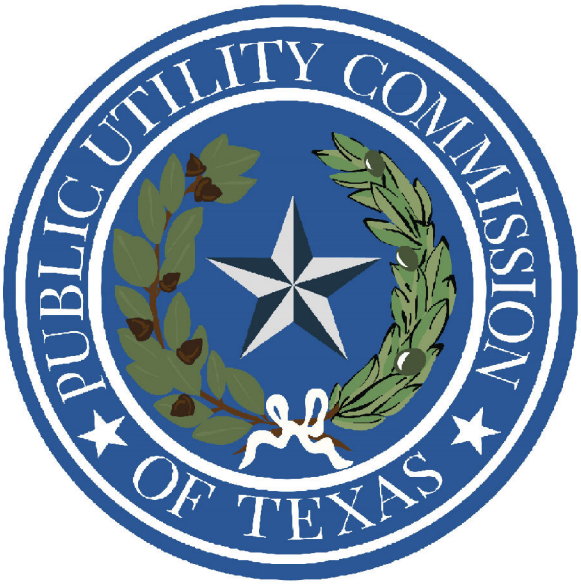

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APPLICATION OF THE ELECTRIC RELIABILITY COUNCIL OF TEXAS, INC. FOR A DEBT OBLIGATION ORDER TO FINANCE UPLIFT BALANCES UNDER PURA, CHAPTER 39, SUBCHAPTER N, FOR AN ORDER INITIATING A PARALLEL DOCKET, AND FOR A GOOD CAUSE EXCEPTION	§ § § § § § § § § § §	**PUBLIC UTILITY COMMISSION OF TEXAS**

DIRECT TESTIMONY

of

AMANDA J. FRAZIER

on behalf of Intervenors

TXU ENERGY RETAIL COMPANY LLC

AMBIT TEXAS, LLC

LUMINANT ET SERVICES COMPANY LLC

TRIEAGLE ENERGY LP

VALUE BASED BRANDS LLC DBA 4CHANGE ENERGY,

EXPRESS ENERGY, AND VETERAN ENERGY,

AND

LUMINANT ENERGY COMPANY LLC

August 12, 2021

As Modified in Accordance with Order of the ALJ

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DIRECT TESTIMONY OF
AMANDA J. FRAZIER

I. INTRODUCTION

Q. Please state your name, title, and business address and why you are testifying.

A. My name is Amanda J. Frazier. I am the Senior Vice President of Regulatory Policy for Vistra Corp., the parent company of TXU Energy Retail Company LLC (TXU Energy), Ambit Texas, LLC (Ambit), Luminant ET Services Company LLC (ETS), TriEagle Energy LP (TriEagle), and Value Based Brands LLC dba 4Change Energy, Express Energy, and Veteran Energy (VBB) (collectively, the TXU load-serving entities or TXU LSEs) and the parent company of Luminant Energy Company LLC (Luminant Energy). My business address is 1005 Congress Avenue, Suite 750, Austin, Texas 78701. I am testifying to present the TXU LSEs' and Luminant Energy's perspectives on issues in this proceeding that could materially affect compliance with the relevant Texas law and policy concerning the competitive electricity market in the Electric Reliability Council of Texas (ERCOT) region of the state of Texas.

Q. What are your current job responsibilities?

A. Among other things, I am responsible for developing, overseeing, and implementing the regulatory policy strategies and advocacy efforts of Vistra Corp. and its subsidiaries across the United States. I am personally involved in much of the regulatory strategy development, implementation, and advocacy for those companies. Accordingly, I have extensive knowledge of the functioning of the ERCOT electricity markets and the impacts of Public Utility Commission of Texas (Commission or PUC) decisions on those markets and market participants.

Q. Please summarize your educational background.

A. I received a Bachelor of Arts degree from Baylor University in Waco, Texas, and a law degree from Vanderbilt University in Nashville, Tennessee.

Q. Please describe your work experience.

A. Prior to being appointed Senior Vice President of Regulatory Policy at Vistra Corp., I was Senior Director of Regulatory Policy at Energy Future Holdings, and Senior Manager of Regulatory Affairs at Luminant. Before that, I practiced law at major law firms, including Bracewell & Giuliani, Hunton & Williams, and Worsham, Forsythe & Wooldridge. In each of these positions, my practice involved electricity industry matters, especially matters pertaining to the ERCOT markets. In sum, I have 20 years of experience with regulatory policy and legal issues in Texas and the United States, with a specific focus on matters before competitive wholesale market operators and regulators such as ERCOT and the Commission. For the past nine years, I have directed a team of regulatory policy professionals, in partnership with commercial teams, to advocate on wholesale and retail market policy issues and promote enhancements to regulatory constructs such as the ERCOT Protocols (Protocols) and Commission rules. I have, at various times, participated as a voting member on the ERCOT Technical Advisory Committee (TAC), Protocol Revisions Subcommittee (PRS), and Wholesale Market Subcommittee (WMS), and served on a number of other ERCOT subcommittees and task forces. My resume is attached as Exhibit AJF-1.

