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DOCKET NO. 52322

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, FOR AN ORDER	§	
INITIATING A PARALLEL DOCKET,	§	
AND FOR A GOOD CAUSE	§	
EXCEPTION	§	

ORDER NO. 4
DENYING REQUEST FOR GOOD CAUSE EXCEPTION, SCHEDULING
PREHEARING CONFERENCE AND HEARING ON THE MERITS,
ADDRESSING OTHER PROCEDURAL MATTERS, AND ADDRESSING *PRO HAC*
***VICE* MOTIONS**

I. Request for Good Cause Exception

ERCOT requests that the Commission issue a good cause exception to the confidentiality requirements in ERCOT Nodal Protocols § 1.3.1.1(j), so that ERCOT can provide information about individual market participant settlement and invoice transactions as needed in this proceeding. Having carefully reviewed the briefing submitted by a number of parties and the underlying law, the administrative law judge (ALJ) concludes that the motion should be denied. Accordingly, ERCOT's request for the good cause exception is denied.

II. Prehearing Conference

The parties are hereby notified that a prehearing conference will be held in this matter on August 23, 2021, at 8:00 a.m., in the Commissioners' Hearing Room, 7th floor of the William B. Travis Building, 1701 North Congress Avenue, Austin, Texas 78701. The prehearing conference will be held in-person.

Parties should be prepared to discuss any outstanding motions, evidentiary matters, including objections or motions to strike direct testimony and rebuttal testimony, and any other matters that may assist in the disposition of this proceeding in a fair and efficient manner. The parties should make every effort to resolve objections, motions to strike, and any other disputes prior to this prehearing conference.

The prehearing conference will be held concurrently with a prehearing conference in Docket No. 52321.¹

III. Commission-Held Hearing on the Merits

The parties are hereby notified that the Commission will preside over the hearing on the merits in this matter. The hearing will commence at 1:00 p.m. on August 24, 2021. The hearing will be conducted in accordance with Chapter 2001 of the Texas Government Code and 16 TAC chapter 22, subchapters K and L. No more than one-and-a-half days will be permitted for the hearing unless otherwise ordered by the Commission during the hearing. Thus, unless and until otherwise directed, the parties should assume that the hearing will conclude at 5:00 p.m. on August 25, 2021. The hearing will be in-person and will be held in the Commissioners' Hearing Room, 7th floor of the William B. Travis Building, 1701 North Congress Avenue, Austin, Texas 78701.

ERCOT is ordered to file, by August 10, 2021, a notice of hearing that complies with the Administrative Procedure Act.

IV. Procedural Schedule

The ALJ adopts the following procedural schedule, which replaces the schedule adopted in Order No. 2:

Date	Event
July 16, 2021	ERCOT application filed
July 19, 2021	ERCOT filed with the Commission proof of notice to all market participants and relevant ERCOT Committees
July 27, 2021	Intervention deadline
July 28, 2021	Prehearing conference
July 30, 2021	Deadline for objections to ERCOT direct testimony
July 30, 2021	Deadline for ERCOT to brief waiver request
August 3, 2021	Deadline for Commission Staff any intervenors to brief ERCOT waiver request
August 12, 2021	Deadline for intervenors to file direct testimony or statement of position
August 16, 2021	Deadline for Commission Staff to file direct testimony
August 16, 2021	Deadline for objections to intervenor direct testimony
August 20, 2021	Deadline for ERCOT rebuttal testimony

¹ *Application of the Electric Reliability Council of Texas, Inc. for a Debt Obligation Order under PURA Chapter 39, Subchapter M, and Request for a Good Cause Exception, Docket No. 52321 (pending).*

August 20, 2021	Deadline for objections to Commission Staff direct testimony
August 23, 2021, at 8:00 a.m.	Prehearing conference
August 23, 2021 at the prehearing conference	Deadline for objections to ERCOT rebuttal testimony
August 24, 2021, at 1:00 p.m.	Hearing on the merits commences

Drafts of testimony and emails regarding drafts of testimony are not discoverable.

Filing a document on the Commission's Interchange will also constitute service of the document on all parties to this proceeding, such that a separate email serving the document will not be required.

Responses to requests for information (RFIs) are due within seven calendar days, objections to RFIs are due within three calendar days, motions to compel are due within two business days, and responses to motions to compel are due within two business days.

V. Exhibits

All direct testimony must be presented as written direct testimony and must be pre-filed as an exhibit.

