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**DOCKET NO. 52322**

<b>APPLICATION OF THE ELECTRIC</b>	<b>§</b>	
<b>RELIABILITY COUNCIL OF TEXAS,</b>	<b>§</b>	
<b>INC. FOR A DEBT OBLIGATION</b>	<b>§</b>	<b>PUBLIC UTILITY COMMISSION</b>
<b>ORDER TO FINANCE UPLIFT</b>	<b>§</b>	
<b>BALANCES UNDER PURA CHAPTER</b>	<b>§</b>	
<b>39, SUBCHAPTER N, FOR AN ORDER</b>	<b>§</b>	<b>OF TEXAS</b>
<b>INITIATING A PARALLEL DOCKET,</b>	<b>§</b>	
<b>AND FOR A GOOD CAUSE EXCEPTION</b>	<b>§</b>	

**AMENDED DIRECT TESTIMONY**

**OF**

**BILL BARNES**

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## **ATTACHMENT**

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1 **DIRECT TESTIMONY OF**

2 **BILL BARNES**

3 **I. IDENTIFICATION AND QUALIFICATIONS**

4 **Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.**

5 **A.** My name is Bill Barnes. My business mailing address is 1005 Congress Avenue, Suite  
6 950, Austin, Texas 78701.

7 **Q. BY WHOM ARE YOU EMPLOYED AND IN WHAT CAPACITY?**

8 **A.** I am employed by NRG Energy, Inc. ("NRG") as Senior Director, Regulatory Affairs.

9 **Q. WHAT ARE YOUR EDUCATIONAL AND PROFESSIONAL**  
10 **QUALIFICATIONS?**

11 **A.** I received a Masters of Electrical Engineering degree from the University of Texas at  
12 Austin and a Bachelors of Chemical Engineering degree from the University of Dayton.

13 **Q. PLEASE STATE YOUR WORK EXPERIENCE.**

14 **A.** In my present capacity at NRG, I am responsible for covering Electric Reliability Council  
15 of Texas ("ERCOT") market design issues for the retail and wholesale markets, providing  
16 analysis, commercial advice, and regulatory advocacy at the Public Utility Commission of  
17 Texas ("Commission"). In addition, I serve as an elected member of the ERCOT Technical  
18 Advisory Committee, Wholesale Market Subcommittee, and Protocol Revision  
19 Subcommittee in the ERCOT stakeholder process.

20 Prior to joining NRG, I was a Vice President in US Power Trading at J Aron &  
21 Company, the commodities trading subsidiary of Goldman Sachs. During my 5 years at  
22 Goldman Sachs, I was responsible for commodity trading strategies, managing various  
23 power generation assets, conducting power market design and policy research, and  
24 providing strategic commercial advice on power deals.

25 Before joining Goldman Sachs, I was the Manager of Market Settlements at  
26 ERCOT. While at ERCOT, I spent over 7 years managing, designing, and maintaining the

1 commercial aspects of the ERCOT nodal power market. I began my career at Accenture  
2 working on competitive retail markets and ISO market development.

3 My resume is provided as Attachment NRG-1.

## 4 **II. PURPOSE AND SCOPE OF TESTIMONY**

### 5 **Q. WHAT IS THE PURPOSE AND SCOPE OF YOUR TESTIMONY?**

6 **A.** The main purpose of my testimony is to support the application filed by ERCOT in this  
7 proceeding (“Application”) and the adoption of a financing order under the Public Utility  
8 Regulatory Act (“PURA”) § 39.653. In addition, I include recommendations for certain  
9 proposals in ERCOT’s Application, including:

- 10 • the manner and method of how distributed funds should be prorated;
- 11 • the method of calculating the PURA § 39.652(4) “Uplift Balance”;
- 12 • the documentation requirements for Load Serving Entities (“LSEs”);
- 13 • the allocation of the PURA § 39.652(5) “Uplift Charges” and true-up process; and
- 14 • the transmission-level customer opt-out process.