Q. Have you previously testified before this Commission?

A. Yes. I have testified before the Commission in Docket No. 45624, *Application of the City of Garland to Amend a Certificate of Convenience and Necessity for the Rusk-to-Panola Double-Circuit 345-kv Transmission Line in Rusk and Panola Counties*, and in Docket No. 46368, *Application of AEP Texas North Company for Regulatory Approvals Related to the Installation of Utility-Scale Battery Facilities.*

Q. Please summarize your testimony in this proceeding.

A. In my testimony, I will:

- describe the interests of the TXU LSEs and Luminant Energy in this proceeding;
- identify issues on which the Commission should issue a decision in this proceeding and explain how those issues should be decided;
- describe and demonstrate why any implementation of "netting" in this proceeding would contravene the applicable Texas law and would not be good public policy;
- explain why issuance of a financing order in this proceeding that includes "netting" would be unlawful because it would not support wholesale market integrity and because it would not protect the public interest; and
- explain that if "netting" is applied by the Commission to determine the amount of bond proceeds a load-serving entity should receive, then that same rationale should be applied to determine the extent of the load-serving entity's liability for uplift charges. The symmetry in the statutory language dictates that if netting applies to remitting proceeds "to load-serving entities

on a load-ratio basis," then it must also apply to impose uplift charges, since the statute similarly states those charges must be assessed on "load-serving entities on a load-ratio share basis."

Q. Will you explain what you mean by "netting"?

A. Yes. The issue of "netting" was raised in this proceeding by the Commission's *Order Requesting Briefing*, issued on July 21, 2021. In that order, the Commission noted that Subchapter N requires that a debt obligation order "must provide the process for remitting the proceeds of the financing to load-serving entities *who were exposed to the costs included in the uplift balance*." (emphasis in original). (Note that throughout my testimony, if emphasis is shown in quoted text, I have added that emphasis unless I note otherwise, as I have here). The briefing order then posed two questions, the first of which captures the "netting" issue: "Does the phrase *exposed to the costs included in the uplift* contemplate offsetting the amounts paid in excess of the commission's system-wide offer cap by amounts received in excess of the commission's system-wide offer cap? If so, does this offset include amounts received by entities affiliated with the entity that made such payments?" (emphasis in original). Stated succinctly, the question of netting asks whether any potentially offsetting revenues received by the load-serving entity or its affiliates should be applied to reduce the amount of Uplift Balance costs to which the load-serving entity was exposed during Winter Storm Uri for the purpose of determining the amount of bond proceeds to be remitted to the load-serving entity. For all the reasons explained in my testimony, I believe the answer is "no."

Q. Do you sponsor any Exhibits?

A. Yes. Exhibit AJF-1 is my resume. Exhibit AJF-2 is the August 2, 2021 letter sent to the Commissioners by Texas House State Affairs Committee Chairman Chris Paddie and filed in this proceeding. Exhibit AJF-3 is a transcript of testimony regarding House Bill No. 4492 offered before the House Committee on State Affairs on April 1, 2021 as well as House floor debate on May 5 and 6, 2021 and testimony in the Senate Committee on Business and Commerce on May 20, 2021. Exhibit AJF-4 is a transcript of Senate floor debate concerning House Bill No. 4492 on May 26, 27, and 30, 2021. Exhibit AJF-5 is an excerpt from the House Journal for May 30, 2021.

Q. How is your testimony organized?

A. Section II of my testimony summarizes ERCOT's application for a debt obligation order (aka a financing order). Section III describes the interests of the TXU LSEs and Luminant Energy in this proceeding. Section IV identifies some issues that should be determined in this proceeding and provides my recommendations regarding how those issues should be decided. Section V explains why any implementation of "netting" in this proceeding would contravene applicable Texas law and would be improper public policy. Section VI explains why issuance of a financing order that includes "netting" would be unlawful under Subchapter N because it would not support market integrity and would not protect the public interest. Section VII describes the reasons for my conclusion that if the Commission adopts "netting" for determining the amount of bond proceeds a load-serving entity should receive, it must commensurately use "netting" to determine the extent of

that load-serving entity's liability for payment of uplift charges that will be used to repay the bonds. Section VIII provides a summary-level conclusion to my testimony.

II. DESCRIPTION OF ERCOT'S APPLICATION

Q. Please briefly describe the application that initiated this proceeding.

A. On July 16, 2021 ERCOT filed its application for a debt obligation order to finance the Uplift Balance as authorized by Subchapter N of Chapter 39 of the Public Utility Regulatory Act (PURA) (the Application). The Application requests Commission approval of issuance of $2.1 billion in bonds to produce proceeds that will be remitted to load-serving entities who were exposed to costs included in the Uplift Balance as defined in PURA Section 39.652(4).

Q. What are the costs that make up the "Uplift Balance" that ERCOT seeks to securitize?

A. PURA Section 39.652(4) defines the "Uplift Balance" as "an amount of money of not more than $2.1 billion that was uplifted to load-serving entities on a load ratio share basis due to energy consumption during the period of emergency for reliability deployment price adder charges and ancillary services costs in excess of the commission's system-wide offer cap[.]" The "period of emergency" referenced in that definition includes all the days February 12, 2021 through and including February 20, 2021. (PURA Section 39.652(3)). Thus, the uplift balance covers reliability deployment price adder (RDPA) charges and ancillary services charges over $9,000 per megawatt hour (the system-wide offer cap) incurred by load-serving entities during the height of Winter Storm Uri.

RDPA charges are charges included in the market-clearing energy price that ERCOT assesses to market participants during periods when conditions trigger application of an administrative price adder intended to reflect the fact that generating units have been deployed to bolster system reliability because of high demand, low supply, or both. The RDPA is also paid to generators that are available but are not being dispatched for energy. Because those generators are not dispatched for energy, the RDPA charges are not recovered in the price of energy and are therefore uplifted to loads on a load-ratio share basis. The uplift balance only includes this latter form of RDPA that was uplifted on a load-ratio share basis.

