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

**CITY OF GEORGETOWN’S BRIEF
REGARDING DEBT-MECHANISM ISSUES**

The City of Georgetown (Georgetown) submits this brief to address the issues stated in the Public Utility Commission’s (Commission) Order Requesting Briefing, issued on July 21, 2021.¹ Pursuant to the Order Requesting Briefing this brief is timely filed, and in support Georgetown shows the following:

I. INTRODUCTION

The Legislature amended Chapter 39 of PURA to provide a funding mechanism for alleviating the significant financial burden placed on the Electric Reliability Council of Texas (ERCOT) market as a result of Winter Storm Uri. The Legislature placed a firm cap on the amount of funds available, making it imperative for ERCOT to allocate the proceeds as efficiently as possible. Each LSE’s exposure to uplift costs determined as the positive difference between the amount of charges incurred and the amount of payments received for reliability deployment price adder (RDPA) in real-time ancillary service imbalance charges and for ancillary service charges above the Offer Cap will enable ERCOT to distribute the funds accordingly. This will be more beneficial to the ERCOT market as a whole and will better serve the purpose for creating the uplift financing mechanism.

¹ Order No. 2 Finding Application Sufficient and Notice Reasonable, Memorializing Prehearing Conference and Adopting Amended Procedural Schedule (Jul. 29, 2021).

II. BACKGROUND

The 87th Texas Legislature passed H.B. 4492 to create a mechanism for ERCOT to finance up to \$2.1 billion for the purpose of addressing the extraordinary costs incurred during Winter Storm Uri and the resulting period of emergency.² The statute instructs ERCOT to provide a process for remitting the financing proceeds to LSEs who were “exposed to the costs included in the uplift balance.”³ Representative Chris Paddie, the House sponsor of H.B. 4492, has confirmed this, stating to the Commission “[t]he legislation is clear that each load-serving entity is to provide documentation of its own exposure to the uplift costs (see, for example Section 39.653(b)(3)).”⁴

The uplift costs consist of reliability deployment price adder (RDPA) in real-time ancillary service imbalance charges and ancillary service costs in excess of the Commission’s system-wide offer cap.⁵ Representative Paddie adds that the legislation “does not contemplate or authorize any ‘netting’ between companies,”⁶ but also emphasizes the need to apply the \$2.1 billion cap to all LSEs on an equitable basis.

III. ARGUMENT

LSEs must document amounts paid above the Offer Cap and any amounts received above the Offer Cap to best serve the purpose of the uplift financing and achieve an equitable result. The uplift financing is designed to address the liquidity issues and risks of default in the ERCOT market resulting from Winter Storm Uri. These liquidity issues and defaults resulted from LSEs paying tremendous costs for RDPA charges in the real-time ancillary service imbalance change and

² H.B. 4492, 2021 Leg., 87th Sess. (Tex. 2021) at § 39.651.

³ Tex. Util. Code § 39.653(b)(3).

⁴ Representative Chris Paddie’s Letter to Commissioners (Aug. 2, 2021).

⁵ Tex. Util. Code § 39.652(4).

⁶ Representative Chris Paddie’s Letter to Commissioners (Aug. 2, 2021).

paying amounts above the Offer Cap for all hours of the specified period of emergency.⁷ However, the information currently available suggests that some LSEs may have received a similarly substantial amount of RDPA (in real-time ancillary service imbalance charges) and ancillary services payments during the period of emergency.⁸ So while all LSEs likely incurred significant costs, the corresponding payments could be such that certain LSEs do not have liquidity issues and do not pose an imminent risk of default. The exposure documentation must therefore include both the amount of charges incurred and the amount of payments received to avoid unjustly enriching LSEs that were not adversely affected by the uplift costs.

ERCOT's estimate of the applicable RDPA charges and ancillary services charges in excess of the Offer Cap for the period of emergency totals approximately \$3.42 billion.⁹ This amount far exceeds the \$2.1 billion cap established in PURA § 39.652(4), emphasizing the need to allocate the financing proceeds efficiently. Conversely, ERCOT's estimate of the corresponding RDPA payments and ancillary services payments in excess of the Offer Cap totals approximately \$3.71 billion.¹⁰ This likely means certain LSEs were not adversely affected, and may have even received a net benefit, from the payments and charges at issue. Allowing LSEs in this position to take advantage of the proposed financing would not produce an equitable result, as it would only subtract from the limited funds available without alleviating any liquidity issues or default risks weighing on the overall market. This frustrates the real goal of the uplift financing and works against the mandate to apply the \$2.1 billion cap to all LSEs on an equitable basis.

⁷ The Period of Emergency is defined as the period beginning 12:01 a.m., February 12, 2021, and ending 11:59 p.m., February 20, 2021.

⁸ See ERCOT's Response to NRG Energy, Inc.'s First Request for Information (Aug. 2, 2021).

⁹ *Id.* at 4 (Aug. 2, 2021).

¹⁰ *Id.* at 6.

Knowing how much an LSE received in payments during the period of emergency will allow ERCOT to distribute the financing proceeds in a manner more equitable and beneficial to the market as a whole. Each LSE's exposure should therefore document all amounts received from its owned resources, power purchase agreements, and financially settled contracts outside ERCOT settlement for real-time ancillary service imbalance payments and ancillary service payments above the Offer Cap for all hours during the period of emergency. For example, if an LSE received payments for RDPA in real-time ancillary service imbalance or for ancillary services above the Offer Cap from its owned resources, power purchase agreements, or financially settled contracts outside ERCOT, then the exposure documentation needs to show the positive difference between the amounts paid by the LSE for RDPA in real-time ancillary service imbalance charges and for ancillary service charges above the Offer Cap and amounts received. This is the only way to get an accurate look at the financial burden each LSE really faces as a result of the uplift costs. With limited funds available, such accuracy is crucial for ERCOT to achieve an equitable result and the greatest overall benefit out of the uplift financing mechanism.

III. CONCLUSION

The phrase "exposed to the costs included in the uplift" necessarily contemplates documentation on the amounts paid in excess of the Commission's system-wide offer cap along with documentation on the amounts received in excess of the Commission's system-wide offer cap. The purpose of the uplift financing is to address the uplift balance and provide liquidity to financially distressed LSEs. Without documentation on both charges incurred and payments received, ERCOT will not be able to determine an LSE's true exposure or which LSEs were actually harmed by the uplift costs. Any assessment based solely on the charges incurred will thus not produce an equitable result. Each LSEs exposure should therefore consist of all its payments

and charges for the period of emergency. This will best serve the purpose of the uplift financing and enable ERCOT to effectively distribute the resulting proceeds.

Respectfully submitted,

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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.

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