### 15 **Q. PLEASE SUMMARIZE YOUR RECOMMENDATIONS.**

16 **A.** My recommendations are as follows:

- 17 • If necessary, the Commission should prorate the securitization proceeds based on  
18 the method used in the ERCOT short-payment process outlined in Nodal Protocol  
19 § 9.19(1)(d).
- 20 • The Commission should determine the types of costs eligible for securitization in  
21 this proceeding while reserving the submission of documentation proving exposure  
22 for a parallel proceeding.
- 23 • The Commission should determine the eligibility of costs based on ERCOT  
24 settlement data, which includes LSE-specific information in the settlement extracts.
- 25 • A determination of eligible costs should not occur until ERCOT has finalized all  
26 resettlements related to the operating days during the period of emergency so that  
27 LSEs have final amounts of eligible costs as invoiced from ERCOT to base their  
28 claims.

- As part the cost documentation process, the Commission should require LSEs to provide ERCOT settlement statements, invoices, and settlement extract data showing their exposure. In addition, depending upon the relationship between an LSE and its Qualified Scheduling Entity (“QSE”), LSEs may need to provide copies of any contracts that govern that relationship and the allocation of charges from ERCOT settlements to supplement the ERCOT settlement data.
  - If the Commission determines netting is appropriate, the Commission should also require LSEs to provide the settlement information reflecting the payment and charge amounts received by affiliated generation and if necessary, to provide customer agreements demonstrating costs directly assessed to these customers that are not reflected in the netted amount.
- ERCOT should calculate the Uplift Charge in a manner similar to the ERCOT System Administration Fee calculation process, calculating a MWh-based fee on an annual basis that all LSEs will pay through a separate invoice process. This charge should be set conservatively so that it would be unlikely that ERCOT under collect funds required to service the bonds.
- ERCOT should only true up the Uplift Charge once per year.
- The Commission should approve a form notification as part of the financing order that retail electric providers (“REPs”) may send to their transmission-level customers such as the draft notice provided by Joint Intervenors with their statement of position.
- Transmission-level customers should be required to execute an opt-out by a fixed date and send executed copies to both their current REP of Record and their REP of Record during the period of emergency. REPs should be required to provide notice of the opt-out to ERCOT, who would reduce each LSE’s verified costs accordingly. Transmission-level customers who do not affirmatively opt out should be included in the securitization process.

### **III. BACKGROUND AND ERCOT APPLICATION**

**Q. PLEASE EXPLAIN THE REGULATORY BACKGROUND OF THIS PROCEEDING.**

**A.** During Winter Storm Uri, the ERCOT market endured a prolonged period of scarcity which resulted in extraordinary costs for LSEs related to ancillary services and the Reliability Deployment Price Adder (“RDPA”). Together, these charges accounted for

1       \$3.42 billion in approximate costs to LSEs,<sup>1</sup> a substantial portion of which was borne by  
2       NRG. The Texas Legislature passed HB 4492 amending PURA to include a new  
3       Subchapter N, which provides a means of securitizing these unexpected costs incurred by  
4       LSEs. ERCOT filed the Application in accordance with the requirements of PURA  
5       Subchapter N seeking the issuance of a Debt Obligation Order.

6       **Q.     WHAT COSTS ARE ELIGIBLE FOR SECURITIZATION UNDER PURA**  
7       **SUBCAPTER N?**

8       **A.**     Up to \$2.1 billion of RDPA charges and ancillary service charges in excess of the system-  
9       wide offer cap (“SWCAP”) incurred by LSEs during Winter Storm Uri may be securitized.<sup>2</sup>  
10      This amount is referred to in PURA § 39.652(4) as the “Uplift Balance.”

11      **Q.     HOW DOES ERCOT PROPOSE TO SECURITIZE THE UPLIFT BALANCE?**

12      **A.**     ERCOT proposes to securitize the Uplift Balance under the process set forth in PURA  
13      § 39.653, wherein ERCOT will create a special purpose entity that would issue bonds equal  
14      to the Uplift Balance plus expenses. The proceeds of the bonds would be distributed to  
15      LSEs through their Qualified Scheduling Entities (“QSEs”). LSEs are then required to pass  
16      on funds to retail customers that were directly assessed and paid for the RDPA and ancillary  
17      services charges over SWCAP.

18      **Q.     IS THE ADOPTION OF A FINANCING ORDER UNDER PURA § 39.653 IN THE**  
19      **PUBLIC INTEREST?**

20      **A.**     Yes. Securitization of the Uplift Balance under PURA § 39.653 will inject much needed  
21      liquidity into the ERCOT market. Securitization will support the financial integrity of the  
22      wholesale power market following Winter Storm Uri and provide for direct relief to  
23      consumers assessed the costs covered by the securitization.

