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DOCKET NO. 52322

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

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

Defined Term	Meaning
\$/MWh	Dollar-per-megawatt-hour
ERCOT	Electric Reliability Council of Texas, Inc.
Just Energy	Just Energy Group, 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
SPE	Special Purpose Entity

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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 direct testimony of the following
3 witnesses:

- 4 • Bill Barnes, who testifies on behalf of NRG Energy, Inc. (“NRG”); and
- 5 • Michael Carter, who testifies on behalf of Just Energy Group, Inc. (“Just Energy”).

6 **Q. WHAT ARE YOUR RECOMMENDATIONS IN THIS CASE?**

7 A. I recommend that the Commission adopt ERCOT’s proposal to calculate Uplift Charges
8 by charging a set amount each day and by allocating that amount among the Load Serving
9 Entities (“LSE”) that have not opted out based on their load ratio share. I also recommend
10 that the Commission reject certain Intervenors’ alternative proposal to calculate the Uplift
11 Charges assessed to LSEs based on a dollar-per-megawatt-hour (“\$/MWh”) basis.

12 **Q. IS ERCOT PRESENTING REBUTTAL TESTIMONY FROM ANY OTHER**
13 **WITNESSES IN THIS DOCKET?**

14 A. Yes. ERCOT is presenting rebuttal testimony from Kenan Ögelman, ERCOT Vice
15 President of Commercial Operations, and from Charles N. Atkins II, ERCOT’s financial
16 advisor, on several issues raised in parties’ statements of position and direct testimony.

17

III. \$/MWH CHARGE PROPOSAL

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

3 A. I explain why ERCOT has proposed to calculate Uplift Charges by first establishing an
4 amount that needs to be collected each day, and then allocating that amount to all LSEs
5 based on their load ratio shares. I also respond to the testimony of certain Intervenors who
6 propose that ERCOT instead calculate Uplift Charges using a \$/MWh fee.

7 **Q PLEASE DESCRIBE IN MORE DETAIL ERCOT'S PROPOSED METHOD FOR**
8 **CALCULATING UPLIFT CHARGES?**

9 A ERCOT proposes to calculate Uplift Charges by first establishing an amount that must be
10 collected each day to satisfy ERCOT's obligations to the bankruptcy-remote special
11 purpose entity ("SPE"). ERCOT will allocate the amount that needs to be collected for
12 each day among all LSEs that have metered load for that day and have not qualified for an
13 opt-out from the Uplift Charge. The allocation will be based on each LSE's load ratio
14 share for that day.

15 **Q. PLEASE DESCRIBE THE INTERVENORS' PROPOSAL TO COLLECT THE**
16 **UPLIFT CHARGES BASED ON A \$/MWh BASIS.**

17 A. As I understand certain Intervenors' proposal, they want the Uplift Charges to be calculated
18 on a \$/MWh basis that would remain fixed unless an adjustment needed to be made based
19 upon an annual true-up, at which time the \$/MWh Uplift Charge would be adjusted up or
20 down to account for under- or over-collections. My understanding is there could be an
21 ability to perform an interim true-up if certain undefined conditions were met.

1 **Q. DOES PURA REQUIRE THAT UPLIFT CHARGES BE CALCULATED BY**
2 **ERCOT ON A \$/MWh BASIS?**

3 A No. I am not an attorney, and I am not offering a legal opinion. However, PURA
4 § 39.653(c) says Uplift Charges shall be assessed on all LSEs on a load ratio share basis,
5 “which *maybe* translated to a kWh charge.” I interpret this to mean that it is not mandatory
6 that ERCOT collect the Uplift Charge using a \$/MWh charge, and as I explain in this
7 testimony, there are several reasons not to use a \$/MWh charge.

8 **Q DID ERCOT CONSIDER TRANSLATING UPLIFT CHARGES TO A \$/MWh**
9 **CHARGE?**

10 A. Yes, but for the reasons I describe in this testimony, ERCOT determined its proposed
11 method for calculating the Uplift Charge will help ensure timely distribution of
12 securitization proceeds, alleviate liquidity issues, and ensure that the structuring and
13 pricing of the debt obligations results in the lowest Uplift Charges. A \$/MWh approach
14 would not.

15 **Q. WHAT CONCERNS DOES ERCOT HAVE WITH CALCULATING UPLIFT**
16 **CHARGES ON A \$/MWh BASIS?**

17 A. ERCOT has numerous concerns with Intervenors’ proposal to calculate Uplift Charges on
18 a \$/MWh basis.

19 • A \$/MWh charge would likely delay the closing of the debt obligations, which
20 would exacerbate both the liquidity issues in the market and the risk of additional
21 market participant defaults, contrary to the legislative intent expressed in PURA
22 § 39.651(b).¹

¹ PURA § 39.651(b) states “Financing the uplift balance in the manner provided by this subchapter will allow wholesale market participants who were assessed extraordinary uplift charges due to consumption during the period

- 1 • A \$/MWh charge would likely result in higher monthly Uplift Charges, which
2 would be contrary to the requirements of PURA § 39.651(e).²
- 3 • A \$/MWh charge would create more volatility and seasonality risk in the collection
4 and transfer of the Uplift Charges, which would likely result in higher Uplift
5 Charges than ERCOT's proposed methodology.
- 6 • A \$/MWh charge would result in additional implementation and ongoing costs
7 relative to ERCOT's proposed methodology, and those additional costs would be
8 borne by LSEs.

