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**Received - 2021-08-20 02:54:06 PM**

**Control Number - 52321**

**ItemNumber - 184**

**PUC DOCKET NO. 52321**

<b>APPLICATION OF ELECTRIC</b>	<b>§</b>	<b>PUBLIC UTILITY COMMISSION</b>
<b>RELIABILITY COUNCIL OF TEXAS,</b>	<b>§</b>	
<b>INC. FOR A DEBT OBLIGATION</b>	<b>§</b>	<b>OF TEXAS</b>
<b>ORDER PURSUANT TO CHAPTER 39,</b>	<b>§</b>	
<b>SUBCHAPTER M, OF THE PUBLIC</b>	<b>§</b>	
<b>UTILITY REGULATORY ACT</b>	<b>§</b>	

**REBUTTAL TESTIMONY OF**

**OF**

**SEAN TAYLOR**

**ON BEHALF OF**

**ELECTRIC RELIABILITY COUNCIL OF TEXAS, INC.**

**AUGUST 20, 2021**

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**GLOSSARY OF ACRONYMS AND DEFINED TERMS**

Application	ERCOT's Application for a Debt Obligation Order under PURA Chapter 39, Subchapter M
Brazos	Brazos Electric Cooperative, Inc.
Commission	Public Utility Commission of Texas
Comptroller	Texas Comptroller of Public Accounts
CRR	Congestion Revenue Rights
CRR Account Holder	Congestion Revenue Right Account Holder
ERCOT	Electric Reliability Council of Texas, Inc.
LSE	Load Serving Entity
NRG	NRG Energy, Inc.
Period of Emergency	The period beginning 12.01 a.m., February 12, 2021 and ending 11:59 p.m., February 20, 2021
PURA	Public Utility Regulatory Act
QSE	Qualified Scheduling Entity
Rayburn	Rayburn Country Electric Cooperative, Inc.
REP	Retail Electric Provider
Subchapter M	PURA §§ 39.601-39.609

**PUC DOCKET NO. 52321**

<b>APPLICATION OF ELECTRIC RELIABILITY COUNCIL OF TEXAS, INC. FOR A DEBT OBLIGATION ORDER PURSUANT TO CHAPTER 39, SUBCHAPTER M, OF THE PUBLIC UTILITY REGULATORY ACT</b>	<b>§ § § § § §</b>	<b>PUBLIC UTILITY COMMISSION  OF TEXAS</b>
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**REBUTTAL TESTIMONY OF SEAN TAYLOR**

**I. INTRODUCTION**

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

2   A.    My name is Sean Taylor. My business address is 2705 West Lake Drive, Taylor, Texas  
3        76574.

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

5   A.    I am employed by Electric Reliability Council of Texas, Inc. (“ERCOT”), as Vice President  
6        and Chief Financial Officer.

7   **Q.    ARE YOU THE SAME SEAN TAYLOR THAT PROVIDED DIRECT  
8        TESTIMONY ON BEHALF OF ERCOT IN THIS DOCKET?**

9   A.    Yes.

## II. PURPOSE OF REBUTTAL TESTIMONY AND RECOMMENDATIONS

### 1 Q. WHAT IS THE PURPOSE OF YOUR REBUTTAL TESTIMONY?

2 A. The purpose of my rebuttal testimony is to respond to the statements of position of the  
3 following parties:

- 4 • Enel Trading North America, Inc. (“Enel”);
- 5 • Golden Spread Electric Cooperative, Inc. (“Golden Spread”);
- 6 • Lower Colorado River Authority and LCRA WSC Energy (collectively “LCRA”);
- 7 • Office of Public Utility Counsel (“OPUC”); and
- 8 • TerraForm Power Operating, LLC (“Terraform”).

9 In addition, I respond to the direct testimony of Bill Barnes, who testifies on behalf of NRG  
10 Energy, Inc. (“NRG”).

### 11 Q. WHAT ARE YOUR RECOMMENDATIONS IN THIS CASE?

12 A. I recommend that the Commission reject parties’ efforts to change the priority in which  
13 ERCOT intends to apply the proceeds of the Default Balance<sup>1</sup> financing. I recommend  
14 that the Commission instead find it is appropriate for ERCOT to first use Default Balance  
15 proceeds to defray the costs of implementing the Debt Obligation Order, including the  
16 repayment of existing debt. Under existing covenants for fixed rate private placement debt,  
17 ERCOT cannot issue new debt without the consent of the lenders of the debt. Thus, issuing  
18 new debt without either paying off the existing debt or obtaining the lenders’ consent to  
19 issue new debt would place ERCOT in default on its current debt obligations. Moreover,

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<sup>1</sup> “Default Balance” means an amount of money of not more than \$800 million that represents (1) amounts owed to ERCOT by competitive wholesale market participants from the Period of Emergency that would be or have been uplifted to other wholesale market participants; (2) financial revenue auction receipts used by ERCOT to temporarily reduce amounts short-paid to wholesale market participants related to the Period of Emergency; and (3) reasonable costs incurred by ERCOT to implement a debt obligation order under PURA § 39.603, including the cost of refinancing existing debt owed by ERCOT.

1 the payment of amounts to short-paid market participants is more likely to preserve the  
2 integrity of the market and to restore liquidity than fully replenishing the Congestion  
3 Revenue Rights (“CRR”) auction funds at this time.

