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November 17, 2021

Honorable Peter Lake
 Honorable William McAdams
 Honorable Lori Cobos
 Honorable Jimmy Glotfelty
 Public Utility Commission of Texas
 1701 N. Congress Avenue
 Austin, TX 78711-3326

Ladies and Gentlemen:

Saber Partners respectfully files this letter to the Commission regarding the proposed ERCOT financing PURA Subchapter M and Subchapter N Bonds in Dockets 52321 (and its related Docket 52709) and 52322. Saber Partners, LLC recommends that the Commission revise its November 10, 2021 RFP (473-22-00001, Project Number: 52731) in a manner that the results in adequately providing for the resources and the technical support that the Commission needs based on Texas and PURA precedents and as described below.

Specifically, the RFP should include but not be limited to the following:

1. The financial advisor accepts a fiduciary relationship with the PUCT without indemnification;
2. Assists the Commission in fulfilling its co-equal decision-making role on all matters in real time;
3. Is “at the table”¹ for all negotiations with underwriters and other transaction participants;
4. Reviews and audits all costs provided by ERCOT;
5. Develops, reviews and audits financial models of the charges to ensure the lowest uplift charges
6. Analyzes proposed stress tests of the cash flows affecting the true-up mechanism;
7. Reviews and comments on drafts of all transaction documents for ratepayer risks and need for indemnifications or better disclosure;
8. Reviews of and assistance in Rating Agency and Securities and Exchange Commission reviews;
9. Assists in the due diligence process;
10. Negotiates with underwriters - who have no fiduciary responsibility to ERCOT, PUCT or ratepayers – on behalf of the Commission and ratepayers;
11. Reviews and approves the bookrunner certifications of a lowest-cost outcome that ERCOT will rely upon to ensure they are without material qualification and consistent with certifications received by the PUCT between 2000-2006; and
12. Provides an independent lowest-cost certification to the Commission, without material qualification, as a basis for whether to approve the transaction and ensure that statutory obligations have been met consistent with PUCT precedents established in PURA’s first securitization dockets.

Context for this Filing

On October 13, 2021, the Debt Obligation Orders’ Finding of Facts (FOF)² and Ordering Paragraphs (OP)³ issued for those dockets, describe the need for and mandates that the Commission be a joint decision-maker in all matters related to the structuring, marketing and pricing of the securitization bonds. These bonds are complex. And there are tens of millions, if not hundreds of millions, of ratepayer dollars at stake, as well as other risks, during the decision making process to implement the Debt Obligation Orders.

¹ See PUCT Transcript open meeting February 24, 2000 comments by Commissioners Wood, Perlman and Walsh

² See FOF 76-80 Docket 52321 (control #213) and FOFs 210-214 in Docket 52322 (control #312) and in Appendix 1

³IBID: OP 76-80 Docket 52321 and OPs 57-61 in Docket 52322

On September 30, the Commission discussed in an open meeting the need for an independent financial advisor that will provide the technical expertise to assist the Commission in understanding the complexities of securitization and enable a successful, cost effective and timely bond issuance.

On November 10, however, procurement staff issued an RFP that contained an extremely narrow scope of work (“Scope of Work”) for the PUCT advisor given the broad responsibilities and duties for the Commission outlined in those findings of fact and ordering paragraphs. Indeed, the Scope of Work addresses mostly after the fact evaluations of decisions made towards the end of the transaction, around the time of bond pricing. It does not provide for any essential and critical services needed from the *beginning* of the transaction where much of the substance is decided that affects ratepayers. It does not reflect the standards of support and diligence originally established by the PUCT when PURA first authorized securitization.

For example, the current proposed RFP does not require the advisor to provide the commission with an independent certification of the pricing as was required by Commissions in the past. It does not provide for an audit of expenses and costs as well as the modeling off the charges. It does not address issues such as those raised by NRG Bill Barnes in supplemental testimony⁴ November 9 concerning the \$50 million potential refinance or retirement of debt or the extra \$133,000 per year in “other servicing costs” included in the ERCOT issuance advice letter

While the PUCT has equal decision-making rights with ERCOT, it has greater responsibilities to ratepayers and other market participants.

In fact, the ERCOT RFP’s Scope of Work is just a name change from an RFP issued in 2019 for a small, insignificant storm securitization bond offering. That bond was about \$235 million with a maturity of only 10 years. And as an example of how inapplicable it is for the massive and complex ERCOT bonds, the 2019 RFP Scope of Work was reduced from a broader more substantive Scope of Work for an FA RFP issued in December 2018 for that same financing.⁵ In fact, the RFP even weights an applicant’s “proposed compensation” higher in the evaluation selection criteria (40%) than its “competence and knowledge” of utility securitization (30%). This suggests that staff is seeking a lower fee than an expert with technical skills and experience that could and have proven to save tens of millions of ratepayer dollars.

Equally noteworthy, is that the 2019 RFP “reduced scope of work” was significantly reduced from the PUCT’s base securitization FA-RFP scope of work from 2005.⁶ That base RFP was first issued in 2005 and then again in 2006 and 2007.

