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<b>APPLICATION OF THE 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>ORDER TO FINANCE UPLIFT</b>	<b>§</b>	<b>OF TEXAS</b>
<b>BALANCES UNDER PURA CHAPTER</b>	<b>§</b>	
<b>39, SUBCHAPTER M, AND FOR A</b>	<b>§</b>	
<b>GOOD CAUSE EXCEPTION</b>	<b>§</b>	

**ELECTRIC RELIABILITY COUNCIL OF TEXAS, INC.’S  
RESPONSE TO CITY OF AUSTIN D/B/A AUSTIN ENERGY’S  
FIRST REQUEST FOR INFORMATION**

Electric Reliability Council of Texas, Inc. (“ERCOT”) files this response to City of Austin d/b/a Austin Energy’s (“Austin Energy”) First Request for Information.

**I. WRITTEN RESPONSES**

ERCOT’s written responses to Austin Energy’s First Request for Information are attached and incorporated by reference. Each response is stated on or attached to a separate page on which the request has been restated. ERCOT’s responses are made in the spirit of cooperation without waiving ERCOT’s right to contest the admissibility of any of these matters at hearing. Pursuant to P.U.C. PROC. R. 22.144(c)(2)(A), each response lists the preparer or person under whose direct supervision the response was prepared and any sponsoring witness. When ERCOT provides certain information sought by the request while objecting to the provision of other information, it does so without prejudice to its objection in the interests of narrowing discovery disputes pursuant to P.U.C. PROC. R. 22.144(d)(5). Pursuant to P.U.C. PROC. R. 22.144(c)(2)(F), ERCOT stipulates that its responses may be treated by all parties as if they were made under oath.

**WINSTEAD PC**

By: /s/ Ron H. Moss

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**ATTORNEYS FOR ERCOT**

**CERTIFICATE OF SERVICE**

This document was filed on the Commission's Interchange website on August 2, 2021. In accordance with Order No. 2 in this docket, filing a document on the Commission's Interchange website constitutes service of the document on all parties to this proceeding.

/s/ Ron H. Moss  
Ron H. Moss

## RESPONSE

### QUESTION NO. AE 1-1:

ERCOT's application and testimony propose using \$318 million of the \$800 million in proceeds available for the default balance to pay amounts owed to market participants short-paid due to short payments by terminated competitive wholesale market participants.<sup>1</sup> Two market participants, Brazos Electric Power Cooperative and Rayburn Electric Cooperative are in default with ERCOT and still participating in the ERCOT market.

- i How does ERCOT plan to address the allocation of these funds to entities that remain in default?
- ii Will those funds be used to reduce the entities' default amounts and then distributed to other short paid market participants?
- iii Are there any complications to this due to Brazos Electric Power Cooperative's bankruptcy?

### RESPONSE:

- i. Unless the Commission directs otherwise in this proceeding, ERCOT will allocate these funds to all Qualified Scheduling Entities ("QSE") and Congestion Revenue Right ("CRR") account holders that were short-paid as a result of unpaid invoices for activity during the Period of Emergency. If a QSE or CRR account holder, including Brazos Electric Power Cooperative ("Brazos") and Rayburn Electric Cooperative ("Rayburn"), was short-paid at any time for activity that occurred during the Period of Emergency, that QSE or CRR account holder will receive a pro-rata share of the funds, unless the Commission directs otherwise.
- ii. If any of these funds are payable to Rayburn, they will be used to reduce Rayburn's default amount. A portion of any funds used to reduce Rayburn's default amount would be allocated to replenish the CRR auction revenue fund, and a portion of the funds would be distributed to other short-paid market participants. The portion allocated to replenish the CRR auction revenue fund would be based pro-rata on the ratio of the amount needed to fully replenish the CRR auction revenue fund to the total amount owed to short-paid market participants. The remainder that is allocated to short paid market participants would be allocated to their earliest short-paid invoices.