Ancillary services costs over the system-wide offer cap (which was $9,000 per megawatt hour during the period of emergency) are costs to acquire responsive reserve service, regulation up service, regulation down service, or non-spinning reserve service that, due to conditions during the period of emergency, were established by ERCOT pricing mechanisms at levels exceeding $9,000 per megawatt hour in some instances.

Notably, the statute defines these two costs (RDPA charges not recovered in the price of energy and ancillary services charges over $9,000 per megawatt hour) that make up the Uplift Balance as costs that were uplifted *to load-serving entities on a load-ratio-share basis*.

Q. What is the purpose of the securitization for which ERCOT seeks Commission approval?

A. The statute, in Section 39.651(b), says that the purpose is to "allow wholesale market participants who were assessed extraordinary uplift charges due to

consumption during the period 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." To accomplish that purpose, the Legislature mandated a sole use of the securitization bond proceeds: "The proceeds of debt obligations issued under this subchapter must be used solely for the purpose of financing reliability deployment price adder charges and ancillary service costs that exceeded the commission's system-wide offer cap and were uplifted to load-serving entities based on consumption during the period of emergency." And the Legislature specified who is to receive bond proceeds—Section 39.653(b)(3) requires that the financing order "provide the process for remitting the proceeds of the financing to load-serving entities who were exposed to the costs included in the uplift balance, including a requirement for the load-serving entities to submit documentation of their exposure." Thus, in summary, the Legislature directed that the securitization process result in ERCOT issuing bonds and giving the proceeds to load-serving entities who were exposed on a load-ratio share basis to the RDPA and ancillary services costs that make up the Uplift Balance, to alleviate liquidity issues and reduce the risk of (but not prevent) additional defaults in the market.

III. THE TXU LSEs' AND LUMINANT ENERGY'S INTERESTS IN THE APPLICATION

A. Description of the Relevant Companies

The TXU LSEs

Q. What companies make up the group that you describe as the "TXU LSEs"?

A. The following companies are load-serving entities indirectly owned by Vistra Corp. who serve retail customers in the ERCOT region: TXU Energy Retail Company

LLC (TXU Energy), Ambit Texas, LLC (Ambit), Luminant ET Services Company LLC (ETS), TriEagle Energy LP (TriEagle), and Value Based Brands LLC dba 4Change Energy, Express Energy, and Veteran Energy (VBB). These are the Texas-based companies that I collectively refer to as the TXU LSEs.

Q. Please describe the business operations of the TXU LSEs.

A. Each of the companies that I collectively refer to as the TXU LSEs is engaged in being a REP in Texas. These Texas-based companies procure electricity and ancillary services at wholesale and sell to end-use consumers who have entered into an agreement to buy such retail electricity from one of the TXU LSEs. None of the companies that I collectively refer to as the TXU LSEs owns or operates a power plant, nor do they produce electricity or ancillary services for purposes of selling into the ERCOT wholesale power markets. Rather, these companies exist for the purpose of selling to retail (end-user) consumers.

Luminant Energy

Q. Please describe Luminant Energy.

A. Luminant Energy is a subsidiary of Vistra Corp. that exists to buy and sell power at wholesale, principally in the ERCOT wholesale power market. Luminant Energy is a qualified scheduling entity (QSE) in ERCOT, which means it is authorized by ERCOT to interact operationally and financially with ERCOT. Luminant Energy buys power from power generation companies like Luminant Generation Company LLC and other owners of generation plants, and sells that power into the ERCOT markets. It also sells power bilaterally to other wholesale power market participants and to load-serving entities—REPs, electric cooperatives, and municipally owned

utilities—who then sell the electricity to their retail customers. As a QSE, Luminant Energy serves as the sole entity that engages in financial settlements with ERCOT on behalf of the TXU LSEs and other load-serving entities who have contracted with Luminant Energy to serve as their QSE. These entities all commonly engage a QSE like Luminant Energy to interact with ERCOT on their behalf because the Protocols mandate that only a QSE can financially settle with ERCOT and only a QSE can send and receive certain operational communications to and from ERCOT. Thus, unless a load-serving entity expends the money and effort to itself be qualified as a QSE, it must contract with an entity that has the technical, financial, and operational resources to be a QSE to serve as its financial and operational intermediary to ERCOT. Luminant Energy does not own and control any of the load-serving entities for whom it serves as QSE. Rather, as a QSE, Luminant Energy serves as an ERCOT-required financial conduit through which each of the represented load-serving entities' obligations and benefits flow.

B. Description of the TXU LSEs' Interest

Q. Please describe the interest in this proceeding of the TXU LSEs.

A. As I discussed earlier in my testimony, Section 39.653(b)(3) requires that the financing order that will be issued in this proceeding "provide the process for remitting the proceeds of the financing to load-serving entities who were exposed to the costs included in the uplift balance, including a requirement for the load-serving entities to submit documentation of their exposure." As load-serving entities, each of the TXU LSEs is an entity that the Legislature expressly designated as a potential recipient of the proceeds from bonds that will be issued per the

authority of the financing order. The TXU LSEs each have a direct financial interest in the outcome of this proceeding. Moreover, because the TXU LSEs exist to serve customers, each TXU LSE has a direct interest in seeking to promote an outcome that treats customers fairly and does not discriminate against one set of customers to the benefit of another set of customers. Thus, the TXU LSEs seek an outcome that will protect all customers' interests.

