shedding took the form of rotating outages; however due to the stress on the grid, many Texans experienced outages lasting several days. While demand for power skyrocketed during the February Winter Storm, power plants tripped offline and natural gas lines froze. As a result, natural gas prices soared and the cost to produce electricity increased dramatically.

On February 16, 2021, pursuant to the Commission's "complete authority"² over ERCOT, the Commission directed ERCOT to adjust energy prices because "[i]f customer load is being shed, scarcity is at its maximum, and the market price for the energy needed to serve that load should

¹ Rayburn's member cooperatives are Fannin County Electric Cooperative, Inc., Farmers Electric Cooperative Inc., Grayson-Collin Electric Cooperative, Inc. and Trinity Valley Electric Cooperative.

² PURA § 39.151(d).

also be at its highest.”³ Following the Commission’s order, ERCOT set prices at the System Wide Offer Cap (\$9,000 per MWh). In the early morning of February 18, 2021, ERCOT cancelled controlled outage orders as supply began to exceed demand, however, ERCOT did not remove the \$9,000 per MWh price cap until February 19, 2021, thirty-two hours later.

As a result, Rayburn expects to receive invoices from ERCOT totaling approximately \$735 million for the six day period of February 14–19, 2021. That amount represents an almost 92,000% increase from Rayburn’s normal February weekly bill from ERCOT, which is approximately \$800,000. As a not-for-profit electric cooperative owned by its distribution cooperative members, Rayburn lacks the financial means to absorb this cost without passing it on to its members, and they to their customers, which means that if immediate action is not taken, their customers will receive invoices in excess of \$3,200 for just one week of power. On average, these customers pay \$150 per month in electricity supply costs. These costs would be financially devastating for these residential customers within Rayburn’s members’ service territories.⁴

On February 21, 2021, in recognition of the enormous financial toll the February Winter Storm and ERCOT’s actions would have on the ERCOT market participants, the Commission directed ERCOT to “[d]eviate from protocol deadlines and timing related to settlements, collateral obligations, and invoice payments,” among other things.⁵ In response to the February 21 Order, ERCOT issued a notice on February 22, 2021 that:

³ *Oversight of the Electric Reliability Council of Texas, Project No 51617, Second Order Directing ERCOT to Take Action and Granting Exception to Commission Rules* (Feb. 16, 2021).

⁴ Thirty-seven percent of American households would have difficulty paying an unexpected \$400 debt. *See Report on the Economic Well-Being of U.S. Households in 2019*, Federal Reserve (May 2020), <https://www.federalreserve.gov/publications/2020-economic-well-being-of-us-households-in-2019-dealing-with-unexpected-expenses.htm>. An unexpected \$3,200 electricity bill for one week’s use of electricity would be catastrophic for any residential customer.

⁵ *Order Directing ERCOT to Take Action and Granting Exception to ERCOT Protocols, Project No. 51812* (February 21, 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.

However, one day later, ERCOT reversed course and issued a second notice stating 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.”

ERCOT’s cessation of its temporary deviation from protocol deadlines is having a catastrophic effect on ERCOT market participants. On March 1, Brazos Electric Power Cooperative, the oldest power cooperative in Texas, filed for Chapter 11 bankruptcy after receiving \$2.1 billion in invoices from ERCOT for the period of February 13–19.⁶ On March 3, Just Energy Group, Inc., a retail energy provider, said it could experience losses of approximately \$250 million from the February Winter Storm.⁷ Additionally, committees in both chambers of the Texas Legislature have been conducting hearings into the February Winter Storm and its disruption of the ERCOT market. Absent, the emergency relief requested in this petition, Rayburn and its members may be forced into bankruptcy as a result of ERCOT’s excessive invoices.

II. DISCUSSION

The Commission has broad powers, especially during or related to an emergency, and the Commission continues to exercise this authority in issuing orders related to the February Winter Storm. The Commission’s February 16 and February 21 Orders note that under PURA § 39.151(d)

⁶ See Voluntary Petition for Non-Individuals Filing for Bankruptcy, *In re Brazos Electric Power Cooperative, Inc.*, Case No. 21-30725 filed on March 1, 2021 in the U.S. Bankruptcy Court for the S.D. of Texas.

⁷ Just Energy Group, Inc. has also filed a Petition for Emergency Relief from ERCOT’s Protocols. See Just Energy Group, Inc.’s Petition for Emergency Relief, Project No. 51812 (March 3, 2021).

that the Commission has “complete authority” over ERCOT. The Commission also has authority to grant exceptions to any requirements in its rules for “good cause.”⁸ Earlier today, the ERCOT Independent Market Monitor submitted a letter stating that ERCOT overcharged power companies \$16 billion for electricity during the Winter Storm.⁹ Such an enormous overcharge would certainly be the basis for good cause. The Commission should immediately exercise its authority to preserve the competitive electricity market while providing the Texas legislative and executive branches the opportunity to determine the proper solutions to resolve the market and consumer issues from the February Winter Storm. Alternatively, granting Rayburn the relief it requests herein would allow Rayburn the opportunity to explore good faith negotiations with ERCOT on the settlement statements and invoices incurred during the February Winter Storm.

Therefore, Rayburn respectfully requests the Commission order ERCOT to deviate from the Protocols and Market Guides and to direct ERCOT (i) to refrain from sending any additional invoices or settlement statements for electric energy or collateral calls, (ii) to issue a formal forbearance notice and suspend the obligation to pay or settle any such invoices that have been or are subsequently delivered, (iii) to refrain from sending any notice of breach or default for failure to pay such invoices or settlement statements, and (iv) to refrain from terminating any agreement with ERCOT, for or relating to power purchases and sales during the period of February 14, 2021 through and including February 19, 2021, until the Texas executive and legislative branches have

⁸ PUC Subt. R. § 22.5(b).

⁹ See *IMM Recommendation PUCT Project No. 51812* (March 4, 2021) (“ERCOT continued to hold prices at [value of lost load] by inflating the Real-Time On-Line Reliability Deployment Price Adder for an additional 32 hours through the morning of February 19. This decision resulted in \$16 billion in additional costs to ERCOT’s market, of which roughly \$1.5 billion was uplifted to load-serving entities to provide make-whole payments to generators for energy that was not needed or produced ... the IMM recommends that the Commission direct ERCOT to correct the real-time prices from 0:00 February 18, 2021, to 09:00 February 19, 2021, to remove the inappropriate pricing intervention that occurred during that time period.”)

time to investigate, address and resolve the issues related to the February Winter Storm and the resulting financial crisis in the ERCOT market on a statewide basis across the entire energy industry. The Commission has the authority to order this deviation.¹⁰

The requested waiver should be granted because it is limited in scope, addresses an immediate problem related to emergency circumstances, provides time for market participants to deal with financial consequences of the storm, avoids a potential melt-down of the entire energy industry, does not dictate any final resolution, and allows time for a thoughtful statewide resolution without prematurely forcing entities into Bankruptcy to protect their consumers. The waiver seeks actions plainly within the Commission's jurisdiction and does not require the Commission to make a determination as to whether Rayburn should be relieved of its payment obligations.

III. REQUEST FOR RELIEF

Given the Commission's complete authority over ERCOT, and authority to grant exception to any requirements under its rules for good cause, the Commission should take all necessary action to preserve the competitive electric market. Specifically, Rayburn requests that it be granted the relief requested herein, together with any other relief to which Rayburn may be entitled.

Respectfully submitted,



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Dated: March 4, 2021

¹⁰ See PURA § 39.151(d).