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<sup>1</sup> ERCOT's Response to NRG Energy, Inc.'s First Request for Information, NRG No. 1-1 (Aug. 2, 2021).  
This figure excludes costs incurred by Brazos Electric Cooperative and Rayburn Electric Cooperative.

<sup>2</sup> PURA § 39.652(4).

1 **IV. PRORATION OF ELIGIBLE COSTS**

2 **Q. CAN THE COMMISSION AUTHORIZE ERCOT TO SECURITIZE ALL OF THE**  
3 **COSTS ELIGIBLE FOR INCLUSION IN THE UPLIFT BALANCE?**

4 **A.** The Commission cannot yet determine the exact amount of costs eligible to be included in  
5 the Uplift Balance until LSEs' submit proof of exposure and electric cooperatives, river  
6 authorities, municipal utilities, certain retail electric providers ("REPs") and transmission-  
7 level customers have the opportunity to opt out. For this reason, the Commission cannot  
8 know if eligible costs will exceed the \$2.1 billion cap imposed by PURA § 39.652(4).  
9 NRG recommends that the Commission set forth a method for prorating the securitization  
10 proceeds in the event the eligible costs exceed \$2.1 Billion.

11 **Q. HOW SHOULD THE COMMISSION PRORATE THE PROCEEDS IF ELIGIBLE**  
12 **COSTS EXCEED \$2.1 BILLION?**

13 **A.** NRG urges the Commission to prorate eligible costs, to the extent necessary, using the  
14 method used in the ERCOT short-payment process outlined in Nodal Protocol § 9.19(1)(d).  
15 Under this approach, the eligible costs would be reduced based on a pro-rata basis of  
16 monies owed to each recipient. For example, if the total amount of eligible costs equaled  
17 \$4.2 Billion, and ABC LSE had \$100 in eligible costs, then under the short-pay method,  
18 ABC LSE would only receive \$50 in proceeds from the securitization process. This  
19 method of prorating proceeds distributed to each eligible LSE is fair and has been utilized  
20 in the ERCOT settlement and billing process since the start of the market. Adopting a  
21 different proration methodology that prioritizes certain market participants or the types of  
22 specific eligible costs would result in an inequitable distribution of proceeds.

23 **Q. WHAT ARE THE BENEFITS OF PRORATING THE PROCEEDS IN THE**  
24 **METHOD YOU HAVE SUGGESTED?**

25 **A.** The pro-rata reduction of all LSE's eligible costs consistent with ERCOT's short-payment  
26 process ensures equitable distribution of proceeds to all recipients and is a method already  
27 familiar to ERCOT market participants.



## V. DETERMINING COSTS ELIGIBLE FOR INCLUSION IN THE UPLIFT BALANCE

**Q. WHERE AND WHEN SHOULD THE COMMISSION DETERMINE WHICH COSTS ARE ELIGIBLE FOR INCLUSION IN THE UPLIFT BALANCE?**

A. NRG believes that the Commission should determine the types of costs eligible for inclusion in this proceeding. However, I agree with ERCOT that the submission of documentation to determine the exact dollars that are eligible should be determined in the parallel proceeding in Docket No. 52364.<sup>3</sup>

**Q. HOW SHOULD THE COMMISSION DETERMINE WHICH COSTS ARE ELIGIBLE FOR INCLUSION IN THE UPLIFT BALANCE?**

A. The ultimate decision of what costs are eligible will be based in part on the Commission's decision regarding whether eligible costs should be netted against payments received by an affiliate of the LSE. However, regardless of the approach taken, the Commission should base its determinations on ERCOT settlement data, which includes LSE-specific information in the settlement extracts.<sup>4</sup> This will enable ERCOT to independently verify the accuracy of each LSE's submission.

**Q. WHAT OTHER STEPS SHOULD PRECEDE A FINAL DETERMINATION OF ELIGIBLE COSTS?**

A. ERCOT should finalize all resettlements related to the operating days during the period of emergency so that LSEs have final amounts of eligible costs as invoiced from ERCOT to base their claims. Recently, ERCOT has issued notices of some resettlements that will change the amount of some LSEs eligible costs.<sup>5</sup> ERCOT must have this process finalized so that the potential universe of eligible costs are known to LSEs and are verifiable by ERCOT.

