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APPLICATION OF THE ELECTRIC RELIABILITY COUNCIL OF TEXAS, INC. FOR A DEBT OBLIGATION ORDER UNDER PURA CHAPTER 39, SUBCHAPTER N	§	**PUBLIC UTILITY COMMISSION OF TEXAS**

TENASKA POWER SERVICES CO.'S STATEMENT OF POSITION

COMES NOW Tenaska Power Services Co. and files this Statement of Position. In support thereof, Tenaska Power Services Co. shows the following:

I. BACKGROUND

The Electric Reliability Council of Texas, Inc. ("ERCOT") filed the above captioned application ("ERCOT Application") dated July 16, 2021.

II. INTRODUCTION

Tenaska Power Services Co. ("TPS") is a Qualified Scheduling Entity ("QSE") in ERCOT, serving as a third party QSE service provider for a substantial number of generating facilities owned by customers that are not affiliated with TPS.[1] TPS provides access to the ERCOT wholesale market, scheduling and settlement services, and other administrative services to these generators, and facilitates the purchase and sale of energy products with ERCOT on their behalf. In its role as a QSE service provider, TPS also represents a small number of Retail Electric Providers ("REP") and other Load Serving Entities, all of which sell energy to non-affiliated customers.

TPS submits this Statement of Position to reiterate the concerns expressed by TPS in its August 4, 2021 Response to Commission Order Requesting Briefing and to offer comments on three other aspects of the ERCOT filing.

[1] In this Statement of Position TPS refers to QSEs that represent unaffiliated market participants as Independent QSEs.

III. RESPONSE TO COMMISSION ORDER REQUESTING BRIEFING

TPS notes that several of the briefs in response to the Commission's above-referenced Order suggest that netting should be applicable and that a broad affiliate rule should be adopted. After considering these briefs, TPS continues to believe that if any form of netting is ordered (as to which TPS takes no position) the principles should be narrowly tailored, and in particular that under any form of netting or disregard of corporate form that may ordered by the Commission:

1. Activity by an entity acting in its capacity as a QSE should not be netted with activity of a Load Serving Entity, either within that same entity or by a related entity that is a Load Serving Entity. Although a QSE is the nominal party that transacts financially with ERCOT on behalf of both load and generation, QSEs are not the true parties at interest. QSEs, in effect, serve a clearinghouse and have an administrative function. It is the activity of the Load Serving Entity or other market participant represented by the QSE that would be relevant under any appropriate netting rule.

2. Transactions by an Option 2 REP serving an industrial load customer, whether at transmission voltage or less than transmission voltage, should not be aggregated or netted other than with other transactions with that same industrial load customer.

3. Netting should not occur between for-profit entities unless (a) one of the entities is a wholly-owned direct or indirect subsidiary of the other entity or (b) both entities are wholly-owned, directly or indirectly, by the same parent entity.

IV. THE COMMISSION SHOULD CONSIDER PROVIDING THAT TRANSMISSION-VOLTAGE CUSTOMERS FILE THEIR OWN CLAIMS FOR PROCEEDS OF SUBCHAPTER N SECURITIZATION BONDS AND THEIR OWN OPT OUT NOTICES

The Legislature recognized the special status of transmission-voltage customers by giving these retail customers an independent right to opt out of Subchapter N securitization and uplift charges.[2] TPS proposes that claims for securitization bond proceeds applicable to any such customers that do not opt out be filed by such customers rather than by their REP. Many transmission-voltage customers enter into bilateral transactions on their own and would be in a better position than their REP to present their claim in accordance with whatever rules are adopted to determine the "exposure" that is taken into account in determining entitlement to a share of bond proceeds. The process could also be streamlined by having transmission-voltage customers that wish to opt out give notice of their opt out election directly to the Commission and ERCOT, rather

[2] PURA Section 39.653(d).

than through their REP, utilizing a process similar to the established process for transmission-voltage customers to opt out of the Renewable Portfolio Standard.

V. ERCOT'S CONCERNS REGARDING CAPABILITY OF QSES TO PROPERLY ALLOCATE UPLIFT CHARGES IF THEY REPRESENT BOTH OPT OUT AND NON-OPT OUT ENTITIES ARE NOT WELL FOUNDED

Mr. Ogelman's testimony[3] suggests there is some doubt about the capability of a QSE to ensure that Uplift Charges are properly allocated if the QSE represents both opt out and non-opt out entities. The testimony suggests that perhaps QSEs that represent an opt out entity should not also represent entities that have not opted out. TPS believes that this is not a problem, as it is common for QSEs to determine which customers are subject to particular types of charges and to avoid charging customers that are not subject to the charges. QSEs are more than capable of properly allocating load ratio share amounts to those entities that should receive them, and not doing so for opted-out entities. TPS requests that QSEs not be segmented according to opt out status of customers, as this is would be an unnecessary complication for both ERCOT and the affected QSEs.

VI. ERCOT INCORRECTLY PROPOSES TO ASSESS LIABILITY FOR UPLIFT CHARGES TO QSES RATHER THAN TO LSES

Section 39.653(c) of PURA requires that uplift charges be assessed against load serving entities:

> **"(c) The independent organization shall assess uplift charges to all load-serving entities on a load ratio share basis, which may be translated to a kwh charge, including load serving entities who enter the market after an order has been issued under this subchapter, but excluding the load of entities that opt out under Subsection (d)."**

Instead of following the direction of PURA Section 39.653(c), ERCOT proposes in paragraph 54 of the draft Debt Obligation Order that Uplift Charges be assessed to QSEs, which would then be personally liable for these charges and would be required to post four months of collateral to secure this liability. Nowhere does the proposed Debt Obligation Order impose an obligation upon the load serving entities to make the required payments to their QSE.

[3] Mr. Ogelman's testimony at page 30, line 16 to page 31, line 4.

TPS proposes that, to comply with PURA Section 39.653(c), the Debt Obligation Order be revised to:

1. Impose directly upon Load Serving Entities the assessment of Uplift Charges, as expressly required by PURA Section 39.653(c).

2. Clarify that QSEs shall serve as ERCOT's administrative and collection agent to (a) determine the amount of Uplift Charges to be allocated to each Load Serving Entity on a daily basis pursuant to the "Uplift Charges Assessment Methodology" described by ERCOT in paragraph 56 of its proposed Debt Obligation Order, and (b) collect the amount of determined Uplift Charges from each Load Serving Entity.

3. Clarify that QSEs are not personally liable for Uplift Charges but are only responsible for performing their obligations as administrative and collection agents in good faith.

4. Impose penalties, including a forfeiture of the right to continue participation in ERCOT, upon Load Serving Entities that fail to pay their assessed Uplift Charges.

Dated: August 12, 2021

Respectfully submitted,

/s/ Keith Emery

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TENASKA POWER SERVICES CO.

CERTIFICATE OF SERVICE

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/ Keith Emery
Keith Emery