The base FA-RFP scope of work was detailed and supported the PUCT responsibilities in a \$1.89 billion securitization offering. Furthermore, the base FA-RFP was consistent with Commission policy established in February 2000 and the subsequent financing orders for four securitization bond offerings of almost \$3 billion^{7,8}

⁴ See Supplemental testimony Bill Barnes filed in Docket 52321 control #218

⁵ After receiving proposals, staff canceled the 2018 RFP specifically to reduce the scope of work to something small and narrow that has little to do with Subchapter M and N bonds. See Appendix 3 for the items deleted.

⁶ See Appendix 2 for the PUCT base FA-RFP Scope of Work consistent with all securitization financing orders at that time.

⁷ See Appendix 4 letter of reference from ex-PUCT Commissioners Wood, Perlman and Klein and the attached summary of the financial advisor’s duties under their watch.

⁸ The initial PUCT financing orders also had the first \$500,000 of the Commission’s advisor fee paid from the millions of dollars paid to the underwriters! That has not been done since 2006 in Texas.

The PUCT's Original Successful Securitization Model

It is important to note that most of the October 13 ERCOT Debt Obligation Orders' FOFs and OPs cited above originate from the PUCT's first securitization financing order in 2000. At that time, the PUCT faced a similar daunting task as this Commission does now. Approximately \$3 billion in bonds were to be sold under an identical PURA directive that "*the Commission shall ensure that the structure and pricing of the bonds result in the lowest charges....*" to the ratepayer.

In deciding on how and where to use a financial advisor, Chairman Pat Wood III said in open meeting on February 24, 2000:

*"One of the earlier iterations about the role of the financial advisor had more of what I call sitting out in the waiting room aspect to it, and ...we specifically rejected that approach ... we want you in that room. You're not underwriting ... but you're in the room. ... There's no... "We hope they agree" kind of stuff. It's like that's part of the deal from this Commission is ..., they're in the room anyway and they've got all these responsibilities for which they'll be well compensated and that's kind of how this is going to work."*⁹
Chairman Pat Wood III

Today, the ratepayer stakes are bigger. Those transition bonds and more recent storm recovery bonds only had maturities of *less than 15 years*. The ERCOT financings will be *up to 30 years*.

In fact, the \$3 billion ERCOT securitization financings will be the largest utility securitization with the longest maturity that have ever been done and the first securitizations done in the wholesale market.

Areas Needing Outside Technical Financial Expertise with experience

Without informed Commission oversight, assisted by an advisor with *direct relevant experience with the issues associated with utility securitization*, there is a significant risk that consumers will pay higher than justified prices. Money will be left on the table. With the inflation rate currently at a 30-year high, and prices for all goods and services rising significantly, it is appropriate for the Commission to take all necessary steps to ensure a cost-effective financing.

Moreover, the capital markets are dynamic and these type of bonds are unique. With all due respect to staff, securitization bond issuances are not commodities or "plain vanilla" bonds. It is unfair and unreasonable to expect staff to be current with all developments in this specialized market as well as perform their normal job responsibilities on other more pressing matters that are of concern to the Commission going forward

For example, the Securities & Exchange Commission (SEC) issued a specific legal interpretation and no-action letter in 2007 that allowed utility securitization bonds to use an issuing structure and not be considered asset-backed securities for purposes of SEC Reg AB. However, no Texas issuer used this structure since the ruling was issued in 2007. Yet, it was successfully employed by the Duke Energy Florida on a 2016 \$1.29 billion offering – at significantly lower credit spreads on long maturities - at the request of the Florida Public Service Commission's financial advisor. That advisor participated in securing the SEC letter in 2007 in another state for another commission. Those bonds had very low credit spreads on their longest maturities. They were also the first to be eligible for the Corporate Utility Bond Index which can lead to much lower costs especially on 30-year bonds. This structure has now been used by issuers in California and North Carolina in 2021 but not Texas.

⁹ Transcript of Open Meeting February 24, 2000 with additional comments by Commissioners Perlman and Walsh on the role of the financial advisor

Conclusion

The intricacies and nuances of utility securitization are reason enough to want an experienced financial advisor on the PUCT team who will assist the Commission in ALL matter so as in accordance with PURA 39:601 “ *The commission shall ensure that the structuring and pricing of debt obligations issued under this subchapter result in the lowest financing costs consistent with market conditions and the terms of the commission's order.*”


The items listed on page 1 are just a sampling of the full menu of activities that an expert financial advisor can, and should, be willing to undertake on behalf of the Commission. For the complete listing of duties and responsibilities, see the Scope of Work from the prior base PUCT FA-RFP in Appendix 2 and items listed in Appendix 4 from former Commissioners Wood, Perlman and Klein.

Recommendation

We recommend that the Commission amend the RFP for a financial advisor with duties that align with Debt Obligation Order and previous PUCT FA-RFPs. This amendment will help yield the results that are necessary for a successful ERCOT issuance.

Time clearly is of the essence. ERCOT has already issued an RFP for underwriters, received proposals and is moving forward.

Yet, the clock should not be used *against* effective Commission oversight and protecting ratepayer interests on 30-year bonds. The stakes are too high. The PUCT has canceled and re-issued FA-RFPs in the past both in 2004, 2007, 2019. It can do so again in the public interest. The current RFP could result in a \$3 billion financing that costs ratepayers tens of millions of dollars or even more for a relatively modest savings in advisory fees.