4 I also recommend that the Commission find it is appropriate for ERCOT to use  
5 \$419 million of the Default Balance proceeds to address amounts owed to ERCOT by  
6 competitive market participants for the Period of Emergency. Of that \$419 million, \$243  
7 million of the Default Balance proceeds will be used to pay short-paid market participants.  
8 ERCOT has refined the calculation showing how much of the CRR auction proceeds were  
9 used to pay the obligations of competitive wholesale market participants that short-paid  
10 ERCOT, and that calculation shows that short-paid market participants have currently  
11 received the benefit of approximately \$176 million of the CRR auction proceeds attributed  
12 to the short payments by market participants other than Brazos Electric Cooperative, Inc.  
13 (“Brazos”) and Rayburn Country Electric Cooperative, Inc. (“Rayburn”) for invoices due  
14 on February 25, 2021; this amount is in addition to the approximately \$600 million in CRR  
15 auction proceeds that ERCOT attributed to reducing the short payments by Brazos for  
16 invoices due on February 25, 2021. Therefore, approximately \$243 million of the Default  
17 Balance proceeds (rather than \$318 million as identified in my direct testimony) should be  
18 used to pay the amounts owed by terminated competitive wholesale market participants to  
19 short-paid market participants. I explain the change in methodology and amount in further  
20 detail below.

21 Finally, I recommend that the Commission find it is appropriate for ERCOT to  
22 apply the balance of the \$800 million Default Balance remaining after addressing the above

- 1 items to reduce the outstanding CRR auction receipts used by ERCOT to temporarily
- 2 reduce amounts short-paid to market participants.



### **III. PRIORITIZATION OF DEFAULT BALANCE PROCEEDS**

**Q. WHAT TOPIC DO YOU DISCUSS IN THIS SECTION OF YOUR REBUTTAL TESTIMONY?**

1 A. I address parties' arguments that ERCOT should apply the proceeds of the Default Balance  
2 financing in a different priority than what ERCOT proposed in its direct testimony.

3 **Q. PLEASE DESCRIBE THE PRIORITY THAT ERCOT PROPOSED IN ITS**  
4 **DIRECT TESTIMONY.**

5 A. ERCOT proposed that the proceeds of the Default Balance financing be applied first to  
6 defray the costs incurred to implement the Debt Obligation Order, including the costs to  
7 retire or refinance the existing ERCOT debt. Second, ERCOT proposed that approximately  
8 \$318 million of the Default Balance proceeds be paid to market participants that were short  
9 paid for activity during the Period of Emergency. ERCOT proposed that the remaining  
10 amounts be used to replenish the CRR revenues.

11 **Q. DOES ERCOT CONTINUE TO TAKE THE SAME POSITION IN REBUTTAL**  
12 **TESTIMONY?**

13 A. ERCOT maintains the same position with respect to the priority of the proceeds. However,  
14 upon further investigation, ERCOT has concluded that the amount of Default Balance  
15 proceeds to be paid to short-paid market participants should be approximately \$243  
16 million, not \$318 million. I explain this modification in a later section of my testimony.

17 **Q. WHAT POSITIONS DO THE OTHER PARTIES TAKE ON THE PRIORITY OF**  
18 **THE PROCEEDS?**

1 A. The parties have put forth a variety of proposals. Some agree with ERCOT's proposed  
2 priority;<sup>2</sup> some propose that the proceeds be paid first to short-paid market participants;<sup>3</sup>  
3 and some propose that the CRR auction revenues be replenished first.<sup>4</sup>

4 **Q. SHOULD THE COMMISSION ACCEPT ANY OF THE PARTIES'**  
5 **RECOMMENDATIONS TO APPLY THE PROCEEDS IN A WAY THAT**  
6 **DIFFERS FROM WHAT ERCOT PROPOSES?**

7 A. No. It is important that ERCOT be able to defray the costs incurred to implement the Debt  
8 Obligation Order and hold at least \$50 million of the \$800 million Default Balance in  
9 reserve until after the funding of both the Default Balance and the Uplift Balance.<sup>5</sup>

10 **Q. WHY MUST \$50 MILLION OF THE PROCEEDS OF THE DEFAULT BALANCE**  
11 **FUNDING BE HELD IN RESERVE UNTIL AFTER BOTH SUBCHAPTER N AND**  
12 **SUBCHAPTER M OBLIGATION FINANCING DOCUMENTS ARE FINALIZED?**

13 A. ERCOT currently has two existing credit facilities. The first is a term facility that is subject  
14 to the terms of a Note Purchase Agreement. The present unpaid balance of that term debt  
15 is approximately \$45 million, and if it must be prepaid, there are penalties due in the  
16 amount of approximately \$5 million. The debt outstanding under that Note Purchase  
17 Agreement will be repaid in full by September 2032.

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<sup>2</sup> See, e.g., Austin Energy Statement of Position at 2.

<sup>3</sup> See, e.g., Enel Statement of Position at 4; Terraform Statement of Position at 3-4; LCRA Statement of Position at 2.

<sup>4</sup> See, e.g., Golden Spread Statement of Position at 1; OPUC Statement of Position at 5.