9 **Q WHY DO YOU THINK ASSESSING UPLIFT CHARGES ON A \$/MWh BASIS**
10 **WOULD DELAY THE CLOSING OF THE DEBT OBLIGATIONS?**

11 A Mr. Atkins explains that if ERCOT is required to assess Uplift Charges on a \$/MWh basis,
12 credit rating agencies will likely require ERCOT to provide load forecasts specific to those
13 LSEs responsible for the Uplift Charges in order to run stress tests before providing a credit
14 rating for the debt.³ ERCOT, however, does not have any load forecasts specific to the
15 LSEs that will be paying Uplift Charges, because ERCOT does not know which LSEs will
16 opt out. Therefore, those forecasts would have to be developed.

17 **Q. WHAT TYPES OF FORECASTS WOULD ERCOT NEED TO DEVELOP?**

18 A. My understanding is that the load for this yet-unknown group of LSEs would need to be
19 forecasted for the proposed life of the debt, which is 30 years. These forecasts would also

of emergency to pay those charges over a longer period of time, alleviating liquidity issues and reducing the risk of additional defaults in the wholesale market.”

² PURA § 39.651(e) requires that “The commission shall ensure that the structuring and pricing of the debt obligations results in the lowest uplift charges consistent with market conditions and the terms of the order issued under this subchapter.”

³ Typically, the rating agencies rely on the accuracy of historical load forecasts to help assess the volatility of cash flows to support financing obligations and to gauge the accuracy of the future load forecasts

1 need to be maintained throughout the life of the debt. Additionally, the credit rating
2 agencies typically require analysis of the accuracy of historical load forecasts for the past
3 five years. ERCOT does not have this historical information.

4 **Q DOES ERCOT CURRENTLY HAVE ANY TYPE OF LOAD FORECAST IT**
5 **COULD USE TO CALCULATE THE \$/MWh UPLIFT CHARGE REQUESTED BY**
6 **SOME INTERVENORS?**

7 A No. As I have noted, a load forecast to be used for the purpose of calculating Uplift Charges
8 would have to be based upon a subset of load that will not be known until all opt-out
9 decisions have been made, which means it will be load for selected entities that ERCOT
10 has not historically forecasted on a stand-alone basis. Therefore, historical load forecast
11 data may not be useful, and ERCOT would need to implement a new load forecast related
12 to Uplift Charges going forward.

13 **Q. DO YOU HAVE AN ESTIMATE OF HOW LONG IT WOULD TAKE TO**
14 **DEVELOP THE NEW FORECASTS?**

15 A. No. ERCOT does not have an estimate of how long it would take to develop an acceptable
16 forecast, but it would likely take several months.

17 **Q. WHY DOES ERCOT BELIEVE A FIXED \$/MWh UPLIFT CHARGE AS**
18 **PROPOSED BY THE INTERVENORS COULD RESULT IN HIGHER UPLIFT**
19 **CHARGES?**

20 A. As I mentioned, the use of a fixed \$/MWh Uplift Charge approach relies on load forecasts
21 and analysis of historical load forecast accuracy to try to predict the dollar amount of the
22 per MWh Uplift Charge necessary to service the bonds. In order to mitigate volatility and
23 seasonality risk inherent in relying on load forecasts to calculate the amount of Uplift

1 Charges, ERCOT would likely have to assess higher Uplift Charges than it would if the
2 Uplift Charges were a fixed amount needed to service the bonds. Additionally, as I
3 previously stated, the higher upfront and ongoing costs to develop and maintain a \$/MWh
4 approach would need to be recovered through the Uplift Charges.

5 **Q. YOU TESTIFIED THAT A CALCULATION BASED ON A \$/MWh CHARGE**
6 **WOULD RESULT IN MORE VOLATILITY. PLEASE EXPLAIN WHAT YOU**
7 **MEANT.**

8 A. When I speak to volatility, I am referring to two things. First, using a \$/MWh fee approach
9 would result in volatility as it relates to amounts collected to service the debt obligation,
10 because collection amounts will depend on load volume. Second, there may be volatility
11 in the \$/MWh fee charged year over year, as adjustments must be made to the fee to account
12 for over- or under-collections from one year to another.

13 Allocating a fixed amount to load based on load ratio share for a particular day,
14 rather than allocating an annually set fee to each MWh, ensures that the amounts collected
15 by ERCOT each day remain consistent, even if there are subsequent adjustments to load
16 meter data. For example, assume ERCOT allocates and collects \$10,000 for a particular
17 day based on load ratio share. If, subsequent to that initial allocation and collection process,
18 ERCOT receives updated meter data that changes entities' load ratio share for that day—a
19 fairly typical occurrence—ERCOT would not owe back any of the original \$10,000 amount
20 it collected to load. Rather, adjustments would just be made among the LSEs that had load
21 for that day, with some owing a greater portion of the \$10,000 for that day, and some owing
22 a lesser portion, based on the net change to their load ratio share.