Sincerely,

 Joseph S. Fichera
 Chief Executive Officer

- cc:
 Pat Wood, III
 Brett Perlman
 Becky Klein
 Brian Maher
 Hyman Schoenblum
 Paul Southerland
 Barry Abramson
 Parties in Dockets 52321 and 52322

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Appendix 1

Subchapter N & M Debt Obligation Orders

Relevant Finding of Facts and Ordering Paragraphs

Subchapter N Findings of Fact: Debt Obligation Order Docket 52321

“76. To ensure, as required by PURA § 39.601, that the structuring and pricing of the subchapter M bonds result in the lowest financing costs consistent with market conditions and the terms of this Order (including, so long as the initial subchapter M bonds are outstanding, the required interest rate payable to the Comptroller and the Comptroller- approved Investment Policy Statement for Texas Economic Stabilization Investment Fund investments), it is necessary and appropriate for the Commission or its designated representative to have a decision-making role co-equal with ERCOT with respect to the structuring and pricing of the subchapter M bonds and for all matters related to the structuring and pricing of the subchapter M bonds to be determined through a joint decision of ERCOT and the Commission or its designated representative. The Commission's participation will ensure that the structuring and pricing of the subchapter M bonds result in a balance between obtaining the lowest financing costs and expediting the funding of the default balance consistent with market conditions and the terms of this Order (including, so long as the initial subchapter M bonds are outstanding, the required interest rate payable to the Comptroller and the Comptroller-approved Investment Policy Statement for Texas Economic Stabilization Investment Fund investments).

77. It is necessary and appropriate that the Commission or its designated representative have an opportunity to participate fully and in advance in all plans and decisions relating to the structuring, marketing, and pricing of the subchapter M bonds and that it be provided timely information as necessary to allow it to participate in a timely manner, including, but not limited to, information prepared for the benefit of rating agencies and information prepared for use in marketing the subchapter M bonds to investors.

78. It is necessary and appropriate that the Commission or its designated representative require a certificate from ERCOT, for which ERCOT will rely on a certificate from any lead book- running underwriters, confirming that the structuring, marketing, and pricing of the subchapter M bonds resulted in the lowest financing costs consistent with market conditions, the marketing plan, and the terms of this Order, including, so long as the initial subchapter M bonds are outstanding, the required interest rate payable to the Comptroller and the Comptroller-approved Investment Policy Statement for Texas Economic Stabilization Investment Fund investments.

79. ERCOT expects the following transaction documents to be executed in connection with each series of subchapter M bonds issued pursuant to this Order: administration agreement, indenture, limited liability company agreement, default property servicing agreement, and default property purchase and sale agreement. The Commission's designated representative will be afforded an opportunity to review and comment on these documents before they are finalized, and the final versions will be consistent with this Order.

79A. The Commission may incur costs for advisors, legal fees, or other expenses related to this Order, and such costs are necessary and appropriate to include in the upfront costs to ensure that the Commission may properly exercise its role in the issuance of subchapter M bonds.

13. Lowest Financing Costs

80. PURA § 39.601(e) states that the Commission must ensure that the structuring and pricing of the subchapter M bonds result in the lowest financing costs consistent with market conditions and

the terms of this Order (including, so long as the initial subchapter M bonds are outstanding, the required interest rate payable to the Comptroller and the Comptroller- approved Investment Policy Statement for Texas Economic Stabilization Investment Fund investments). PURA § 39.601(e) further states that in making this determination any present value calculation must use a discount rate equal to the proposed interest rate on the bonds.

Subchapter M Ordering Paragraphs: Debt Obligation Order Docket 52321

26. Commission Participation in Bond Issuance. The Commission, acting through its designated representative, must participate directly with ERCOT in negotiations regarding the structuring, pricing, and marketing of the subchapter M bonds and must have equal rights with ERCOT to approve or disapprove the proposed structuring, pricing, and marketing of the subchapter M bonds. The Commission's designated representative must have the right to participate fully and in advance regarding all aspects of the structuring, pricing, and marketing of the subchapter M bonds-and all parties must be notified of the designated representative's role-and must be provided timely information that is necessary to fulfill its obligation to the Commission. The Commission directs its designated representative to advise the Commission of any proposal that does not comply in any material respect with the criteria established in this Order and to promptly inform ERCOT and the Commission of any items that, in the designated representative's opinion, are not reasonable. Nothing in this Order precludes issuance of the subchapter M bonds through a competitive bid offering or private placement if ERCOT and the Commission's designated representative agree that ERCOT should do so. The Commission's designated representative must notify ERCOT and the Commission no later than 12:00 p.m. on the business day after the Commission's receipt of the issuance advice letter for each series of subchapter M bonds whether the structuring, marketing, and pricing of that series of subchapter M bonds comply with the criteria established in this Order.”

Subchapter N Findings of Fact: Debt Obligation Order Docket 52322

“210. To ensure that the structuring and pricing of the subchapter N bonds result in the lowest uplift charges consistent with market conditions and the terms of this Order, it is necessary and appropriate for the Commission or its designated representative to have a decision-making role co-equal with ERCOT with respect to the structuring and pricing of the

subchapter N bonds and that all matters related to the structuring and pricing of the subchapter N bonds shall be determined through a joint decision of ERCOT and the Commission or its designated representative. The Commission's participation will ensure that the structuring and pricing of the subchapter N bonds result in a balance between obtaining the lowest uplift charges and expediting the funding of the uplift balance consistent with market conditions and the terms of this Order.