By August 19, 2021, each party must:²

- 1) submit at the Commission's Central Records office *8 labeled USB flash drives and cover letter* with the complete set of exhibits they plan to offer into evidence, together with an exhibit list;**
- 2) submit at the Commission's Central Records office *six hard copies* of the complete set of exhibits they plan to offer into evidence, together with an exhibit list;**
- 3) provide to all other parties copies of the complete set of exhibits they plan to offer into evidence, together with an exhibit list; and**
- 4) email an electronic copy of its exhibit list to laurie.wharton@puc.texas.gov and hunter.burkhalter@puc.texas.gov.**

² As to ERCOT's rebuttal testimony, ERCOT must comply with these requirements at the prehearing conference on August 23, 2021.

All exhibits must be pre-marked, including, to the maximum extent possible, documents anticipated for use in cross-examination. It is the obligation of the party offering the evidence to make sure that all exhibits, including copies distributed to other parties, are properly marked and included in the record. The exhibit list must clearly describe any exhibits that are confidential.

At the beginning of the hearing on the merits, if there have been rulings that have amended an exhibit, the party offering the exhibit must:

- 1) provide *8 labeled USB flash drives* containing the amended exhibit which incorporate any redactions or corrections so that they conform to evidentiary rulings made at the August 23, 2021 prehearing conference;**
- 2) provide *six hard copies* of the amended exhibit which incorporate any redactions or corrections so that they conform to evidentiary rulings made at the August 23, 2021 prehearing conference; and**
- 3) provide to all other parties copies of the amended exhibit which incorporate any redactions or corrections so that they conform to evidentiary rulings made at the August 23, 2021 prehearing conference.**

Exhibits containing confidential material must meet all the requirements of 16 TAC § 22.71(d)(1), in addition to being marked with the exhibit number. Exhibits submitted that do not conform to 16 TAC § 22.71(d)(1) may be rejected at the August 23, 2021, prehearing conference and will not be accepted until they are resubmitted as corrected.

VI. Cross-Examination, Redirect, Clarifying Questions, and Testimony Regarding Confidential Exhibits

Each witness presenting written direct testimony must be available for cross-examination by the other parties. The Commissioners and advisory staff members may ask questions at any point during the proceeding and may direct a party or a witness to provide additional information as needed to fully develop the record of the proceeding. Redirect is limited to the scope of cross-examination.

In the event there is need to “close” the hearing to consider confidential evidence, parties are reminded that only persons who have signed the protective order can remain in the hearing room. At the prehearing conference, the applicants must provide the ALJ with a complete list of persons subject to the protective order.

VII. Time Allotments for Parties Participating in the Hearing on the Merits

By noon on August 20, 2021, the parties must file their proposals for allotting time among themselves. The time allotments must include time used for opening statements, cross-examination, redirect, and rebuttal. Parties should allow sufficient time for questions by the Commissioners and staff advisors to the Commissioners. Assuming the hearing runs from 1 p.m. to 5 p.m. on the 24th and from 9 a.m. to 5 p.m. on the 25th, there will be a total of roughly 10.25 hours of hearing time to allocate among the parties (excluding lunches and break time).

VIII. Additional Requirements

All witnesses will be sworn in at the August 23, 2021, prehearing conference. Parties are required to provide the court reporter with business cards for each attorney and each witness. In addition, each witness must have a nameplate that displays their name and party affiliation.

IX. Addressing Motions For Admission *Pro Hac Vice*

On July 27, 2021, Citigroup Energy Inc. filed motions for admission *pro hac vice* of Paul J. Pantano, Jr., Thomas Millar, and Alexandra Calabro. Unlike the State Office of Administrative Hearings (SOAH), the Commission does not have a rule requiring non-resident attorneys to file a motion for admission *pro hac vice* before entering an appearance. Under 16 TAC § 22.101(a), “[a]ny person may appear before the Commission or in a hearing in person or by authorized representative.” Therefore, it is not necessary to grant admission *pro hac vice* in this proceeding, and Mr. Pantano, Jr., Mr. Millar, and Ms. Calabro are free to participate as counsel in this proceeding on behalf of their client.

Signed at Austin, Texas the 5th day of August 2021.

PUBLIC UTILITY COMMISSION OF TEXAS



HUNTER BURKHALTER
CHIEF ADMINISTRATIVE LAW JUDGE