C. Description of Luminant Energy's Interest

Q. Please describe the interest in this proceeding of Luminant Energy.

A. As I mentioned earlier in my testimony, the Protocols mandate that ERCOT interact financially only with QSEs. Therefore, in its Application and accompanying testimony, ERCOT has proposed that bond proceeds be funneled to load-serving entities through the QSEs that represent the load-serving entities. Further, ERCOT has proposed that uplift charges, which will be used to repay the bonds, be collected via charges that ERCOT will assess on QSEs, who will pass those charges through to load-serving entities. Luminant Energy, as a QSE representing load-serving entities, will thus be financially responsible for receiving and disbursing bond proceeds as well as collecting and paying uplift charges to ERCOT. Luminant Energy thus has a direct financial interest in the outcome of this proceeding. Moreover, like the TXU LSEs, Luminant Energy supports outcomes that protect the interests of all customers served by the LSEs that it represents.

IV. ISSUES THAT SHOULD BE DECIDED IN THIS PROCEEDING

Q. Are there particular issues that should be decided by the Commission in this proceeding?

A. Yes. I have identified six issues that I believe should be decided in this proceeding. This is not an exhaustive list of issues that should be decided in this proceeding. Rather, my list is accretive or complementary to the list of issues included in ERCOT's application and proposed debt obligation order. Thus, I do not identify these issues to the exclusion of the issues identified by ERCOT, but instead as a supplement to ERCOT's identified issues. My list of issues includes:

1. Rescission of opt-out decisions if the justification for opting out ceases to exist;
2. The process by which load-serving entities will demonstrate their exposure to uplift balance costs;
3. The documentation required to demonstrate exposure to Uplift Balance costs;
4. Whether any "netting" approach will be used to determine a load-serving entity's exposure to uplift balance costs, and if so how "netting" will be used to determine a load-serving entity's uplift charge responsibilities;
5. How to prorate and allocate bond proceeds among load-serving entities if total uplift balance costs exceed $2.1 billion; and
6. Requirements for opting out by transmission-level customers.

A. Rescission of Opt-Out Decisions if the Justification for Opting Out Ceases to Exist

Q. Please describe your issue concerning rescission of opt-out decisions, and how and why the Commission should address it in this proceeding.

A. As ERCOT acknowledges in its application, the statute provides some entities with the right to opt out of receiving any bond proceeds and to concomitantly opt out of bearing any liability for payment of the uplift charges that ERCOT will impose to raise money to pay off the bonds. Section 39.653(d) describes the entities eligible to opt out: "The commission shall develop a one-time process that allows municipally owned utilities, electric cooperatives, river authorities, a retail electric provider that has the same corporate parent as each of the provider's customers, a retail electric provider that is an affiliate of each of the provider's customers, and transmission-voltage customers served by a retail electric provider to opt out of the uplift charges by paying in full all invoices owed for usage during the period of emergency. Load-serving entities and transmission-voltage customers that opt out under this subsection shall not receive any proceeds from the uplift financing." Notably, that provision lists only two categories of competitive REPs who can opt out: REPs who have the same corporate parent as all the REP's customers, and REPs who are an affiliate of each of the REP's customers. Such competitive REPs can opt out and thus will not be charged any uplift charges going forward. By avoiding those uplift charges, those REPs will have a lower cost of operation than other REPs who have to pay the uplift charges. Thus, the opt-out REPs ought not be allowed to compete against other REPs who serve non-affiliated or non-

commonly-owned customers, since the opt-out REPs would have an inherent competitive advantage. To avoid that outcome, the Commission should decide, in this proceeding, that a REP that opts out under Section 39.653(d) cannot subsequently change its business model and begin serving non-affiliated or non-commonly-owned customers unless the REP thereafter becomes liable for payment of uplift charges. Any other result would create an unfair competitive advantage for the opt-out REP. And it is important that this issue be addressed now, in this proceeding, so that REPs that are eligible to take advantage of this particular opt-out right do not concoct a business plan to opt out now and subsequently change their business model to take advantage of a competitive advantage that would exist if their opt-out is not subject to rescission if they begin serving non-affiliated or non-commonly-owned customers.

B. The Process by which Load-Serving Entities Will Demonstrate Their Exposure to Uplift Costs

Q. Please describe your issue concerning the process by which load-serving entities will demonstrate their exposure to uplift costs, and how and why the Commission should address it in this proceeding.

A. Section 39.653(b)(3) mandates that the financing order to be issued in this proceeding "provide the process for remitting the proceeds of the financing to load-serving entities who were exposed to the costs included in the uplift balance, including a requirement for the load-serving entities to submit documentation of their exposure." Thus, by this language the Legislature required the Commission to determine, as part of issuing the financing order, the process by which load-serving

entities will demonstrate, by submitting documentation of, their exposure to uplift costs. In order to allow for timely issuance of the bonds and timely remittance of the bond proceeds "to load-serving entities who were exposed to the costs included in the uplift balance," the Commission must define the process by which that demonstration via documentation is to occur. The TXU LSEs' witness Mathew Parker describes in his testimony how the relevant calculations of exposure should be accomplished. I recommend the Commission adopt Mr. Parker's recommendation.

All that would then be left is for the Commission to determine how the load-serving entities are to submit such documentation and what verification is required. The most efficient process would be for the Commission to establish a compliance docket into which each load-serving entity submits its documentation of the calculations described by Mr. Parker. Commission Staff has already opened Docket No. 52364 for this very purpose. All load-serving entities should be permitted to intervene in that compliance docket for the purposes of making their filing. An ALJ, with the benefit of intervenors' review and input, can determine whether each load-serving entity's documentation satisfies the requirements for demonstrating uplift exposure, as those requirements are established by the Commission in this proceeding. Then, upon determination by the ALJ and the Commission, after review of the ALJ's Proposal for Decision, the Commission can issue a final order approving exposures for each load-serving entity and ERCOT can proceed to issue bonds and remit bond proceeds in accordance with each load-serving entity's Commission-approved exposure. The Commission should adopt such a process as

a component of the order issued in this proceeding, so that each load-serving entity knows what process and what substantive criteria will be used to determine the monetary value that will be remitted to it after bonds are issued.