<sup>5</sup> PURA § 39.652(4) defines the Uplift Balance as "an amount of money of not more than \$2.1 billion that was uplifted to load-serving entities on a load ratio share basis due to energy consumption during the Period of Emergency for reliability deployment price adder charges and ancillary services costs in excess of the commission's system-wide offer cap, excluding amounts securitized under Subchapter D, Chapter 41. The term does not include amounts that were part of the prevailing settlement point price during the Period of Emergency."

1           The second credit facility is a \$100 million revolving credit facility that is subject  
2 to the terms of a Credit Agreement. Presently there is no balance owing on the revolving  
3 credit facility and thus ERCOT would incur no additional costs to retire the Credit  
4 Agreement.

5           Under the terms of both the Note Purchase Agreement and the Credit Agreement,  
6 ERCOT has agreed that it will not: (i) create or allow any subsidiary to create additional  
7 indebtedness; (ii) sell any assets; or (iii) enter into any material agreements without the  
8 consent of its existing lenders. If ERCOT takes any action that violates those negative  
9 covenants, it will result in an event of default, and ERCOT may lose access to its revolving  
10 credit facility, which it may need to access from time to time to meet short-term working  
11 capital needs. ERCOT would also be required to repay in full (with certain significant  
12 prepayment penalties) the indebtedness outstanding under the Note Purchase Agreement.  
13 Therefore, until ERCOT can show its existing lenders the final terms of both the  
14 Subchapter M and the Subchapter N debt obligation documents, ERCOT is not in a  
15 position to obtain a waiver of the violations of the negative covenants that the Subchapter  
16 M and Subchapter N debt obligations would create absent consent.

17 **Q. WILL ERCOT SEEK WAIVERS OF VIOLATIONS OF THE NEGATIVE**  
18 **COVENANTS, AND IF SO, WHEN?**

19 A. Yes, ERCOT will seek waivers. ERCOT anticipates that the Subchapter N debt obligation  
20 facility will close after the Subchapter M facility. Therefore, ERCOT intends to hold up  
21 to \$50 million of the Subchapter M facility proceeds in reserve to pay off the existing  
22 indebtedness subject to these negative covenants in case ERCOT does not receive a waiver  
23 of the negative covenants from both of its lenders. If ERCOT does not receive such a

1 waiver, it will use the funds to prepay the existing term debt facility. If ERCOT does  
2 receive a waiver, it will release the \$50 million held in reserve, which will then be used to  
3 replenish CRR auction funds.

4 **Q. MR. BARNES HAS REQUESTED THAT ERCOT EXPLAIN WHY IT NEEDS THE**  
5 **EXISTING DEBTHOLDERS' CONSENT TO TAKE ON ADDITIONAL DEBT IF**  
6 **THAT DEBT WILL BE ISSUED BY A BANKRUPTCY-REMOTE SPECIAL**  
7 **PURPOSE ENTITY.<sup>6</sup> CAN YOU ADDRESS THAT QUESTION?**

8 A. Yes. As I noted earlier, the negative covenants apply to both ERCOT and any subsidiary  
9 of ERCOT. Because the bankruptcy-remote special purpose entity will be a subsidiary of  
10 ERCOT, the negative covenants apply to it as well.

11 **Q. DO YOU ANTICIPATE USING ANY OTHER SIGNIFICANT PORTIONS OF**  
12 **THE PROCEEDS OF THE SUBCHAPTER M FACILITY TO IMPLEMENT THE**  
13 **DEBT OBLIGATION ORDER OTHER THAN THE COST OF RETIRING OR**  
14 **REFUNDING EXISTING DEBT?**

15 A. Yes. ERCOT anticipates funding a credit reserve account in an amount equal to \$4 million  
16 from the Default Balance proceeds. That amount will be used to implement the Debt  
17 Obligation Order. ERCOT expects to incur significant costs to implement the accounting  
18 and billing procedures needed to collect the Default Charges.<sup>7</sup> ERCOT will also incur a  
19 significant amount of attorneys' fees and consultants' fees to implement the Debt Obligation  
20 Order.<sup>8</sup> The amounts of these and any other such fees will be set forth in the Issuance

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<sup>6</sup> Barnes Direct at 5.

<sup>7</sup> PURA § 39.602(2) defines the Default Charges as “charges assessed to wholesale market participants to repay amounts financed under [Subchapter M] to pay the default balance.”

<sup>8</sup> ERCOT's financial advisor's fees for the Subchapter M proceeding will be approximately \$241,000. The amount of attorneys' fees for that proceeding is not yet known.

1 Advice Letter, which presumably will include a recommendation by Commission Staff as  
2 to the reasonableness of those costs.

3 **Q. PLEASE TURN NOW TO ERCOT'S SECOND PRIORITY FOR THE PROCEEDS**  
4 **OF DEFAULT BALANCE FINANCING. WHY DOES ERCOT PROPOSE TO**  
5 **APPLY DEFAULT BALANCE PROCEEDS TO PAY SHORT-PAID MARKET**  
6 **PARTICIPANTS FOR ACTIVITY DURING THE PERIOD OF EMERGENCY**  
7 **BEFORE REPLENISHING CRR AUCTION REVENUE FUNDS?**

8 A. As several of the parties recognize, prioritizing the payment of Default Balance proceeds  
9 to short-paid market participants will promote confidence in the stability and integrity of  
10 the wholesale market. Those short-paid market participants have already waited nearly six  
11 months for payment, and further delay may undermine market participants' confidence that  
12 they will be paid in a timely manner for any future energy and ancillary services they  
13 provide to the market. Placing \$243 million in the hands of the short-paid market  
14 participants will also provide more liquidity to the market than would depositing all of the  
15 proceeds in the CRR auction fund. I will address the change in the payment amount (\$318  
16 million to \$243 million) in later testimony.

