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

**CALPINE CORPORATION’S STATEMENT OF POSITION ON ERCOT’S REQUEST
FOR GOOD CAUSE EXCEPTION**

TO THE HONORABLE HUNTER BURKHALTER, ADMINISTRATIVE LAW JUDGE:

COMES NOW Calpine Corporation (“Calpine”), and files this Statement of Position pursuant to Order No. 1.¹ In support thereof, Calpine would show as follows:

I. BACKGROUND

In its Application underlying this proceeding, the Electric Reliability Council of Texas, Inc. (“ERCOT”) requests that the Public Utility Commission of Texas (“Commission”) approve a good cause exception to ERCOT Nodal Protocols (“Protocols”) § 1.3.1.1(j) “to the extent it may become necessary during the course of this proceeding to disclose individual market participants’ settlement and invoice information in response to discovery.”² Order No. 1 requires Commission Staff (“Staff”) to file recommendations regarding this request for a good cause waiver of ERCOT Nodal Protocols § 1.3.1.1(j) by July 27, 2021. Order No. 1 also allows any other party to state its position regarding this request by July 28, 2021.

¹ Order No. 1 Entering Protective Order, Requiring Commission Staff’s Recommendations, Adopting a Procedural Schedule, Notifying the Parties of a Prehearing Conference, and Discussing Other Procedural Matters at 3 (Jul. 20, 2021).

² Application at 2 (Jul. 16, 2021).

II. DISCUSSION

Calpine recommends either seeking further clarity before granting ERCOT's request, or only granting it in a more narrowly tailored manner than ERCOT's Application may have intended. In consideration of this position, Calpine respectfully submits that the requested waiver potentially goes beyond the category of protected information described by Protocols § 1.3.1.1(j).

ERCOT'S request to waive protected information status is for "individual market participants' settlement and invoice *information* in response to discovery" (emphasis added). However, Protocols § 1.3.1.1(j), from which ERCOT seeks a good cause waiver, affords protected information status to *settlement statements and invoices* identifiable to a specific QSE. Accordingly, ERCOT's request could be read as waiving protected information status for additional information aside from the QSE-specific settlement statements and invoices identified in the ERCOT Protocols § 1.3.1.1(j). Calpine asserts that it would be inappropriate and possibly injurious to allow dissemination of additional unidentified information that could be considered confidential or protected under other sections of the Protocols. For clarity, Calpine respectfully suggests that if the administrative law judge approves waiver of Protocols § 1.3.1.1(j), such approval should track the exact language of the Protocols and permit only the release of "settlement statements and invoices", unless ERCOT provides support for waiving protected information status of other specifically identified "settlement and invoice information," and the basis for the exception.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I certify that a true and correct copy of this pleading has been forwarded to all parties of record via electronic mail on the 28th day of July, 2021 in accordance with the Order Suspending Rules, issued in Project No. 50664.


Chris Reeder