C. The Documentation Required to Demonstrate Exposure to Uplift Costs

Q. Please describe your issue concerning the documentation required to demonstrate exposure to uplift costs, and how and why the Commission should address it in this proceeding.

A. Section 39.653(b)(3) mandates that the financing order to be issued in this proceeding "provide the process for remitting the proceeds of the financing to load-serving entities who were exposed to the costs included in the uplift balance, including a requirement for the load-serving entities to submit documentation of their exposure." Thus, in the last phrase of that subpart, the Legislature required the Commission to determine, as part of issuing the financing order, the "requirement for the load-serving entities to submit documentation of their exposure" to costs that are included in the uplift balance. The practical application of that requirement is that the Commission must decide what documentation will be sufficient to show a load-serving entity's exposure to costs included in the uplift balance. The Commission must establish that requirement in this proceeding, first, because the statute requires it and, second, because only by determining that requirement for documentation will the Commission enable load-serving entities to quantify their exposure and prepare the documentation for timely submittal to support timely issuance of the bonds.

Mr. Parker describes in his direct testimony the actual documentation and calculations required for each load-serving entity to document its exposure to the Uplift Balance costs. As explained by Mr. Parker, the documentation and calculations rely on data received from ERCOT and thus each load-serving entity can stand on equal footing with respect to using solely ERCOT-provided data to determine the relevant exposure. I agree with Mr. Parker's recommended approach and I recommend that the Commission adopt it. It is accurate, non-discriminatory, consistent with the statute, and capable of implementation by each load-serving entity. Accordingly, each load-serving entity can complete the calculations and prepare the documentation for submission to the Commission, using the process I described earlier in my testimony.

Importantly, the necessary information does not include contracts entered into by any load-serving entity or any QSE. The statute specifies that the relevant Uplift Balance costs are those "uplifted to load-serving entities on a load-ratio share basis due to energy consumption during the period of emergency." The statute does not require, nor allow, any consideration of contracts that might have allocated cost liability among entities, such as between a load-serving entity and its QSE. Rather, it specifies a straightforward process, consistent with the 90-day expedited timeline for the proceeding: determine each load-serving entity's uplifted costs on a load-ratio share basis.

This simple load-ratio share approach is important because red herrings have been raised about examining hedges or "offsets" or other considerations other than a straightforward examination of costs in the Uplift Balance that were uplifted

to load-serving entities on a load-ratio share basis due to energy consumption during the period of emergency. Any such hedges or "offsets"—whether physical or financial—are irrelevant because they do not factor into the one calculation that matters: the load-serving entity's load-ratio share as the basis for determining exposure. The Commission is directed to remit proceeds based upon the uplifted costs as they were, in fact, uplifted during the period of emergency, without trying to delve into the financial arrangements of every load-serving entity. Thus, transactions such as contracts between a QSE and a load-serving entity, a QSE's "self-arrangement" of ancillary services, and other physical or financial hedges are not relevant, because they do not factor into calculating a load-serving entity's load-ratio share exposure to the Uplift Balance costs.

The point of the Commission's exercise here is not to "unscramble the egg." Instead, the point is to apply the straightforward determination of what Uplift Balance costs were uplifted to each load-serving entity on a load-ratio share basis due to energy consumption during the period of emergency. That determination may be made using the ERCOT data as described in Mr. Parker's testimony.

D. Whether Any "Netting" Approach Will be Used to Determine a Load-Serving Entity's Exposure to Uplift Costs

Q. Please describe your issue concerning the determination of whether any "netting" approach will be used to determine a load-serving entity's exposure to uplift costs, and how and why the Commission should address it in this proceeding.

A. Section 39.653(b)(3) mandates that the financing order to be issued in this proceeding "provide the process for remitting the proceeds of the financing to load-serving entities who were exposed to the costs included in the uplift balance, including a requirement for the load-serving entities to submit documentation of their exposure." In order to accomplish the Legislature's directive, the Commission must implement two principal steps. First, it must determine who was exposed to the uplift balance costs. Second, it must determine what documentation is required to demonstrate that exposure. The question of "netting" impacts both steps. With regard to the first step, the decision of whether to implement netting could eliminate some load-serving entities from the pool of entities who are considered exposed. "Netting" might lead to a load-serving entity's uplift balance costs being completely offset by some other hypothetically relevant revenue. Thus, whether to "net" will affect step one.

In fact, under one hypothetical approach to "netting" between affiliates, it is conceivable that Uplift Balance costs uplifted to the TXU LSEs during the period of emergency would be entirely "offset" by revenues received by power marketing or power generation company affiliates of the TXU LSEs. Thus, it is certainly

conceivable that determination of the "netting" issue could eliminate one or more load-serving entities from the pool of load-serving entities eligible to receive bond proceeds. It also raises questions about how such netting would be allocated across multiple affiliated load-serving entities if their exposure is not deemed to have been completely offset by the other affiliate revenues. To be clear, the TXU LSEs adamantly oppose any such "netting" for all the reasons outlined in my testimony. But I highlight the impact of the netting question here to ensure that the Commission understands the importance of deciding the issue now, in this proceeding.