17 **Q. GOLDEN SPREAD ARGUES THAT REPLENISHING THE CRR REVENUES**  
18 **WILL PRESERVE THE INTEGRITY OF THE MARKET, AND THEREFORE IT**  
19 **SHOULD BE THE HIGHEST PRIORITY.<sup>9</sup> DO YOU AGREE?**

20 A. I agree that the CRR auction funds will have to be paid to CRR Account Holders at some  
21 point, and therefore it is important that ERCOT have sufficient funds to pay those market  
22 participants. That is why ERCOT has proposed to replenish the CRR auction funds with

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<sup>9</sup> Golden Spread Statement of Position at 2.

1 amounts remaining after ERCOT pays the amounts required to implement the Debt  
2 Obligation Order, including the retirement of ERCOT debt and the payments to short-paid  
3 market participants. However, at this time, paying the \$243 million of short-paid amounts  
4 to market participants that supplied energy and ancillary services during the Period of  
5 Emergency will do more to preserve the integrity of the market than fully replenishing the  
6 CRR auction revenues. Paying short-paid market participants before replenishing the CRR  
7 auction fund will inject liquidity into the market and provide market participants with  
8 assurance that payment of suppliers is a priority.

9 **Q. GOLDEN SPREAD ALSO SUGGESTS THAT PLACING THE HIGHEST**  
10 **PRIORITY ON THE REPLENISHMENT OF THE CRR ACCOUNT AVOIDS**  
11 **DISCRIMINATING AGAINST ELECTRIC COOPERATIVES.<sup>10</sup> WHAT IS YOUR**  
12 **RESPONSE?**

13 A. It appears that Golden Spread is arguing the proceeds of the Default Balance financing  
14 should be used to reduce the liability of all entities that have defaulted, including electric  
15 cooperatives, and that replenishing the CRR auction revenues is the best way to accomplish  
16 that. If so, I have several responses.

17 First, replenishing the CRR auction fund does not reduce the liability of any market  
18 participant that owes money to ERCOT. Even if ERCOT applied the entire \$800 million  
19 of Default Balance proceeds to replenish the CRR account, it would not reduce the amounts  
20 owed by either competitive market participants or electric cooperatives. Therefore, I do  
21 not understand Golden Spread's argument that replenishing the CRR account would  
22 prevent discrimination against electric cooperatives.

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<sup>10</sup> Golden Spread Statement of Position at 4-5.

1           Second, if Golden Spread is intending to suggest that it is discriminatory to use  
2 Default Balance proceeds to pay the amount owed to ERCOT by competitive wholesale  
3 market participants and not electric cooperatives, my answer is that the Legislature makes  
4 that distinction. Although I am not an attorney, it is my understanding that PURA § 39.602  
5 defines the Default Balance to include amounts owed to ERCOT by competitive wholesale  
6 market participants, but not electric cooperatives. I do not believe an electric cooperative  
7 that has not opted into competition to be a competitive wholesale market participant.

8           Finally, the use of Default Balance proceeds to pay amounts owed by competitive  
9 wholesale market participants does not relieve those competitive wholesale market  
10 participants from paying the amounts they owe to ERCOT. No “credit” is being given to  
11 those competitive wholesale market participants, just as no “credit” would be given to  
12 electric cooperatives if they had been included in the Default Balance. They still owe the  
13 money. Therefore, it is not clear how using the Default Balance financing to pay amounts  
14 owed by competitive wholesale market participants discriminates against electric  
15 cooperatives.

**IV. PROCEEDS PAYABLE TO SHORT-PAID MARKET PARTICIPANTS**

1 **Q. WHAT TOPIC DO YOU DISCUSS IN THIS SECTION OF YOUR REBUTTAL**  
2 **TESTIMONY?**

3 A. I describe the amount of Default Balance proceeds that ERCOT projects that it will pay to  
4 short-paid market participants, and I explain how ERCOT calculated that amount.

5 **Q. HAS THE AMOUNT THAT ERCOT PROJECTS IT WILL PAY TO SHORT-PAID**  
6 **MARKET PARTICIPANTS CHANGED SINCE YOU FILED YOUR DIRECT**  
7 **TESTIMONY?**

8 A. Yes. At that time, ERCOT was projecting that it would pay approximately \$318 million  
9 of the Default Balance proceeds to short-paid market participants.

10 **Q. WHY HAS THE AMOUNT CHANGED SINCE THE TIME YOU FILED YOUR**  
11 **DIRECT TESTIMONY?**

12 A. ERCOT now projects that it will pay short-paid market participants approximately \$243  
13 million of the proceeds from the Default Balance financing. This amount remains subject  
14 to change based on ongoing true-up settlements and any future resettlements that may occur  
15 for operating days for the Period of Emergency. The main driver of the change in this  
16 projected amount since ERCOT's direct testimony is ERCOT's refinement of the  
17 calculation used to determine what proportion of the \$800 million in CRR auction funds  
18 was used originally to cover short payments by competitive market participants, versus  
19 what portion of the \$800 million was used to cover short payments by electric cooperatives.  
20 As detailed below, this recalculation showed that an increased proportion of the Default  
21 Balance proceeds attributable to short payments by competitive market participants must  
be used to replenish the CRR auction fund than what was previously indicated in ERCOT's



1 direct testimony, because ERCOT used a higher proportion of the CRR auction fund to  
2 cover the short payments by competitive market participants than what was previously  
3 indicated in ERCOT's direct testimony.