211. It is necessary and appropriate that the Commission or its designated representative have an opportunity to participate fully and in advance in all plans and decisions relating to the structuring, marketing, and pricing of the subchapter N bonds and that the Commission or its designated representative be provided timely information as necessary to allow it to participate in a timely manner, including, but not limited to, information prepared for the benefit of rating agencies and information prepared for use in marketing the subchapter N bonds to investors.

212. It is necessary and appropriate that the Commission or its designated representative require a certificate from ERCOT, for which ERCOT will rely on a certificate from any lead book-running underwriters, confirming that the structuring, marketing, and pricing of the subchapter N bonds resulted in the lowest uplift charges consistent with market conditions, the marketing plan, and the terms of this Order.

213. ERCOT expects the following transaction documents to be executed in connection with each series of subchapter N bonds issued under this Order: an administration agreement, indenture, limited-liability-company agreement, uplift-property servicing agreement, and uplift-property purchase and sale agreement. It is necessary and appropriate that the Commission's designated representative be afforded an opportunity to review and comment on these documents before they are finalized, and that the final versions are consistent with this Order. It is also necessary and appropriate for the Commission to exercise its oversight responsibilities and for the final version of these transaction be filed with the Commission.

13. Lowest Uplift Charges

214. PURA§ 39.651(e) states that the Commission must ensure that the structuring and pricing of the Subchapter N bonds result in the lowest uplift charges consistent with market conditions and the terms of this Order and that in making this determination any present value calculation must use a discount rate equal to the proposed interest rate on the bonds.

Subchapter N Ordering Paragraphs: Debt Obligation Order Docket 52322

Commission Participation in Bond Issuance

57. The Commission, acting through its designated representative, may participate directly with ERCOT in negotiations regarding the structuring, pricing, and marketing of subchapter N bonds,

and must have equal rights with ERCOT to approve or disapprove the proposed structuring, pricing, and marketing of the subchapter N bonds.

58. The Commission's designated representative must have the right to participate fully and in advance regarding all aspects of the structuring, pricing, and marketing of the subchapter N bonds and must be provided timely information that is necessary to fulfill its obligation to the Commission; and all parties must be notified of the designated representative's role.

59. The Commission directs its designated representative to advise the Commission of any proposal that does not comply in any material respect with the criteria established in this Order and to promptly inform ERCOT and the Commission of any items that, in the designated representative's opinion, are not reasonable.

60. Nothing in this Order precludes issuance of the subchapter N bonds through a competitive bid offering or private placement if ERCOT and the Commission's designated representative agree that ERCOT should do so.

61. The Commission's designated representative must notify ERCOT and the Commission no later than 12:00 p.m. on the second business day after the Commission's receipt of the issuance advice letter for each series of subchapter N bonds whether the structuring, marketing, and pricing of that series of subchapter N bonds comply with the criteria established in this Order.”

Appendix 2

**Comprehensive Scope of Work from Base FA-RFP for \$1.89 billion
Securitization (CenterPoint) 2005**

Excerpt from PUCT Base Financial Advisor RFP Number 473-05-10138
Project 29049

“SECTION 3 – STATEMENT OF WORK

1. Regulatory Support and Deliverables.

- a. Assist Commission staff in the docketed cases related to utility applications for Financing Orders including reviewing company testimony and briefs, preparing and responding to interrogatories, and presenting or preparing witnesses to testify as directed by PUCT staff.
- b. Assist PUCT staff in preparing proposed forms of Financing Orders.
- c. Assist the Commission in evaluating the Issuance Advice Letter, the proposed servicing report, and the proposed true-up calculation procedures.
- d. Provide a “veto” or “no veto” letter to the Commission no later than noon on the second business day after the pricing date based on all information reasonably available to the Advisor at the time. Any “no veto” letter shall affirmatively state the following: 1) the structuring and pricing of the transaction resulted in the lowest transition bond charges consistent with market conditions and the terms of the Financing Order; 2) the Advisor performed all duties required under the terms of its contract and/or the Financing Order to be performed prior to delivery of the “no veto” letter; 3) the Advisor performed such due diligence sufficient to ensure that all material decisions made in the transaction by the Advisor and the utility have been appropriately documented, and that any difficulties, anomalies, or unusual circumstances encountered in the transaction have been reported to the PUCT Staff and will be documented in a Final Report as described below. Any “veto” letter shall explain in detail the reasons why the Advisor recommends that the transaction should not go forward, and any circumstances or remedies that the Advisor believes must occur for the transaction to go forward.
- e. For transactions that are not vetoed, the Advisor shall provide: 1) prior to closing of each transaction, a Certification letter addressed to the Commission and signed by the Advisor that the structure and pricing of the transaction resulted in the lowest transition bond charges given market conditions and the terms of the Financing Order, along with similar certifications signed by the bookrunning underwriters and provided to the Advisor and a brief narrative explaining the basis for the Advisor’s Certification; and, 2) within 30 days of closing of each transaction, a Final Report to the Commission that includes at least the following: (a) a summary of the transaction including the completion dates of transaction “milestone” events, the underwriters involved, the structure utilized, the pricing obtained, and a spread comparison of this transaction relative to pricing in previous Texas transition bond transactions and any similar recent transactions in other states; (b) a description of the actions taken by the Advisor to fulfill its duties under the contract including the Advisor’s due diligence efforts; (c) a description of any material difficulties, anomalies, or unusual circumstances encountered by the Advisor during the transaction including when these matters were communicated to the PUCT and how they were resolved to the Advisor’s satisfaction; (d) recommendations for improving the process for the next transaction, if any. The bookrunning underwriters’ certifications and part (c) and (d) of the Final Report described in this subsection may be provided to the Commission under seal.