Regarding the second step (determining the documentation required), the Commission must determine whether "netting" applies before it can prescribe what documentation each load-serving entity must submit. The documentation that would be relevant to showing hypothetically offsetting revenues—especially revenues of an affiliated company separate from the load-serving entity—would be completely different from the documentation to show the exposure of a load-serving entity standing alone. Hence, the Commission cannot prescribe the process for remitting bond proceeds to load-serving entities or the requirements for submitting documentation unless the Commission also determines whether "netting" will apply. Therefore, the Commission should decide the "netting" issue now, in this proceeding. The Commission's decision should be to reject any application of netting, for the reasons discussed in my testimony and as contained in the *TXU Load-Serving Entities' Brief Regarding "Netting"* filed in this proceeding on August 4, 2021.

E. How to Allocate Bond Proceeds Among Load-Serving Entities if Total Uplift Exposure Exceeds the $2.1 Billion Cap

Q. Please describe your issue concerning the allocation of bond proceeds if total exposure to uplift costs exceeds the $2.1 billion cap, and how and why the Commission should address it in this proceeding.

A. PURA Section 39.652(4) defines the "uplift balance" to be securitized as "an amount of money of not more than $2.1 billion that was uplifted to load-serving entities on a load ratio share basis due to energy consumption during the period of emergency for reliability deployment price adder charges and ancillary services costs in excess of the commission's system-wide offer cap[.]" Thus, that provision establishes a cap of $2.1 billion on the uplift balance that can be securitized. It is certainly conceivable that the total exposure to uplift balance costs of all exposed load-serving entities exceeds $2.1 billion; however, the existence of the statutory cap means that under no circumstances will bond proceeds exceed $2.1 billion. In that event, the Commission will need to prorate and allocate the bond proceeds among the exposed load-serving entities. The Commission should make the decision regarding any such allocation now, so that a separate, lengthy proceeding is not required to address it later if the total exposure of all load-serving entities exceeds $2.1 billion.

The statute does not expressly direct how the Commission should accomplish that allocation, but it is highly instructive that both the statutory definition of "Uplift Balance" (Section 39.652(4)) and the statutory instruction directing ERCOT how to allocate the uplift charges that will be used to repay the

bonds (Section 39.653(c)) use the phrase "to load-serving entities on a load ratio share basis." Section 39.652(4) defines the "uplift balance" as "an amount of money of not more than $2.1 billion *that was uplifted to load-serving entities on a load ratio share basis* due to energy consumption during the period of emergency[.]" Similarly, regarding imposition of uplift charges, Section 39.653(c) directs that the "independent organization shall *assess uplift charges to all load-serving entities on a load ratio share basis*[.]" In each case, the relevant costs are those borne by "load-serving entities on a load ratio share basis." Consequently, the Commission would be acting consistent with the other allocation provision in Subchapter N by allocating bond proceeds on a load-ratio share basis to eligible load-serving entities if the total exposure exceeds $2.1 billion. To the extent that certain uplift costs were accrued at different points in time, the methodology proposed in Mr. Parker's testimony would allow that cost-weighted load-ratio share exposure to the uplift costs to be easily determined, and the $2.1 billion could be allocated on a pro rata basis from the total documented exposure. That approach would have the extra benefit of not only maintaining consistency within Subchapter N, but also treating affected retail customers in an equitable and non-discriminatory manner by applying a uniform reduction across all affected customers on the basis of load-ratio share for each settlement interval in the Period of Emergency.

I also recommend that the Commission use a sequential approach to allocate bond proceeds: first, to cover each load-serving entity's exposure to the RDPA uplift costs; second, to then allocate the remainder of the bond proceeds up to the $2.1 billion cap to cover, on a pro rata basis, each load-serving entity's exposure to

ancillary services costs above $9,000 per megawatt hour. While I do not recommend that the Commission require consideration of hedges or a QSE's self-arranged ancillary service quantities not contemplated by the statute for allocation of the proceeds, if that decision is made, then this sequential allocation approach would provide a balanced option for prioritizing distribution of proceeds related to RDPA uplift costs that were unambiguously assigned on a load-ratio share basis. Moreover, RDPA uplift charges were a completely non-hedgeable cost for every load-serving entity, and so it is fair that the bond proceeds would cover those costs first.

F. Requirements for Opting Out by Transmission-Level Customers

Q. Please describe your issue concerning the requirements for opting-out by transmission-level customers, and how and why the Commission should address it in this proceeding.

A. As I described earlier in my testimony, the statute provides certain entities the right to opt out of paying uplift charges in exchange for having paid their full uplift charge obligations and declining to receive any bond proceeds. Section 39.653(d) describes the entities eligible to opt out: "The commission shall develop a one-time process that allows municipally owned utilities, electric cooperatives, river authorities, a retail electric provider that has the same corporate parent as each of the provider's customers, a retail electric provider that is an affiliate of each of the provider's customers, and transmission-voltage customers served by a retail electric provider to opt out of the uplift charges by paying in full all invoices owed for usage during the period of emergency. Load-serving entities and transmission-voltage

customers that opt out under this subsection shall not receive any proceeds from the uplift financing." The Commission should establish in this proceeding the requirements for opting out by transmission-voltage customers so that REPs will know which customers are eligible to opt out and can communicate that eligibility consistently to customers, and so that the Commission implements the opt-out provision consistent with the statute. To accomplish that, the Commission should require that, to opt-out, a transmission-voltage customer make an affirmative choice to do so and that the customer inform its REP of its choice. If the Commission were to take the opposite approach, and assume that transmission-voltage customers are opting out unless they affirmatively negate that assumption, the Commission would be turning the opt-out right into an opt-in right. That would not be consistent with the statute.

