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

**COMMISSION STAFF’S BRIEF IN RESPONSE TO ORDER NO. 2 REGARDING
AUTHORITY FOR ERCOT’S REQUESTED GOOD-CAUSE EXCEPTION**

On July 29, 2021, the administrative law judge (ALJ) filed Order No. 2. The Order required the Electric Reliability Council of Texas, Inc. (ERCOT) to file a brief regarding the ALJ’s authority to grant ERCOT’s request for a good cause exception to ERCOT Nodal Protocol § 1.3.1.1(j) by July 30, 2021.¹ The Order further requested the Staff of the Public Utility Commission of Texas (Staff) to file, by August 3, 2021, a brief regarding that same issue. Therefore, this pleading is timely filed.

I. RESPONSE TO ERCOT’S BRIEF

As explained in greater detail below, Staff agrees that the ALJ has authority to grant ERCOT’s request for a good cause exception to Nodal Protocol § 1.3.1.1(j). For purposes of this proceeding, Staff does not dispute any of the positions taken in ERCOT’s Good Cause Exception Brief.² Prior to the filing of Order No. 2, Intervenor Calpine Corporation (Calpine) submitted a statement regarding this issue.³ Calpine’s statement addressed the scope of the requested exception and not the ALJ’s legal authority to do so. Therefore, Staff believes that Calpine’s statement does not require a substantive response.

¹ Electric Reliability Council of Texas Inc.’s Brief in Response to Order No. 2 Regarding Authority for Requested Good-Cause Exception (Jul. 30, 2021) (ERCOT’s Good Cause Exception Brief).

² *Id.*

³ Calpine’s Statement of Position on ERCOT’s Request for Good Cause Exception (Jul. 30, 2021) (Calpine’s Statement).

II. AUTHORITY TO GRANT GOOD CAUSE EXCEPTION

Staff contends that the ALJ has authority to consider and grant ERCOT's request for a good cause exception to Nodal Protocol § 1.3.1.1(j). Pursuant to PURA⁴ § 39.151(d), ERCOT's rules are subject to Commission oversight and review. "Any such rules adopted by an independent organization and any enforcement actions taken by the organization are subject to commission oversight and review."⁵ Staff believes that the above provision grants the Commission the authority to grant the good cause exception sought by ERCOT.

Additionally, the Commission's procedural rules state the following:

The presiding officer shall issue interim orders covering procedural and discovery matters, requests for interim relief, and such other matters as may aid in the conduct of the hearing and the efficient and fair disposition of the proceeding. Interim orders shall be written or stated orally on the record.⁶

Staff believes that the above provision enables the ALJ to grant the exception sought by ERCOT, subject to review by the Commission, as with all other interim orders. Accordingly, the ALJ is authorized to grant ERCOT's request for a good cause exception.

III. CONCLUSION

Staff contends that the ALJ has authority to grant the good cause exception sought by ERCOT and respectfully re-urges its request for the entry of an order exercising that authority.

⁴ Public Utility Regulatory Act, Tex. Util. Code §§ 11.001-66.016.

⁵ PURA § 39.151(d).

⁶ 16 Tex. Admin. Code (TAC) § 22.122(a).

Dated: August 3, 2021

Respectfully Submitted,

**PUBLIC UTILITY COMMISSION OF TEXAS
LEGAL DIVISION**

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CERTIFICATE OF SERVICE

I certify that, unless otherwise ordered by the presiding officer, notice of the filing of this document was provided to all parties of record via electronic mail on August 3, 2021, in accordance with the Order Suspending Rules, issued in Project No. 50664.

/s/ R. Floyd Walker
R. Floyd Walker