- f. Upon request, provide one or more oral briefings to the Commission, the PUCT Staff or other parties on the results of the transaction.
 - g. Provide other written reports as directed by the Commission or the PUCT Staff.
2. Transaction Duties--Structuring, Pricing, Marketing.
- a. Have a decision making role co-equal to the utility with respect to structuring, marketing and pricing of the transition bonds.
 - b. Participate fully and in advance on all plans and decisions related to the structuring, marketing and pricing of the transition bonds.
 - c. Review and approve in advance all written marketing materials.
 - d. Participate actively in reviewing and approving, in writing, in advance all aspects of interactions with the rating agencies, including (without limitation): (1) cash flow models designed to calculate transition charges and transition bond payments; (2) “stress test” cash flow analyses; (3) business issues related to legal opinions; and (4) the resolution of other rating agency issues, including required capital contributions, overcollateralization, and other credit enhancement levels to achieve triple-A ratings.
 - e. Review and approve in writing, in advance, the underwriters’ plans for marketing the series of transition bonds, including their: (a) strategy to market the bonds to all relevant domestic and international debt market segments, including potential crossover buyers from the corporate bond market; (b) marketing materials in both written and electronic form (e.g., sales point memoranda, road shows, and other investor education materials).
 - f. Ensure the lowest cost of funds by evaluating market conditions and making recommendations on various aspects of the transaction including: (a) the timing of the proposal; (b) the alternative tranching structures to target current demand conditions; and (c) the optimal mix of fixed rate and floating rate transition bonds (with such swaps, collars or other hedging strategies as found to be appropriate by the Advisor).
 - g. Review and approve in advance the underwriters’ list of investors to whom the underwriters propose to offer the series of transition bonds.
 - h. Participate actively in written or oral presentations by any underwriter or group of underwriters to investors, including discussions relating to structure or price of transition bonds.
 - i. Give advance written approval before any underwriter offers a selling concession to any investor that might result in that investor paying a price that is less than the price at which substantially identical transition bonds are being offered to the general public.
 - j. Approve any proposed credit enhancement, hedging or swap agreements designed to promote the credit quality and marketability of the transition bonds or to mitigate the risk of future interest rate increases.
 - k. Coordinate price talks with underwriters and approve preliminary pricing indications prior to release to the marketplace.

- l. Have open access to the bookrunning manager's book and all orders with respect to the series of transition bonds.
 - m. Affirmatively approve the proposed pricing of the series of transition bonds; if there is an oversubscription, recommend whether the oversubscribed transition bonds should be re-priced.
 - n. Obtain written certification, to be approved by the Advisor, from the bookrunning underwriter(s) that the structuring and pricing of the transition bonds resulted in the lowest cost of funds and transition bond charges consistent with market conditions and the terms of the Financing Order.
 - o. Ensure that the transaction protects the competitiveness of the retail market in Texas by bringing to the attention of PUCT Staff any transaction structure issues that might result in a reduction in headroom (i.e. higher transition charges).
 - p. Review and approve forms of servicing reports for ongoing transaction reporting by the servicer, and develop continuing disclosure requirements for the Applicant and the special purpose entity (SPE) formed by the Applicant to issue transition bonds, including periodic posting of transition bond information on the SPE and/or Applicant's website.
3. Transaction Duties—Document Review and Due Diligence.
- a. Review drafts and approve in advance all transaction documents on behalf of ratepayers, giving particular attention to covenants, representations, and warranties to be given by the Applicant and by the SPE and to remedies and the measure of damages that will apply in the event of any breach of covenant, representation or warranty by the Applicant or by the SPE.
 - b. Review drafts and approve in advance all SEC registration statements and any written correspondence with SEC staff and participate actively in any discussions with SEC staff.
 - c. Review any “blue sky” memoranda prepared by underwriter’s counsel that confirm compliance with the securities laws (i.e., “blue sky” laws) of each state where transition bonds are to be offered.
 - d. Participate actively in the underwriters’ due diligence efforts.
 - e. Review the issuance advice letter, “no veto” letter, and the Final Report for compliance with the advisor’s contract and the Commission’s final order.
 - f. Review legal opinions given to rating agencies.
 - g. Review any Internal Revenue Service private letter ruling requests and letter rulings.
 - h. Conduct such other due diligence as may be necessary to support the “veto” or “no veto” letter, and the Final Report.
 - i. Promptly notify the Commission if the Advisor becomes aware that any material aspect of the transaction has been performed in a manner that is not legal or ethical or that any decisions made in the transaction have not been appropriately documented, including documentation of any difficulties, anomalies, or unusual circumstances encountered in the transaction and their resolution.