4 More specifically, ERCOT has determined that approximately \$600 million of the  
5 \$800 million in CRR auction funds was used to cover short payments by a single electric  
6 cooperative – Brazos – rather than competitive market participants for invoices due on  
7 February 25, 2021.<sup>11</sup> Therefore, as shown in Table ST-1 below, approximately \$200  
8 million of the \$800 million in CRR auction funds was used to cover short payments by  
9 competitive market participants for invoices due on February 25, 2021.

10

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<sup>11</sup> The total amount of short payments for invoices due on February 25, 2021 was \$2,116,581,108.43 (see ERCOT Market Notice W-B030121-01). The short payment by Brazos for invoices due on February 25, 2021, was \$1,586,667,537.54 (see ERCOT Market Notice W-A030221-02). If the \$800 million in CRR auction receipts was applied pro-rata to the invoices due on February 25, 2021, approximately \$599.7 million ( $\$1,586,667,537.54$  divided by  $\$2,116,581,108.43$  equals 74.96% and then multiplied by \$800 million) would have been used to cover nonpayment by Brazos for invoices due on February 25, 2021. Rayburn made full payment on invoices due on February 25, 2021. Therefore, if the \$800 million in CRR auction funds were applied pro-rata to the invoices due on February 25, 2021, none of the CRR auction funds used by ERCOT on February 26, 2021, to cover pay outs would be attributable to short payments by Rayburn for invoices due on February 25, 2021.

1

**Table ST-1**

	Dollars in millions	Percent of Total
Total Amount Short Paid for 2/25 Invoice	\$ 2,117	100%
Less: Short payment by Brazos	1,587	75%
Less: Short payment by Rayburn	-	0%
Equals: Short payment from all non-Brazos or Rayburn	\$ 530	25%
Total CRR Auction Revenue Funds Applied	\$ 800	100%
Less: Applied CRRs Attributed to Brazos	600	75%
Less: Applied CRRs Attributed to Rayburn	-	0%
Equals: Applied CRRs Attributed to non-Brazos or Rayburn	\$ 200	25%

2

3

ERCOT has since applied approximately \$25 million of the payments<sup>12</sup> it received from competitive market participants for invoices due on February 25, 2021 towards the replenishment of the CRR auction fund. Therefore, approximately \$176 million is needed to replenish the portion of the CRR auction fund used to cover short payments by competitive market participants with invoices due on February 25, 2021. In addition to the \$25 million mentioned above, to date ERCOT has used approximately \$11 million of payments received for invoices other than those due February 25, 2021, to replenish the CRR auction fund in the short term for liquidity purposes; however, in order to properly reconcile all invoices dates, ERCOT plans to ultimately distribute this \$11 million to the market participants due payments from those other invoice dates. ERCOT intends to complete that distribution upon receiving the proceeds from this Debt Obligation Order.

In light of all of the above, as of now the original \$800 million of CRR auction funds