<sup>3</sup> ERCOT Application at 1.

<sup>4</sup> See Nodal Protocol § 2.3(1)(c) (“The MIS must include any available information that may be used by a Qualified Scheduling Entity (QSE) to estimate or verify bills for all ERCOT-provided settlements.”)

<sup>5</sup> See e.g., Notice M-B071321-03 Real-Time Market Resettlements for Operating Days February 17 – 19, 2021 (July 27, 2021), [http://www.ercot.com/services/comm/mkt\\_notices/archives/5955](http://www.ercot.com/services/comm/mkt_notices/archives/5955) (adjusting components of the RDPA by nearly \$50 million.)

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2 **VI. LSE REQUIRED DOCUMENTATION**

3 **Q. HAS ERCOT PROPOSED A METHOD FOR LSEs TO DOCUMENT COSTS**  
4 **ELIGIBLE FOR INCLUSION IN THE UPLIFT BALANCE?**

5 **A.** No. ERCOT has merely suggested that such a verification occur in a parallel proceeding.  
6 Commission Staff has opened Docket No. 52364, *Proceeding for Eligible Entities to File*  
7 *an Opt Out Pursuant to PURA § 39.653(d) and for Load-Serving Entities to File*  
8 *Documentation of Exposure to Costs Pursuant to the Debt Obligation Order in Docket No.*  
9 *52322*, that would serve as this parallel docket.

10 **Q. DO YOU HAVE A RECOMMENDATION AS TO HOW THE COMMISSION**  
11 **SHOULD REQUIRE LSEs TO DOCUMENT COSTS ELIGIBLE FOR**  
12 **INCLUSION IN THE UPLIFT BALANCE?**

13 **A.** Yes. The Commission should require LSEs to provide ERCOT settlement statements,  
14 invoices, and settlement extract data showing their exposure. ERCOT settlement data is  
15 the best source of LSE documentation because it can be verified by ERCOT. In addition,  
16 depending upon the relationship between an LSE and its QSE, copies of any contracts that  
17 govern that relationship and the allocation of charges from ERCOT settlements may be  
18 needed as well to supplement the ERCOT settlement data.

19 **Q. ARE THERE OTHER ISSUES THAT MAY IMPACT THE TYPES OF REQUIRED**  
20 **DOCUMENTATION?**

21 **A.** Yes. If the Commission decides that netting is appropriate, LSEs should also be required  
22 to provide the settlement information reflecting the payment and charge amounts received  
23 by affiliated generation. This documentation should also be based on ERCOT settlement  
24 statements, invoices, and settlement extract data. Under a netting approach, it also may be  
25 necessary to provide customer agreements to demonstrate costs directly assessed to these  
26 customers that are not reflected in the netted amount.<sup>6</sup>

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<sup>6</sup> See NRG Energy, Inc.'s Response to Order Requesting Briefing at 6 (Aug. 4, 2021) (describing NRG's recommended approach to netting in the event the Commission determines it is appropriate.)

1                   **VII. ALLOCATION OF UPLIFT CHARGES, INVOICES AND THE TRUE UP**  
2                   **PROCESS**

3   **Q.   WHAT HAS ERCOT PROPOSED REGARDING ALLOCATION AND**  
4   **INVOICING OF CHARGES TO LSEs.**

5   **A.**   In order to recover the amounts financed pursuant to the Debt Obligation Order, ERCOT  
6   proposes to implement an “Uplift Charge” to QSEs as provided for in PURA § 39.652(5).  
7   ERCOT proposes to allocate the Uplift Charges on a daily basis using the load ratio share  
8   for the “day prior” for LSEs represented by the QSE. ERCOT will exclude the LSEs and  
9   customer load that has opted out. The charge will be determined based on the monthly  
10   amortization amount, and ERCOT proposes to create a new daily settlement invoice for  
11   the Uplift Charges only. In addition, ERCOT proposes that each Counterparty representing  
12   a QSE for an LSE to post collateral equal to four months of the LSE’s estimated Uplift  
13   Charges.

