



## Filing Receipt

**Received - 2021-08-02 02:23:27 PM**

**Control Number - 52322**

**ItemNumber - 62**

**PUC DOCKET NO. 52322**

<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 N, 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

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**

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 to distribute uplift funds to qualifying scheduling entities (QSEs) with a directive to transfer those funds to the eligible load serving entities (LSEs) they serve.<sup>1</sup> Some QSEs and LSEs are currently in bankruptcy, but still participating in the ERCOT market. Additionally at least two market participants, both electric cooperatives, continue to participate in the ERCOT market despite being in default. There are also several now terminated market participants who have defaulted.

- i. While ERCOT proposes that electric cooperatives are ineligible for uplift funds<sup>2</sup>, if the Commission order were to make them eligible and a cooperative with outstanding debts owed to ERCOT chose to participate or was unable to pay of their invoices to be eligible to opt-out, would ERCOT be able to apply those funds to reduce the entities' default amounts and then distribute to other short paid market participants? If the answer is yes, how would those funds be allocated between short payments and the CRR auction revenue fund balance. Are there any complications to this due to Brazos Electric Power Cooperative's bankruptcy?
- ii. While ERCOT proposes that market participants who have exited the wholesale market are ineligible for uplift funds<sup>3</sup>, if the Commission order were to make them eligible and such an entity with outstanding debts owed to ERCOT chose to participate, would ERCOT be able to apply those funds to reduce the entities' default amounts and then distribute to other short paid market participants? If the answer is yes, how would those funds be allocated between short payments and the CRR auction revenue fund balance? Are there any complications to this due to bankruptcy?
- iii. For market participants currently in bankruptcy, will any uplift funds associated with the market participant be available to the bankruptcy proceeding or will they go directly to offset amounts owed to ERCOT in the ERCOT accounts of the QSE associated with the market participant?

### RESPONSE:

- i.-ii. As ERCOT interprets these questions, Austin Energy is asking for a legal interpretation of whether PURA would allow ERCOT to use uplift financing that may be found to be available to certain current or former market participants to

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<sup>1</sup> See pp. 7-8 of ERCOT's Application for a Debt Obligation Order to Finance Uplift Balances Under PURA Chapter 39, Subchapter N, For An Order Initiating Parallel Docket, And For a Good Cause Exception, and pp. 28-29 of the associated Direct Testimony of Kenan Ogelman, VP of Commercial Operations, ERCOT.

<sup>2</sup> See p. 26 of the Direct Testimony of Kenan Ogelman, VP of Commercial Operations, ERCOT, submitted with ERCOT's Application for a Debt Obligation Order to Finance Uplift Balances Under PURA Chapter 39, Subchapter N, For An Order Initiating Parallel Docket, And For a Good Cause Exception.

<sup>3</sup> See p. 26 of the Direct Testimony of Kenan Ogelman, VP of Commercial Operations, ERCOT, submitted with ERCOT's Application for a Debt Obligation Order to Finance Uplift Balances Under PURA Chapter 39, Subchapter N, For An Order Initiating Parallel Docket, And For a Good Cause Exception.

offset those market participants' default amounts (i.e., amounts that remain owed to ERCOT by those market participants). ERCOT has not performed a legal analysis of that issue. Because ERCOT has not analyzed that legal issue, it has no opinion on the follow-up questions. ERCOT notes that to the extent the Commission issues an order in this matter that directs ERCOT to apply or disburse uplift funds in a particular manner to certain Qualified Scheduling Entities, ERCOT believes it can put systems in place to effectuate any such order. However, at this time ERCOT can offer no opinion as to whether factors outside of ERCOT's control—including but not limited to the resolution of any pending bankruptcy proceedings—may ultimately impact ERCOT's authority to apply or disburse uplift funds in any particular manner.

- iii. As ERCOT interprets this question, Austin Energy is asking for a legal interpretation of whether any uplift funds associated with a market participant in bankruptcy proceedings will be available to the bankruptcy proceeding or whether they will go directly to offset amounts owed to ERCOT in the ERCOT accounts of the QSE associated with the market participant. ERCOT has not performed a legal analysis of that issue and can offer no opinion as to what impact, if any, pending bankruptcy proceedings may have on ERCOT's authority to apply or disburse uplift funds.

Preparer: ERCOT Legal Counsel  
Sponsor: ERCOT Legal Counsel