



## Filing Receipt

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**PROJECT NO. 52364**

<b>PROCEEDING FOR ELIGIBLE</b>	<b>§</b>	<b>PUBLIC UTILITY COMMISSION</b>
<b>ENTITIES TO FILE AN OPT OUT</b>	<b>§</b>	
<b>PURSUANT TO PURA § 39.653(D) AND</b>	<b>§</b>	<b>OF TEXAS</b>
<b>FOR LOAD-SERVING ENTITIES TO</b>	<b>§</b>	
<b>FILE DOCUMENTATION OF</b>	<b>§</b>	
<b>EXPOSURE TO COSTS PURSUANT TO</b>	<b>§</b>	
<b>THE DEBT OBLIGATION ORDER IN</b>	<b>§</b>	
<b>DOCKET NO. 52322</b>	<b>§</b>	

**COMMISSION STAFF’S COMMENTS REGARDING PROPOSED CHANGES TO  
RESOURCE AFFILIATE STATUS**

On November 12, 2021, MidAmerican Energy Services, LLC (MidAmerican) filed a petition to change its resource affiliate status. The Staff of the Public Utility Commission of Texas (Staff) respectfully provides these comments with respect to that filing.

**I. PURPOSE OF THIS MATTER**

In Order No. 1, filed November 3, 2021, the administrative law judge (ALJ) converted this matter from a docket to a project in recognition of its purpose, which is not to adjudicate contested issues.

Based on the text of the Debt Obligation Order<sup>1</sup> and ancillary documents referenced in the Debt Obligation Order, the administrative law judge (ALJ) concludes that this matter is more properly characterized as a project than as a docket.<sup>2</sup>

...

It is apparent from the text of the Debt Obligation Order and ancillary documents referenced therein that there is no opportunity for an adjudicative hearing as to the two issues to be dealt with in this proceeding.<sup>3</sup>

...

[T]he process for determining the exposure of load-serving entities is prescribed in findings of fact 2, and 53 through 74, and ordering paragraphs 80 and 81 of the Debt Obligation Order, and Attachment C to the Unopposed Stipulation And Settlement Agreement. . . . There is nothing in those provisions which would

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<sup>1</sup> *Application of the Electric Reliability Council of Texas, Inc. for a Debt Obligation Order to Finance Uplift Balances Under Pura Chapter 39, Subchapter N, and for a Good Cause Exception*, Docket No. 52322 (Oct. 13, 2021).

<sup>2</sup> Order No. 1 at 1-2 (Nov. 3, 2021).

<sup>3</sup> *Id.* at 2.

authorize or necessitate a contested case hearing for the completion of the exposure determination process.<sup>4</sup>

## II. MIDAMERICAN'S REQUEST

MidAmerican requests reclassification as “an Unaffiliated REP with less than \$40 million in exposure, on the basis that MidAmerican’s one affiliate generation unit did not have any output and did not operate in either the ERCOT ancillary services or energy markets during the Period of Emergency.”<sup>5</sup> Therefore, MidAmerican is not challenging whether it has been correctly identified as having affiliated generation.<sup>6</sup> Rather, MidAmerican seeks adjudication of its position that its affiliated generation should be disregarded for purposes of determining exposure.

## III. CONCLUSION

Staff respectfully requests that these comments be given due consideration.

Dated: November 15, 2021

Respectfully Submitted,

### **PUBLIC UTILITY COMMISSION OF TEXAS LEGAL DIVISION**

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<sup>4</sup> *Id.*

<sup>5</sup> MidAmerican’s Request for Reclassification of its Resource Affiliate Status at 3 (Nov. 12, 2021).

<sup>6</sup> Staff makes no comment as to whether MidAmerican is affiliated with only one generation resource.

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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 November 15, 2021, in accordance with the Second Order Suspending Rules, issued in Project No. 50664.

/s/ R. Floyd Walker  
R. Floyd Walker