- j. Provide other support as requested by the PUCT Staff.
4. Transaction and Post-Transaction Duties —Accounting and Financial.
- a. Review in advance true-up adjustment models, formulas and procedures, including a form of true-up adjustment application.
 - b. Review in advance accounting requirements for the transaction.
 - c. Review all relevant information provided by the utility concerning various Qualified Costs (including costs of issuance and on-going servicing costs) and other financeable costs not fixed in the Financing Order.
 - d. Conduct due diligence designed to ensure that the aggregate caps in the Financing Order related to various transaction costs and the costs to refund and retire debt and equity are ceilings, not floors.
 - e. Assist the utility in preparing the issuance advice letter, including documentation that the statutory tests have been met.
 - f. Monitor the utility's use of securitization proceeds to ensure that they are used to retire utility debt and equity. Upon request, provide an opinion to the Commission on whether the costs incurred to the retire debt and equity are reasonable and whether such incurred costs exceed the cap set in the respective Financing Orders.”

Appendix 3

Items Deleted from the Scope of Work for 2018/19 FA-RFP for \$235 million 10-Year Bonds and Consequently Current ERCOT FA-RFP for \$3 billion up to 30-Year Bonds

COMPARISON SCOPE OF WORK
Initial 2018 AEP FA-RFP for \$235 million Bond Offering 10 years
versus
2021 ERCOT FA-RFP for \$3 billion Bond Offering 30 Years

Almost none of the detailed responsibilities and deliverables from the 2004/5 RFP were included in the RFP released for ERCOT or used in the 2018/19 RFPs. So a blackline would not be useful. No RFPs were issued from 2007-2018. In 2018 and FA-RFP was issued and then canceled for a “reduced scope” as shown below.

Items in **red** are deletions; items underlined are additions. Key items deleted in ERCOT FA-RFP besides all the duties identified in 2000-2005, include the following items from 2018:

1. Developing and verifying financial modeling,
2. Identifying alternative comparable securities,
3. Participating in rating agency and investor calls
4. Negotiating on behalf of the commission.

Below is the blackline comparison.

“SECTION 3 – STATEMENT OF WORK

The contractor will serve as a consultant for the PUCT to provide transparency into and evaluation of the securitization financing process followed by ~~AEP Texas~~ERCOT to ensure the PUCT has a basis for allowing ~~AEP Texas~~ERCOT to go forward with the securitized financing as proposed or stopping the transaction. As a consultant for the PUCT, the contractor must:

- ~~As necessary~~directed by the commission’s designated representative, hold ~~preliminary~~ discussions with the transaction’s book-running senior manager to fully understand the type of security that is to be sold.
- Hold discussions with the commission’s designated representative to understand the commission’s objectives and the pricing ~~constraints~~considerations consistent with those objectives.
 - ~~Survey and assess the market for comparable securities in the primary and secondary markets.~~
 - As directed by the commission’s designated representative, participate in conference calls with ERCOT, underwriters, the commission’s designated representative, and various counsel and consultants with regard to the structuring plans for the securities and the potential implications of evolving market conditions.
 - At the beginning of the public marketing process, hold discussions with the transaction’s book-running senior manager and the commission’s designated representative regarding the market environment and the specific structuring of tranches, amortization, coupons and yields, and call features; ~~as requested, provide.~~ Provide relevant feedback to the commission’s designated representative regarding the information gathered through discussions with the transaction’s book-running senior manager.
 - ~~Participate in periodic conference calls with the book-running senior manager to calibrate pricing models and discuss evolving market conditions; develop a financial model independent of the book-running senior manager that would allow the commission or its designated representative, the utility, and the book-running senior manager to explore alternative financing strategies.~~
 - ~~Participate in rating agency presentations and investor conference calls.~~
 - ~~Participate in the review of documents relating to the securities’ issuance, the collection of funds for payment of debt service, and the financing structure generally.~~
 - ~~Review and assess the initial “book” of the transaction’s book-running senior manager to evaluate whether the primary market has been accurately surveyed and accessed.~~
- During the order process, evaluate pricing of tranching structures based on evaluation of investor preferences, analyze relative pricing of tranches against specific relevant benchmark ~~U.S. Treasury~~ securities, and assess market

environment for other primary offerings as well as U.S. economic indicators that could affect the pricing and scheduled sale of the securities. As directed by the commission's designated representative, analyze alternatives (such as lowering yields) to reduce the amount of oversubscription and recommend whether the oversubscribed bonds are reasonably priced or should be re-priced.

• ~~Finalize~~ At the transaction's time of final pricing model and, provide feedback to the commission's designated representative on the securities' coupon rates, yield, tranching, and structuring in given market conditions.

• If requested by the commission's designated representative, attend pricing of securitized bonds at the offices of the book-running senior manager.

~~• Negotiate on behalf of the commission and the utility company the appropriate market clearing levels; as necessary, analyze alternatives (such as reducing yields) to reduce the amount of oversubscription and recommend whether the oversubscribed bonds should be re-priced.~~

~~• Attend pre-closing and closing as representative of the commission.~~

• If requested by the commission's designated representative, attend a commission public meeting and provide to the commission one or more oral briefings on the results of the transaction.

• Provide ~~other~~ written ~~reports~~ report on the pricing process as directed by the commission or its designated representative.

