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APPLICATION OF THE ELECTRIC	§	BEFORE THE
RELIABILITY COUNCIL OF TEXAS,	§	
INC. FOR A DEBT OBLIGATION	§	PUBLIC UTILITY COMMISSION
ORDER UNDER PURA CHAPTER 39,	§	
SUBCHAPTER M, AND REQUEST	§	OF TEXAS
FOR A GOOD CAUSE EXCEPTION	§	

CITY OF AUSTIN D/B/A AUSTIN ENERGY’S BRIEF

The City of Austin d/b/a Austin Energy (Austin Energy) submits this brief to address the issues raised at the hearing on the merits in this proceeding on August 23, 2021. At the close of the hearing on the merits, the Commissioners requested briefing be filed by September 1, 2021. Therefore, this brief is timely filed.

I. INTRODUCTION AND BACKGROUND

On July 16, 2021, the Electric Reliability Council of Texas (ERCOT) filed its Application for a Debt Obligation Order under PURA Chapter 39, Subchapter M, and Request for a Good Cause Exception (ERCOT’s Default Application). ERCOT’s Default Application seeks Public Utility Commission (Commission) approval to finance the Default Balance, as that term is defined in PURA § 39.602(1), with \$800 million in funding provided by the State. ERCOT’s Default Application addresses various implementation details, including proposals on the use of these funds and a methodology to assess charges to repay the funds, with interest, over time.

On August 23, 2021, the Commission held a hearing on the merits in this proceeding in which the primary contested issue discussed concerned the priority order of payments among three categories: 1) costs incurred by ERCOT for implementation and oversight of the securitization process; 2) recovery of outstanding short payments; and 3) recovery of funds drawn from ERCOT’s Congestion Revenue Rights (CRR) Accounts.

II. ARGUMENT

As stated in its Statement of Position filed on August 12, 2021, Austin Energy supports ERCOT’s priority order of payments of the \$800 million in funding provided by the State for

default funds.¹ Austin Energy also agrees with ERCOT’s proposed approach to direct any uplift funds received by defaulting entities still participating in the ERCOT wholesale electricity market. Lastly, Austin Energy supports ERCOT’s proposal to determine the allocation ratio on a rolling monthly basis using “final settlement data” to account for new market participants.

ERCOT proposes a prioritization and allocation of the limited funds among three categories: first, ERCOT proposes \$50 million be set aside for the potential need to retire or refund existing debt, if needed; second, ERCOT proposes \$318 million be applied to short payments related to “terminated market participants;” and third, ERCOT proposes the remaining \$432 million be used to partially replenish the remaining \$766 million owed to the CRR auction revenue fund.² Austin Energy supports ERCOT’s proposal and believes this approach strikes the right balance of meeting the competing needs of replenishing the CRR auction revenue fund and providing funds to ERCOT market participants short paid as a result of defaults attributed to the February 2021 winter weather event. Allocating a portion of the default funds toward replenishing the CRR auction revenue fund is a fair outcome even for those entities who have been short paid, as the fund was previously used to borrow money to lower their short payment amounts, thus already benefitting those entities who would have otherwise been short paid at even higher amounts.

Austin Energy also agrees with ERCOT’s proposed approach to direct any uplift funds received by defaulting entities still participating in the ERCOT wholesale electricity market. Although not specifically addressed in ERCOT’s Default Application and Direct Testimony, ERCOT’s response to Austin Energy’s First Request for Information, Question No. AE 1-1, provides insight into how this circumstance would be handled.³ ERCOT indicated that any funds payable to Rayburn Electric Cooperative, Inc. (Rayburn) will be used to reduce Rayburn’s default amount which, in turn, would be used to further replenish the CRR auction revenue fund and be distributed to short paid market participants based on a pro rata allocation.⁴ Any funds payable to

¹ Austin Energy’s Statement of Position (Aug. 12, 2021).

² ERCOT’s Exhibit No. 1, Application of ERCOT for a Debt Obligation Order to Finance Default Balances under PURA Chapter 39, Subchapter M at 6; ERCOT Exhibit No. 4, Direct Testimony of Sean Taylor at 16-18.

³ City of Austin d/b/a Austin Energy’s Exhibit No. 1, ERCOT’s Response to Austin Energy’s First Request for Information (RFI), Question No. AE 1-1.

⁴ *Id.*

Brazos Electric Power Cooperative, Inc. (Brazos) would be allocated to a segregated account while Brazos' bankruptcy proceeding is pending.⁵

Austin Energy also supports ERCOT's proposal to determine the allocation ratio on a rolling monthly basis using "final settlement data" to account for new market participants. While ERCOT intends to use the pro rata methodology found in the ERCOT Protocols to assess default charges, consistent with language found in PURA § 39.603(d), it identifies one necessary deviation from the Protocol language. In order to account for new market participants that must be assessed these charges under PURA § 39.603(d), ERCOT proposes to determine the allocation ratio on a rolling monthly basis using "final settlement data," rather than basing the uplift amounts on market activity during the month prior to when a default occurs.⁶ Austin Energy recognizes that ERCOT must meet two competing requirements found in PURA § 39.603(d) and supports ERCOT's proposed approach as a reasonable solution to account for new market participants while following all other aspects of the allocation methodology contained in the ERCOT Protocols as of March 1, 2021. Austin Energy also appreciates ERCOT's clarification, provided in response to Austin Energy's First Request for Information, Question No. AE 1-2, that any changes made after March 1, 2021 to the Protocol language regarding the pro rata share methodology for assessing the default charges would not affect the allocation method outlined in ERCOT's Default Application and Direct Testimony.⁷

III. CONCLUSION

Austin Energy maintains that ERCOT's Default Application offers adequate and thoughtful solutions to key implementation details regarding this vital securitization mechanism and has no recommendations related to ERCOT's proposals to offer at this time. Austin Energy appreciates this opportunity to submit a brief on ERCOT's Default Application.

⁵ *Id.*

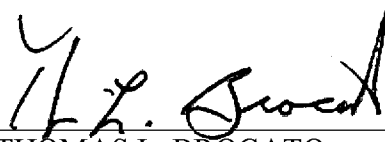
⁶ ERCOT's Exhibit No. 2, Direct Testimony and Attachments of Kenan Ögelman at 31-34.

⁷ City of Austin d/b/a Austin Energy's Exhibit No. 2, ERCOT's Response to Austin Energy's First RFI, Question No. AE 1-2.

Respectfully submitted,

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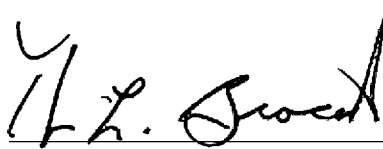
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CERTIFICATE OF SERVICE

I certify that, unless otherwise ordered by the presiding officer, notice of the filing of this document was provided to all parties of record via electronic mail on September 1, 2021, in accordance with the Order Suspending Rules, issued in Project No. 50664.



THOMAS L. BROCATO