14   **Q.   DO YOU HAVE ANY RECOMMENDATIONS REGARDING THE ALLOCATION**  
15   **AND INVOICING OF UPLIFT CHARGES AS PROPOSED BY ERCOT?**

16   **A.**   Yes. It is NRG’s understanding that ERCOT has determined it is feasible to use adjusted  
17   metered load values from initial, final, and true up settlements to determine the load ratio  
18   share for the allocation of Uplift Charges rather than calculating a load ratio share based  
19   on load data for the day prior, and that is it possible to calculate a fixed dollar per MWh  
20   fee. NRG agrees with this approach. NRG also recommends that the fee amount be  
21   published well in advance so LSEs can manage their costs appropriately.

22   **Q.   PLEASE EXPLAIN WHAT ADDITIONAL RECOMMENDATIONS YOU HAVE**  
23   **REGARDING THE ERCOT PROPOSAL TO ALLOCATE UPLIFT CHARGES?**

24   **A.**   ERCOT should calculate the Uplift Charge in a manner similar to the ERCOT System  
25   Administration Fee calculation process.<sup>7</sup> Under this approach, ERCOT would calculate a  
26   MWh-based fee on an annual basis that all LSEs will pay through a separate invoice  
27   process. This charge should be set conservatively so that it would be unlikely that ERCOT  
28   under collect funds required to service the bonds. ERCOT should institute an annual true

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<sup>7</sup> Nodal Protocol § 9.16.1.

up process where it credits LSEs for over or under collections by adjusting the next year's fee. The amount of the Uplift Charge would be determined for each year at least 30 days in advance and published for LSEs to review and account for. Such an approach would provide fee predictability and stability for LSEs, while also ensuring that ERCOT collects enough funds to cover its bond payments. Finally, this approach should also prove easier for ERCOT to administer as it does not require ERCOT to calculate charges daily.

**Q. HOW DOES ERCOT PROPOSE TO TRUE UP UPLIFT CHARGES?**

**A.** ERCOT proposes to use an annual true-up mechanism to correct any over or under collections during the preceding twelve months. However, ERCOT also proposes to conduct a true-up six months following the closing of a series of bonds, as well as a quarterly true up calculation and other true-ups as needed.

**Q. DO YOU HAVE CONCERNS WITH ERCOT'S TRUE-UP PROPOSAL?**

**A.** Yes. The number of true ups proposed by ERCOT and the changes required to the Uplift Charges as a result will make it difficult for REPs to predict and manage costs.

**Q. PLEASE DESCRIBE ANY SUGGESTED CHANGES YOU HAVE TO THE ERCOT TRUE-UP PROCESS.**

**A.** NRG recommends implementing a true-up process that occurs annually. So long as the Uplift Charge incorporates a reasonable margin to protect against unexpected decreases in demand, an annual true-up process provides sufficient coverage for bond holders. The true-up process is further addressed in the statement of position filed by Joint Intervenors in this docket (NRG is a member of the Joint Intervenors).

**VIII. TRANSMISSION-LEVEL CUSTOMER OPT-OUT PROCESS**

**Q. HAS ERCOT PROPOSED A MECHANISM THAT TRANSMISSION-LEVEL CUSTOMERS COULD USE TO OPT OUT.**

**A.** No. However, Commission Staff has proposed a process that required transmission-level to opt in.

1 **Q. HOW SHOULD THE COMMISSION ENABLE TRANSMISSION-LEVEL**  
2 **CUSTOMERS TO OPT OUT OF THE SECURITIZATION PROCESS IF THEY SO**  
3 **CHOOSE?**

4 **A.** NRG recommends that the Commission approve a form notification as part of the financing  
5 order that REPs may send to their transmission-level customers such as the draft notice  
6 provided by Joint Intervenors with their statement of position. NRG recommends that the  
7 Commission order LSEs to provide this notice by a fixed date. The order should require  
8 transmission-level customers to execute the opt-out by a fixed date, and ensure both their  
9 current REP of Record, and REP of Record during the period of emergency receive an  
10 executed copy. The opt-out process should require REPs to provide this information to  
11 ERCOT. ERCOT would then reduce each LSE's verified costs accordingly to reflect the  
12 transmission-level customer opt-outs. Transmission-Level customers who do not  
13 affirmatively opt out should be included in the securitization process.

14 **IX. CONCLUSION**

15 **Q. DOES THIS CONCLUDE YOUR DIRECT TESTIMONY?**

16 **A.** Yes.