Deliverables

Throughout the contract, the contractor must provide ~~updates~~ an assessment of relevant market conditions to the PUC's Contract Administrator at least weekly, or more often if required by the Contract Administrator. These updates may be by phone unless the Contract Administrator directs the contractor to provide updates in writing. If the update is by phone, the contractor must submit the update in writing to the contract administrator within 1 business day after the call. If the update is done strictly in writing, the update must be submitted to the contract administrator by 8am CT each Monday while the contract is in place or as directed by the contract administrator.

By the final business day of the month following the month in which the transaction has been finalized:

- Contractor must prepare a post-pricing book memorializing the pre-issuance and actual market for the securities.
- Contractor must provide a detailed invoice, as described in Section 2.2, Payment Process of the contract's general terms and conditions"

Appendix 4

**Letter of Reference for Saber Partners, LLC with Excerpts from
Contract and Duties**

**Letter of Reference for Saber Partners, LLC and
Joseph S. Fichera, Chief Executive Officer
Concerning Investor-Owned Utility Securitization**

October 14, 2021

To Public Utility Commissioners and Staff:

We are writing to recommend **Saber Partners, LLC**, led by its chief executive officer, Joseph S. Fichera, to be the financial adviser to any public utility regulatory commission considering approving or have approved financing orders for securitization bonds and looking to achieve the lowest cost to, and the greatest protections for, their ratepayers in the entire securitization financing.

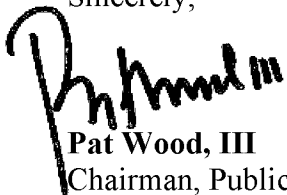
Each of us is personally familiar with Mr. Fichera and the Saber team of experts. We first hired them in 2000 and worked with them from 2000-2004 to set-up the Public Utility Commission of Texas's securitization program known in Texas as "Transition Bonds." We can directly attest to the professionalism, competence, responsiveness and dedication of Mr. Fichera and his team to the Texas Commission and the staff. They were singularly loyal to the Commission's duty to act in the public interest to protect ratepayers in all matters in these complex financings.

Most importantly, Mr. Fichera's ethics, dedication and pioneering work executing our Commission's decision for active oversight of the structuring, marketing and pricing of the securitization transition bonds was critical to the Commission's success in achieving our legislative mandate under our state's public utility regulatory act (PURA Subchapter G: Section 39.301: Purpose). The legislation specifically required that our "*commission shall ensure that the structuring and pricing of the transition bonds result in the lowest transition bond charges consistent with market conditions and the terms of the financing order.*" In addition to our personal views, we have attached detail on Saber Partners' work and the PUCT's results that protected ratepayers from paying higher charges and produced savings.

We unequivocally endorse and encourage you to engage Saber Partners, LLC and Mr. Fichera to advise you on any securitization proposals and financing plans that come before your Commission. You are unlikely to find any other firm with individuals more qualified to help you and the Commission staff in understanding utility securitization and how to protect ratepayer interests in any approved financing.

Please call any of us with questions.

Sincerely,



Pat Wood, III
Chairman, Public Utility
Commission of Texas
1995-2001



Brett Perlman
Commissioner, Public Utility
Commission of Texas
1999-2003



Rebecca A. Klein
Chairman, Public Utility
Commission of Texas
2001-2004

Attachment/Appendix
Page 1 of 3

Appendix: Texas Securitization Transition Bond Financings 2000-2004

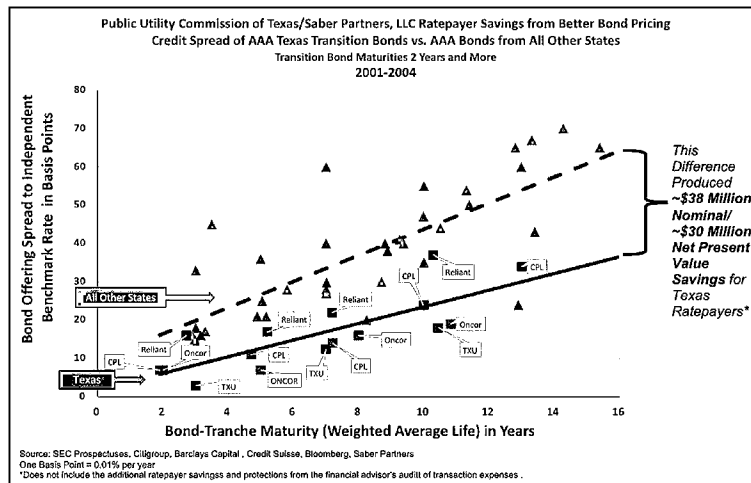
- Between 2000 and 2006, the Public Utility Commission of Texas (PUCT) was advised on securitization by Saber Partners, LLC. We worked with them between 2000-2004.
- While we were commissioners, the PUCT approved securitization financing orders initially for Central Power and Light (now AEP) see [Docket # 21528](#) and subsequently for Reliant Energy, see [Docket #21665](#) (now CenterPoint), and Oncor Electric and TXU see [Docket #24892](#)). In those financing orders, we required an independent financial advisor and an independent certification by that advisor that the structure and pricing of each transition bond offering was the lowest under market conditions at the time per PURA 39.301. The attached Finding of Facts and Ordering Paragraphs listed our financial advisor’s responsibilities and were discussed in open meetings.