12

13

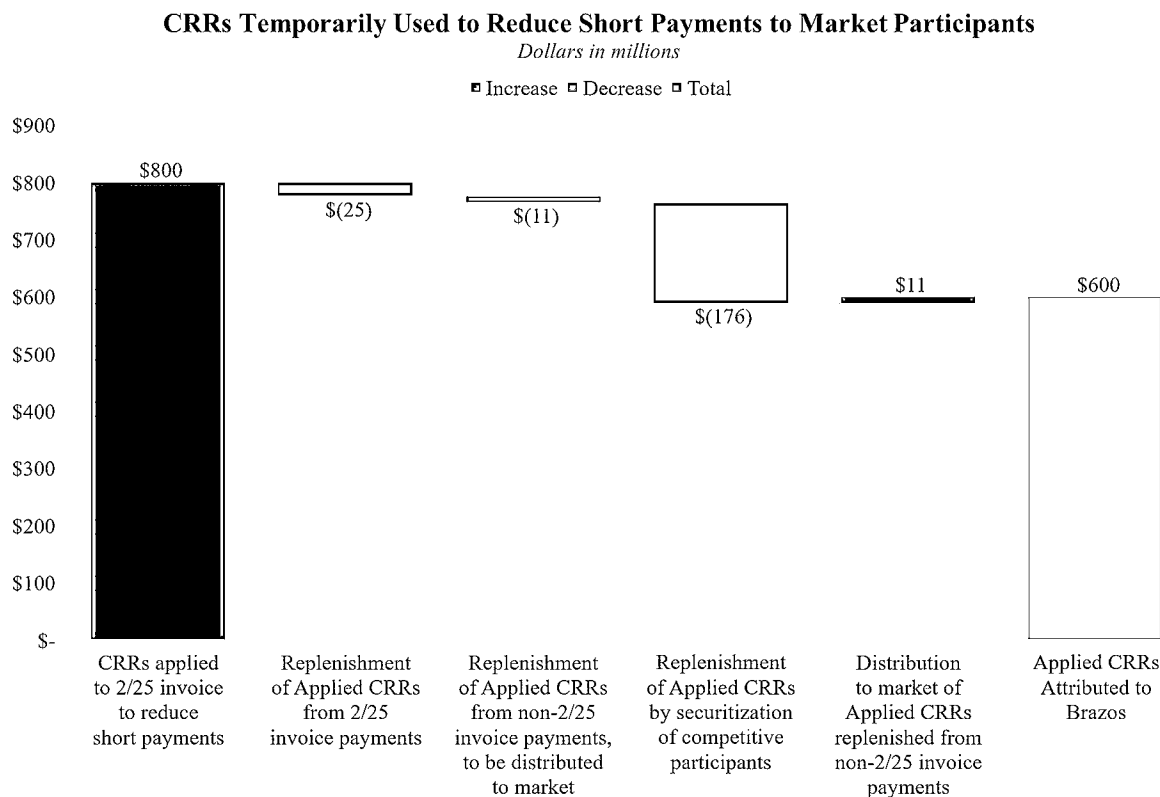
14

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<sup>12</sup> Payments received may include credits applied for amounts due to market participants. Additionally, the amounts include funds attributable to entities other than Brazos or Rayburn that may not be considered competitive market participants but who have paid amounts currently due for invoices due on February 25, 2021.

1 temporarily used to reduce short payments to market participants has been replenished by  
 2 the \$25 million and \$11 million amounts referenced above. Chart ST-1 below is a graphic  
 3 representation of how the CRR funds were used to cover short payments and the expected  
 4 sources of funding to replenish the CRR account.

5 **Chart ST-1<sup>13</sup>**



6  
 7 Accordingly, ERCOT projects using approximately \$176 million of the  
 8 approximately \$419 million<sup>14</sup> in short pays by competitive market participants that will be

<sup>13</sup> Amounts in text, tables, and charts may not foot (add up) due to rounding. For example, the \$200 million amount referenced is composed of the \$176 million and the \$25 million, so it may appear they do not add up as the sum of \$176 million and \$25 million is \$201 million, not \$200 million. This is because of rounding. Taken to an additional decimal place, the \$200 million would be \$200.3 million, the \$176 million would be \$175.6 million, and the \$25 million would be \$24.7 million. The sum of \$175.6 million and \$24.7 million is \$200.3 million.

<sup>14</sup> In its original testimony, ERCOT identified \$418 million as the approximate amount to be securitized to account for short payments by competitive market participants. Since that filing, and due to the normal course of resettlement and settlement true ups since that filing, that amount is now approximately \$419 million.

1 securitized under subchapter M to fully replenish the portion of the \$800 million in CRR  
 2 auction funds that was used to cover short payments by competitive market participants.  
 3 After approximately \$176 million is deducted from the \$419 million securitized to account  
 4 for competitive market participants, that will leave approximately \$243 million remaining.  
 5 It is this amount that ERCOT projects using to pay the remaining outstanding short pays  
 6 that are attributable to competitive market participants. Table ST-2 shows the calculation  
 7 that leads to the \$243 million.

8 **Table ST-2**

	Dollars in millions
Current competitive short payments eligible for securitization for 2/25 invoices	\$ 271
Add: Current competitive short payments eligible for securitization for non-2/25 invoices	148
Equals: Total competitive amount eligible for securitization	<u>419</u>
Less: Applied CRRs attributed to non-Brazos or Rayburn	200
Equals: Competitive securitization less Applied CRRs attributed to non-Brazos or Rayburn	<u>219</u>
Add: Applied CRRs previously replenished from 2/25 invoice payments	25
Equals: Competitive amount owed to market participants from securitization	<u><u>\$ 243</u></u>

9 Following ERCOT's disbursement of the \$419 million securitized to account for  
 10 competitive market participants in this proposed manner, the only remaining unpaid  
 11 invoice amounts due to the Period of Emergency, excluding invoices for market  
 12 participants on payment plans, will be attributable to two entities: Brazos and Rayburn.  
 13 Further, following disbursement of the \$419 million as described herein, the amount  
 14 remaining to be replenished in the CRR auction fund will be the approximately \$600  
 15 million used to cover short payments due to Brazos's nonpayment on February 25, 2021.<sup>15</sup>

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<sup>15</sup> As explained in ERCOT's direct testimony, ERCOT will use the remaining portion of the \$800 million in default balance proceeds (i.e., the portion remaining after disbursing the \$419 million and setting aside a portion for costs) to replenish, in part, the portion of the CRR auction fund used to cover Brazos's nonpayment on February 25, 2021.