Additionally, the Commission should require that, to be eligible to opt out, a transmission-voltage customer must have: (1) been liable for uplift costs; and (2) have paid in full its invoices for usage during the Period of Emergency. These requirements flow from the statute, so they should be established to effectuate the statutory language. There is a natural symmetry in Section 39.653(d) that the phrase "transmission-voltage customers that opt out under this subsection shall not receive any proceeds from the uplift financing" means that opt-out transmission-voltage customers must have had contractual exposure to the uplift costs contemplated in Section 39.660. And Section 39.653(d) has plain language that a prerequisite to an eligible entity's opt-out is "paying in full all invoices owed for usage during the

period of emergency." In the context of a REP's transmission-voltage customer, the only invoice related to the period of emergency would be the invoice from the REP.

V. ANY IMPLEMENTATION OF "NETTING" WOULD CONTRAVENE THE PERTINENT STATUTES AND WOULD BE IMPROPER PUBLIC POLICY

Q. Would netting at the corporate level result in an outcome that appropriately accounts for a load-serving entity's hedges?

A. No. First, as I mentioned earlier in my testimony, no load-serving entity could hedge against the RDPA charges created by the former Commissioners' decision to set prices at $9,000 per megawatt hour even during hours in which there were sufficient reserves to maintain reliability. The RDPA is paid to the generators who were dispatched to serve load as a component of the energy price and to generators who were available to be dispatched, but whose energy was not needed in the moment, through uplift charges. The purpose of the uplift component is to make generators indifferent as to whether they are providing energy or reserves in real-time, because each provides a similar theoretical value. However, netting at the corporate level would not only give a preference to those load-serving entities who do not have generation affiliates (or whose affiliates did not perform during Winter Storm Uri), but would also give a preference to those load-serving entities who have generation affiliates that were providing energy rather than reserves, relative

to load-serving entities who have generation affiliates that were providing reserves rather than energy, since the former would have been recipients of the RDPA through the energy price rather than the uplift charges. Such an outcome would be illogical and unfair, and would frustrate the purpose to the RDPA uplift altogether.

Second, there are multiple ways for a load-serving entity to hedge its exposure to ancillary service charges, so to the extent that the Commission decides that netting is necessary to determine a load-serving entity's exposure to those charges, it should consider all hedges – financial and physical, bilateral and self-scheduled – for every load-serving entity, rather than assuming that load-serving entities with generator affiliates have been hedged by their affiliates' units.

VII. IF NETTING APPLIES TO DETERMINE ELIGIBILITY FOR BOND PROCEEDS, THEN IT MUST ALSO APPLY TO DETERMINE THE EXTENT OF LIABILITY FOR PAYMENT OF UPLIFT CHARGES

Q. Are there implications for imposition of liability for payment of uplift charges if the Commission adopts netting?

A. Yes. If netting is used to determine eligibility for receiving bond proceeds, then that same rationale must be applied to ensure that any liability for payment of uplift charges is commensurate with the amount of bond proceeds received.

Q. Does ERCOT have the information needed to assess uplift charges on a load-ratio share basis and to determine load-serving entities' exposure to uplift balance costs on a load-ratio basis?

A. Yes, ERCOT has all the information it needs to determine both things: each load-serving entity's load-ratio share of uplift balances and the allocation of uplift charges, because the methodology for determining each is fundamentally the same. The statute specifies that the relevant Uplift Balance exposure is to costs that were uplifted "to load-serving entities on a load-ratio share basis." ERCOT already possesses load information for the load served by each load-serving entity. And ERCOT already possesses financial information regarding the uplifted costs that make up the Uplift Balance defined in Section 39.652(4). All that is left to do is follow the statute and determine each load-serving entity's share of those costs

VIII. CONCLUSION

Q. Will you summarize your recommendations?

A. Yes. I recommend that the Commission:

- reject all requests to implement "netting" when determining load-serving entities' statutory rights to receive bond proceeds under Subchapter N;
- adopt Mr. Parker's recommended calculation methodology for determining each load-serving entity's exposure to Uplift Balance costs;

- require each load-serving entity that seeks bonds proceeds to submit documentation to show its exposure to Uplift Balance costs in accordance with Mr. Parker's recommended calculation, using the process I outline in Part IV.B of my testimony;
- prorate and allocate bond proceeds, if load-serving entities' aggregate exposure to Uplift Balance costs exceeds the $2.1 billion statutory cap, using the sequential process I outline in Part IV.E of my testimony, first allocating proceeds to cover RDPA costs and then allocating the remainder on a pro rata basis to cover ancillary services costs above the system-wide offer cap;
- determine that, if netting applies to the determination of exposure to Uplift Balance costs, then netting must also apply to the determination of liability, if any, for payment of uplift charges;
- order that a REP's opt-out decision is revoked if the conditions that justify the opt-out cease to be true; and
- establish requirements for opt-out by transmission-voltage customers that ensure full payment of all invoices for services during the Period of Emergency.

Q. Does that conclude your direct testimony in this proceeding?

A. Yes.

AFFIDAVIT

STATE OF TEXAS §
§
COUNTY OF TRAVIS §

AMANDA J. FRAZIER, first being sworn on her oath, states:

I am the witness identified in the preceding testimony. I have read the testimony and the accompanying exhibit(s) and am familiar with the contents. Based upon my personal knowledge, the facts stated in the testimony are true. In addition, in my judgment and based upon my professional experience, the opinions and conclusions stated in the testimony are true, valid, and accurate.

Amanda J. Frazier
AMANDA J. FRAZIER

Subscribed and sworn to before me this 12th day of August 2021 by Amanda J. Frazier.