1 Now assume instead that ERCOT was required to calculate Uplift Charges on a
2 \$/MWh basis. Any downward or upward adjustments to ERCOT overall system load that
3 occurred subsequent to ERCOT's initial collection of the Uplift Charges for a particular
4 day would require ERCOT to remit collected funds back to load or collect additional funds
5 from load. This typically occurs during ERCOT's "final" and "true-up" settlement
6 invoices. The final settlement invoice is 55 days after the operating day, and the true-up is
7 180 days after the operating day. In the case of the \$/MWh Uplift Charge, that would prove
8 problematic as ERCOT would have already remitted collected amounts to the SPE for
9 purposes of servicing the debt obligation. It also creates additional variability and risk
10 associated with the timing of the recovery of the total Uplift Charges. In light of all of the
11 foregoing, the fixed amount distribution method proposed by ERCOT is the best method
12 for ensuring consistency in the collection of Uplift Charges.

13 **Q. INTERVENORS STATE THAT A \$/MWH CHARGE IS USED IN UTILITY**
14 **SECURITIZATIONS, SO IT COULD BE USED IN THIS CASE.⁴ WHAT IS YOUR**
15 **RESPONSE?**

16 A. ERCOT is not a public utility. Therefore the optimal and lowest cost structure of its
17 securitizations cannot be readily compared to the utility securitizations referenced by the
18 Intervenors in that respect. The cost recovery approach proposed by ERCOT better aligns
19 with ERCOT's settlement and billing practices and is consistent with the way ERCOT
20 recovers other load-allocated charges.

⁴ Carter Direct at 11.

1 **Q. MR. BARNES ASSERTS THAT ERCOT SHOULD CALCULATE THE UPLIFT**
2 **CHARGES IN A MANNER SIMILAR TO THE ERCOT SYSTEM**
3 **ADMINISTRATION FEE.⁵ DO YOU AGREE?**

4 A. No. Because the funds collected for Uplift Charges must be remitted to another entity—
5 the SPE—and do not remain with ERCOT, the collection process for the Uplift Charges
6 raises fundamentally different concerns than the process currently used to charge and
7 collect the system administration fee. Most particularly, and as noted above, the Uplift
8 Charge collection process is more dependent on ensuring that ERCOT does not have to
9 remit back already-collected amounts to load when there are subsequent adjustments to
10 metered load. The best way to ensure that this does not become an issue is to collect the
11 Uplift Charges using the method ERCOT has proposed.

12 **Q DO YOU AGREE WITH CERTAIN INTERVENORS THAT STATE A \$/MWh**
13 **CHARGE IS EASIER TO IMPLEMENT FOR LSEs AND EASIER TO PASS**
14 **THROUGH TO END-USE CUSTOMERS?⁶**

15 A. ERCOT has no opinion as to the ease for LSEs to implement the Uplift Charges as proposed
16 by ERCOT and the ability to pass-through the Uplift Charges to end-use customers.
17 ERCOT notes that assessing an ERCOT charge based upon load ratio share of a dollar
18 amount is not unique, and ERCOT currently assesses some ERCOT charges based upon
19 load ratio share, such as Real-Time Revenue Neutrality Adjustment (“RENA”).
20 Additionally, the Default Charges that will be assessed under Subchapter M of PURA
21 Chapter 39 will not be on a \$/MWh basis. ERCOT believes it is more important to avoid

⁵ Barnes Direct at 10.

⁶ Carter Direct at 9.

1 delays in providing liquidity and to assess the lowest Uplift Charges possible, rather than
2 assess higher charges that may be easier to implement in LSEs' systems and to pass-
3 through to end-use customers. Finally, nothing in ERCOT's proposed methodology
4 precludes LSEs from allocating their load ratio share charges to their end-use customers
5 on a \$/MWh basis.

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

7 A. Yes.

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

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PUBLIC UTILITY COMMISSION
OF TEXAS

AFFIDAVIT

STATE OF TEXAS)
)
COUNTY OF TRAVIS)

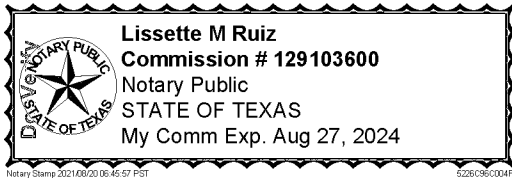
SEAN TAYLOR, first being sworn on his oath, states:

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 06:45:57 -8:00

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 06:45:57 -8:00

Notary Public, State of Texas

My Commission Expires: August 27, 2024

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E-Signature 1: Sean Taylor (ST)

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 Sean.Taylor@ercot.com (Principal) (Personally Known)

E-Signature Notary: Lissette Ruiz (LR)

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