1           The discrepancy between the \$318 million number offered in earlier testimony and  
2 the foregoing amounts is because ERCOT has been able to more accurately account for  
3 which entities' short payments on February 25, 2021 were covered by the \$800 million in  
4 CRR auction funds. ERCOT's previous calculation, which was used in support of its direct  
5 testimony, took into account all short payments across the entire Period of Emergency,  
6 regardless of invoice date, and then assumed a portion of the CRR auction funds covered  
7 all of those short payments. This method took into account payments made by QSEs and  
8 CRR Account Holders after the CRR auction funds were disbursed. Subsequent to ERCOT  
9 applying the CRR auction funds to reduce the amounts short paid to market participants,  
10 ERCOT disbursed to market participants approximately \$231 million in payments<sup>16</sup> that  
11 cover competitive short payments for amounts owed on invoice due date February 25,  
12 2021. By not focusing on only the specific invoice cycle for which the CRR auction funds  
13 were used (i.e., invoice due date February 25, 2021) and at the time the funds were used,  
14 this prior calculation used in ERCOT's direct testimony overstated the proportion of the  
15 CRR auction fund used to cover short pays by electric cooperatives (i.e., Brazos and  
16 Rayburn) and understated the portion of the CRR auction fund used to cover short pays by  
17 competitive market participants. By recalculating to now take into account only the short  
18 payments that occurred for invoices due February 25, 2021 and the invoices that had short  
19 payment amounts reduced by the use of the CRR auction fund, the numbers presented  
20 above more accurately reflect the amounts that must actually be paid back from the

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<sup>16</sup> Payments received may include credits applied for amounts due to market participants. Additionally, the amounts include funds attributable to entities other than Brazos or Rayburn that may not be considered competitive market participants but who have paid amounts currently due for invoices due on February 25, 2021.

1 competitive market participant portion of the Default Balance proceeds to replenish the  
2 CRR auction funds.

3 **Q. IS IT REASONABLE FOR ERCOT TO REDUCE THE AMOUNT IT PROJECTS**  
4 **TO BE PAYABLE TO SHORT-PAID MARKET PARTICIPANTS FROM \$319**  
5 **MILLION TO \$243 MILLION?**

6 A. Yes. As noted above, ERCOT is still proposing to use the entire \$419 million attributable  
7 to short pays by competitive market participants to cover only those amounts attributable  
8 to the competitive market participant short pays. Once the \$419 million is disbursed as  
9 ERCOT describes above, ERCOT competitive market participants should then be in the  
10 same position as if the actual, defaulted and terminated competitive market participants  
11 had fully paid that \$419 million in invoices due from the Period of Emergency. ERCOT  
12 believes that this was the intended use of the Default Balance proceeds attributable to the  
13 competitive market participant short pays.

**V. TREATMENT OF AMOUNTS LATER COLLECTED BY ERCOT**

1 **Q. HOW WILL MONEY COLLECTED AFTER THE SUBCHAPTER M DEBT**  
2 **OBLIGATION FINANCING CLOSES IMPACT FUTURE DEFAULT CHARGES?**

3 A. ERCOT anticipates that the Subchapter M debt obligation facility initially purchased by  
4 the Comptroller can be prepaid by ERCOT, in whole or in part, and without any  
5 prepayment penalty. If ERCOT is able to collect significant amounts owed by market  
6 participants for activity during the Period of Emergency, including amounts owed by  
7 Brazos and Rayburn, a portion of those proceeds could be used to prepay the Subchapter M  
8 debt obligation facility. The Subchapter M debt obligation facility could then be re-  
9 amortized so that the remaining balance is repayable over the remaining term of the facility.  
10 This will result in a decrease of the Default Charges ERCOT needs to collect from market  
11 participants.

12 **Q. IF ERCOT SUBSEQUENTLY REFINANCES THE DEFAULT BALANCE, WILL**  
13 **IT STILL BE ABLE TO REDUCE THE DEFAULT BALANCE WITH AMOUNTS**  
14 **PAID BY MARKET PARTICIPANTS?**

15 A. If ERCOT recovers any significant amounts owed by market participants after such a  
16 “capital markets” refinance and ERCOT cannot partially prepay the Subchapter M debt  
17 obligation facility without significant penalty, ERCOT will deposit the recovered amount  
18 into a cash collateral account securing the Subchapter M debt obligation facility. When the  
19 Subchapter M debt obligation facility has been amortized to an amount equal to the cash  
20 collateral, ERCOT will cease collecting Default Charges and instead will use the cash  
21 collateral to repay the remaining balance of the Subchapter M facility.

1 **Q. MR. BARNES SUGGESTS THAT ERCOT SHOULD USE ALL AMOUNTS THAT**  
2 **IT RECEIVES FROM BRAZOS AND RAYBURN TO REPLENISH THE CRR**  
3 **REVENUES.<sup>17</sup> WHAT IS YOUR RESPONSE?**

4 A. I agree with Mr. Barnes that any amounts collected from Brazos and Rayburn could (and  
5 should) be used to replenish the CRR revenues, but it is unlikely that Brazos and Rayburn  
6 will be able to securitize their debt and pay ERCOT the amounts they owe by the time the  
7 Commission issues a Debt Obligation Order in this case. Therefore, it would be prudent  
8 for ERCOT to finance the entire \$800 million allowed by statute. If ERCOT later receives  
9 payments from Brazos and Rayburn, it can pay remaining short-paid amounts, replenish  
10 CRR revenue funds, and perhaps reduce the amount of the Default Balance. ERCOT  
11 believes the safer course is for the Commission to provide ERCOT the flexibility to  
12 determine that allocation at the time the payments are received, subject to Commission  
13 approval. This will allow for the evaluation of market conditions at the time the payments  
14 are received.