LYNN MARIE NEEDLES
Notary Public, State of Texas
Comm. Expires 12-01-2024
Notary ID 4138285

Lynn Needles
Notary Public, State of Texas

My Commission Expires: 12-01-2024

AMANDA J. FRAZIER

PROFESSIONAL EXPERIENCE

VISTRA | OCTOBER 2016 – PRESENT
Senior Vice President, Regulatory Policy

- Lead team of professionals in market design advocacy for the CAISO, ERCOT, ISO-NE, MISO, NYISO and PJM markets.
- Direct and promote Vistra's interests before the Federal Energy Regulatory Commission, the Public Utility Commission of Texas, and other state commissions related to generation issues and wholesale and retail competition.

ENERGY FUTURE HOLDINGS | MAY 2012 – OCTOBER 2016
Senior Director, Regulatory Policy

- Collaborated with regulatory policy team to prepare rulemaking comments, position papers, revision requests, and recommendations on various regulatory issues, including resource adequacy, generation costs and pricing, transmission planning, and ERCOT credit requirements.
- Directed team of regulatory policy professionals in partnership with commercial teams to drive policy and content improvements in ERCOT Protocols and Operating Guides.
- Participated as EFH's voting member on the ERCOT Technical Advisory Committee and other subcommittees and task forces.
- Partnered with legislative team to develop and advocate substantive positions on bills.

LUMINANT | OCTOBER 2010 – MAY 2012
Senior Manager, Legislative and Regulatory Affairs

- Represented Luminant related to activities pending at the PUC, and prepared formal and informal communications regarding Luminant's positions, including those on resource adequacy and generator emergency operations.
- Reviewed and prepared analysis for every bill filed during the Texas Legislative sessions that impacted Luminant's business.
- Managed Luminant's regulatory strategies in partnership with commercial teams to drive policy and content improvements in ERCOT Protocols and Operating Guides.
- Participated as the company's voting member on the ERCOT Wholesale Market Subcommittee and other subcommittees and task forces.

BRACEWELL & GIULIANI LLP | December 2007 – October 2010
Energy Regulatory Associate

- Represented major integrated electric utility in rate design aspects of rate case.
- Represented seller in PUC review of the merger and disposition of west Texas electric utility.
- Represented power generation company in appeal of ERCOT Protocols Revision Request.
- Represented natural gas trading company in investigation by the U.S. Federal Energy Regulatory Commission (FERC) of alleged violations of the Natural Gas Act.

- Advised electric generator regarding North American Electric Reliability Corporation (NERC) registry requirements and its compliance obligations to the Texas Reliability Entity.
- Represented various entities in preparing self-reports, self-certifications, and audit worksheets for NERC compliance in the Western Electricity Coordinating Council, Northeast Power Coordinating Council, and ReliabilityFirst regions.
- Represented foreign generator and power marketer in defense of federal and FERC litigation related to the California energy crisis.
- Counseled various clients regarding application of Texas energy regulations involved in asset transactions.

HUNTON & WILLIAMS LLP | September 2001 – November 2007
Regulated Industries and Governmental Relations Associate (January 2004 – November 2007).

- Defended (as lead associate) largest PUC enforcement action related to allegation of market power abuse by a power generation company.
- Developed and successfully prosecuted the first of its kind voluntary market power mitigation plan for wholesale power trading company in Texas.
- Represented major Texas power generation company and wholesale power trading company in rulemakings and policy advocacy before the PUC regarding wholesale electricity market design and market power mitigation.
- Represented (as lead associate) the electric transmission and distribution utility in the merger review by the PUC of the $45 billion leveraged buyout of the TXU companies.
- Represented wholesale power trading company in matters regarding market-based rates before the FERC.
- Counseled various clients regarding application of Texas energy regulations involved in asset transactions.
- Authored (as lead associate) Petition for Review to the Texas Supreme Court of TXU Generation Co. v. Public Util. Comm'n, 165 S.W.3d 821 (Tex. App. – Austin 2005).
- Prepared closing documents for multi-million dollar sale of client's oil and gas leases and producing wells and natural gas gathering and transportation pipelines in east Texas and Louisiana.
- Represented and counseled major Texas electric transmission and distribution utility in various administrative litigation proceedings.
- Represented gas distribution utility in natural gas rate case.
- Prepared materials and provided legal counsel regarding license materials for the U.S. Department of Energy in connection with its license application to the U.S. Nuclear Regulatory Commission for the Yucca Mountain Project (a geologic nuclear waste repository).

Litigation Associate (September 2001 – January 2004).

- Executed discovery and motion practice, took and defended depositions for a variety of commercial contract and tort disputes, mediations and arbitrations.
- Participated in oral argument in state and federal court on pre-trial motions.
- Represented various clients on multiple claims, including ERISA, wholesale natural gas contract disputes, electrical contact injuries, natural gas pipeline contract disputes.

EDUCATION & LICENSES

VANDERBILT UNIVERSITY SCHOOL OF LAW | May 2001
Doctor of Jurisprudence

Honors and Activities:

- Phi Delta Phi Academic Fraternity
- Research Assistant, Professors Barry Friedman, Rebecca Brown, Lisa Bressman

BAYLOR UNIVERSITY | May 1998
Bachelor of Arts, Summa Cum Laude

Honors and Activities:

- Phi Beta Kappa Academic Fraternity
- Alpha Chi Academic Fraternity
- Golden Key National Honor Society
- Baylor Presidential Scholar
- Study Abroad, Maastricht, Netherlands (Spring 1997)

Member of the Bar, State of Texas, admitted 2001. Admitted to practice in the U.S. District Court for the Northern and Eastern Districts of Texas.