Date of Offering	Texas Utility Issuing Entity	Amount
10/2001	CenterPoint Energy Transition Bond Company I, LLC	\$748,897,000
01/2002	CPL Transition Funding LLC	\$797,300,000
08/2003	Oncor Electric Delivery Transition Bond Company LLC	\$500,000,000
05/2004	TXU Electric Delivery Transition Bond Company LLC	\$789,777,000
	Total	\$2,835,974,000

- By 2001, when a Texas utility first sold securitization bonds, investor-owned utilities in other states, in 18 bond offerings, sold \$26 billion of similar AAA securitization bonds. The market was well established.
- Between 2001-2004, investor-owned utilities in New Jersey, Pennsylvania, Michigan, Massachusetts and New Hampshire, in 12 bond offerings, sold another \$7.2 billion of AAA securitization bonds with similar maturities as Texas transition bonds during this period.
- The PUCT, with Saber Partners’ advice and guidance, negotiated better pricing under market conditions at the time of pricing for these bond offerings when compared to the results achieved by other investor-owned utilities at the time. This prevented higher charges and substantially lowered the costs to Texas ratepayers. It also set new market benchmarks for the pricing these types of securities.

Pricing Results

- The appropriate and best measure of pricing success in the corporate bond market is to compare the bond’s credit spreads (the interest rate above an independent benchmark security) for the bond’s maturity to similar corporate bonds with the same credit rating and maturity from Moody’s, Standard and Poor’s and Fitch. In utility securitization, all bonds are rated Aaa/AAA/AAA respectively.
- The results speak for themselves. Saber Partners was instrumental in helping the PUCT achieve – in just interest costs alone – approximately \$38 million in lower ratepayer costs or about \$30 million in net present value ratepayer savings.
- Saber Partners also audited the Utility transaction expenses and structuring that provided millions in other ratepayer savings.



Confirming Representative Financial Press Reports on Texas Offerings with Saber Partners, LLC

1. \$749 Million Reliant Energy:
“... the first utility in Texas to securitize and it achieved the tightest new issue spreads to credit cards ever.”
(*Salomon Smith Barney Research Report (now Citibank) 1/19/2002*)
2. \$797 Million Central Power & Light:
“Priced at unusually tight spreads... a new benchmark for the issues” *Asset-Backed Alert, 2/15/02*
3. \$500 million Oncor Electric Delivery:
“Priced ... at the tightest levels the sector has seen to date” (*Asset Securitization Report, 9/18/03*)
“Tightest ever pricing for an issue of its kind” (*Asset-Backed Alert, 9/5/03*)
4. \$789 Million TXU:
“Achieved the goal of repricing the sector... at historically rich spreads” (*Asset Securitization Report, 5/28/04*)

PUCT Financing Orders Involving Saber Partners, LLC Specifying Their Contractual Duties to the PUCT

The PUCT in our Financing Order in Docket 21528 assigned to the Commission's Financial Advisor (Saber Partners, LLC) the following general responsibilities "to protect ratepayers in the State of Texas."¹⁰ The Financing Order in Docket 2158 was issued to Central Power & Light (the Utility) and became the template for all subsequent securitization PUCT securitization/transition bond financing orders approved between 2000-2004 for approximately \$2.8 billion in financings in 4 transactions.

I. General Duties of the Financial Advisor

1. To ensure that the structuring and pricing of the transition bonds results in the lowest transition-bond charges consistent with market conditions and the terms of the Financing Order. (Finding of Fact (FOF) 97 and Ordering Paragraph (OP) 21).
2. To ensure that the structure and pricing of the transition bonds protects the competitiveness of the retail electric market in Texas. (FOF 97 and OP 21).
3. To give effect to the Commission's directive that the caps in the Financing Order related to costs and maximum interest rates are ceilings, not floors (FOF 97 and OP 21).

II. Specific Duties of Financial Advisor

1. To notify the Commission and the Utility no later than 12:00 p.m. CST after the pricing date of each series of transition bonds whether the pricing and structuring of that series of transition bonds complies with the terms and conditions of the Financing Order. (OP 21.)
2. To veto any proposal that does not comply with all the terms and conditions of the Financing Order. (OP 21).
3. To participate in negotiations regarding the pricing and structuring of the transition bonds. (OP 21).
4. To decide, together with the Utility, whether to use credit enhancements. (OP 17).
5. To determine whether it is prudent to enter into hedging and swap agreements to mitigate risk of future rate increases. (FOF 99).
6. To inform the Commission of any cost items that, in the Financial Advisor's opinion, are not reasonable. (OP 21).

III. General Authority of the Financial Advisor

To fulfill these duties, the Financing Order grants the Commission's Financial Advisor the following authority:

1. Authority to participate fully and in advance in all aspects of the pricing, marketing and structuring of the transition bonds including all plans and decisions related to the pricing, marketing and structuring of the transition bonds. (FOF 98 and OP 21).
2. Equal rights with the Utility to approve or disapprove the proposed pricing, marketing and structuring of transition bonds. (OP 21).
3. Decision making authority co-equal with the Utility with respect to the structuring and pricing of the transition bonds. (FOF 97). Thus, all matters relating to the structuring and pricing of the transition bonds must be decided jointly by the Utility and the Commission's Financial Advisor. (FOF 97).
4. The right to receive timely information as necessary to fulfill its obligation to advise the Commission.

¹⁰ See comments and discussion at PUCT open meeting by Commissioners Wood, Perlman and Walsh February 24, 2000.