15 **Q. MR. BARNES ALSO PRESENTS WHAT HE REFERS TO AS AN**  
16 **“ALTERNATIVE SOLUTION,” WHICH IS TO REDUCE THE AMOUNT**  
17 **FINANCED TO \$368 MILLION. WHAT IS YOUR RESPONSE?**

18 A. I disagree with Mr. Barnes’s proposal to reduce the amount financed for the reason I stated  
19 in the previous response—it is not clear when, or even if, Brazos and Rayburn will pay the  
20 full amounts owed to ERCOT. In addition, I disagree with Mr. Barnes’s quantification of  
21 the amount that would need to be securitized if ERCOT assumed it will receive the full

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<sup>17</sup> Barnes Direct at 9.



1 amounts owed by Brazos and Rayburn. He states the amount is \$368 million,<sup>18</sup> which he  
2 presumably calculated by adding: (1) the \$318 million that I previously testified was owed  
3 to short-paid market participants by competitive market participants that have left the  
4 market; and (2) the \$50 million that may be required to retire ERCOT's existing debt.  
5 However, the actual amount owed by competitive wholesale market participants that have  
6 exited the market is \$419 million. As I explained in this testimony, while the amount  
7 ERCOT now estimates is still owed to the short-paid market participants due to short pays  
8 from terminated competitive market participants is \$243 million, the entire \$419 million  
9 amount needs to be financed in this proceeding to both pay these outstanding short pays  
10 and also replenish that portion of the CRR auction fund that was used to cover the  
11 remaining short pays attributable to the competitive wholesale market participants. Also,  
12 as stated earlier, there are other costs in addition to the \$50 million that may be needed to  
13 retire ERCOT's existing debt that need to be defrayed to implement the Debt Obligation  
14 Order.

15 **Q. MR. BARNES NEXT EXPRESSES CONCERN THAT, BY USING THE DEFAULT**  
16 **BALANCE PROCEEDS TO REPLENISH CRR REVENUES, ERCOT IS**  
17 **FORCING ERCOT MARKET PARTICIPANTS TO INCUR COSTS THAT ARE**  
18 **OWED BY BRAZOS AND RAYBURN.<sup>19</sup> WHAT IS YOUR RESPONSE?**

19 A. It is not clear to me why Mr. Barnes claims it is appropriate to secure financing necessary  
20 to replenish CRR account amounts used to pay amounts owed by the competitive retail  
21 market participants that have exited the market, but not the amounts owed by Brazos and

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<sup>18</sup> Barnes Direct at 9.

<sup>19</sup> Barnes Direct at 10.

1 Rayburn. From the perspective of a CRR Account Holder or a market participant that was  
2 short paid for activity during the Period of Emergency, the source of that short would not  
3 seem to be relevant. This also seems true for the purpose of preserving the integrity of the  
4 wholesale market and injecting liquidity into that market. Although I am not attorney, it  
5 seems important to me that PURA § 39.602(1)(B) includes within the default balance that  
6 can be securitized *all* financial revenue auction receipts used by ERCOT to temporarily  
7 reduce amounts short-paid to market participants, and not just those used by ERCOT for  
8 the amounts owed by competitive market participants. And as I noted earlier, if Brazos  
9 and Rayburn secure the financing needed to pay the amounts owes, ERCOT will apply the  
10 proceeds in a way that will eliminate the short-paid amounts, replenish the CRR revenues,  
11 and perhaps reduce the Default Balance.

12 **Q. DOES THIS CONCLUDE YOUR REBUTTAL TESTIMONY?**

13 A. Yes.

PUC DOCKET NO. 52321

APPLICATION OF ELECTRIC  
RELIABILITY COUNCIL OF TEXAS  
FOR A DEBT OBLIGATION ORDER  
PURSUANT TO CHAPTER 39,  
SUBCHAPTER M, OF THE PUBLIC  
UTILITY REGULATORY ACT

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PUBLIC UTILITY COMMISSION  
OF TEXAS

AFFIDAVIT

STATE OF TEXAS                    )  
  )  
COUNTY OF TRAVIS                )

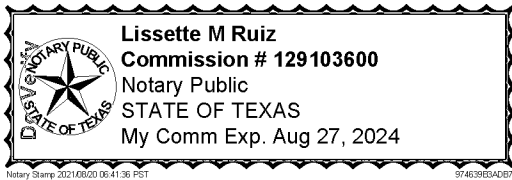
SEAN TAYLOR, first being sworn on his oath, states:

I am the witness identified in the preceding rebuttal testimony. I have read the rebuttal testimony, and I am familiar with the contents. Based on my personal knowledge, the facts stated in the rebuttal testimony are true. In addition, in my judgment and based on my professional experience, the opinions and conclusions stated in the rebuttal testimony are true, valid, and accurate.

Sean Taylor  
Signed on 2021/08/20 06:41:36 -0000

SEAN TAYLOR

Subscribed and sworn to before me this 20th day of August 2021 by Sean Taylor. This notarial act was an online notarization.



Lissette M Ruiz  
Signed on 2021/08/20 06:41:36 -0000

Notary Public, State of Texas

My Commission Expires: August 27, 2024

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#### E-Signature Summary

**E-Signature 1: Sean Taylor (ST)**

August 20, 2021 06:41:36 -8:00 [6ECDB03E797B] [72.179.5.248]  
 Sean.Taylor@ercot.com (Principal) (Personally Known)

**E-Signature Notary: Lissette Ruiz (LR)**

August 20, 2021 06:41:36 -8:00 [974639B3ADB7] [174.249.45.95]  
 lissette.ruiz@ercot.com

I, Lissette Ruiz, did witness the participants named above electronically sign this document.