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<sup>1</sup> See pp. 5-7 of ERCOT's Application for a Debt Obligation Order to Finance Default Balances Under PURA Chapter 39, Subchapter M and Request for Good Cause Exception, and p. 17 of the associated Direct Testimony of Sean Taylor, CFO of ERCOT.

If any of these funds are payable to Brazos, they would be allocated to a segregated account and would not be distributed to short-paid market participants at this time. The treatment of any funds that may be payable to Brazos is subject to change based on further developments that may occur in pending bankruptcy proceedings.

- iii. ERCOT cannot predict what actions the bankruptcy court will take in the Brazos bankruptcy proceeding, and therefore ERCOT does not know what complications, if any, the Brazos bankruptcy will present.

Preparers: Mark Ruane, Read Comstock  
Sponsor: Kenan Ögelman

**QUESTION NO. AE 1-2:**

ERCOT's application and testimony indicates that, per language found in HB 4492, ERCOT will use the same allocated pro rata share methodology under which the default charges would otherwise be uplifted under the ERCOT Protocols in effect on March 1, 2021.<sup>2</sup> Does this mean that ERCOT would make the calculation using the exact same formula found in Protocol Section 9.19.1 in effect on March 2021, regardless of any changes in protocol language approved by the ERCOT Board of Directors after March 1, 2021?

**RESPONSE:**

PURA § 39.603(d) provides that ERCOT “shall collect from and allocate among wholesale market participants the default charges using the same allocated pro rata methodology under which the charges would otherwise be uplifted under the protocols in effect on March 1, 2021.” ERCOT interprets this language to mean that ERCOT must continue using the pro rata methodology under which the default charges would have been uplifted under the Protocols in effect on March 1, 2021, regardless of whether or how the Protocols are revised after March 1, 2021.

To the extent the question asks whether ERCOT will use the “exact same formula” in Protocol Section 9.19.1 in effect on March 1, 2021, please note that formula relies on the use of market activity from a specific “reference month,” which is defined in the Protocol Section 9.19.1 as “the month prior to the month in which the default occurred.” However, as explained in the Direct Testimony of Kenan Ögelman, for purposes of HB 4492, the “reference month” ERCOT will use to calculate the default charge allocation will be “the most recent month for which ‘final settlement’ data is available on a rolling basis, rather than ... the month prior to the month in which the default occurred.” This modification is necessary because HB 4492, unlike Protocol Section 9.19.1, does not contemplate allocation of default charges based on one fixed month of market activity.

Furthermore, and as noted in the Direct Testimony of Kenan Ögelman, HB 4492 provided for two specific exemptions to the collection and allocation of default charges to market participants. First, PURA § 39.151(j-1) prohibits ERCOT from uplifting short-paid amounts to a municipally-owned utility that became subject to ERCOT's jurisdiction on or after May 29, 2021 and before December 30, 2021. Next, PURA § 39.603(f) prohibits ERCOT from collecting default charges from a market participant that: (1) otherwise would be subject to a default charge solely as a result of acting as a central counterparty clearinghouse in wholesale market transactions in the ERCOT power region; and (2) is regulated as a derivatives clearing organization as defined by Section 1a, Commodity Exchange Act (7 U.S.C. Section 1a). To the extent that Protocol Section 9.19.1 in effect on

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<sup>2</sup> See pp. 7-9 of ERCOT's Application for a Debt Obligation Order to Finance Default Balances Under PURA Chapter 39, Subchapter M and Request for Good Cause Exception, and pp. 30-37 of the associated Direct Testimony of Kenan Ögelman, VP of Commercial Operations, ERCOT.

March 1, 2021, would otherwise require ERCOT to include market participants that are exempted by statute in the pro rata methodology under which the default charges would have been uplifted, ERCOT will not include such market participants.

Other than these modifications, ERCOT will use the formula set forth in Protocol Section 9.19.1 as of March 1, 2021, regardless of whether that formula is revised in the Protocols in the future.

Preparer: Kenan Ögelman  
Sponsor: Kenan Ögelman