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**REVIEW OF WHOLESALE
ELECTRIC MARKET DESIGN**

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**BEFORE THE
PUBLIC UTILITY COMMISSION
OF TEXAS**

**JUST ENERGY AND AP GAS & ELECTRIC
RESPONSE TO REQUEST FOR COMMENT**

Pursuant to the memo from the Public Utility Commission of Texas (“PUC” or “Commission”), Just Energy and AP Gas & Electric file these comments on market design issues under discussion at the PUC. These comments offer some perspective from the Retail Electric Providers (REP) segment with regard to wholesale market design implementation and the effect on customers.

PRINCIPLES REGARDING WHOLESALE ELECTRIC MARKET DESIGN

Retail Electric Providers and their customers share the Commission’s concern to ensure that the electric grid operates in a stable and reliable fashion. Integral to that principle need is the requirement that there be an ability to balance supply and demand for electricity at all times. Reliability is critical to ensure public health and safety as well as continuing our thriving economy.

RELIABILITY MEASURES

To the extent the Commission determines a need for a command and control out of market measures to provide the assurance of reliability, the cost recovery associated with these measures should be funded through a competitively neutral mechanism. The Commission has relevant experience with the COVID emergency relief fund that involved a wires charge to fund the health

and safety measures that were implemented in response to the pandemic. A similar fund could be established for these reliability measures. A reliability action fund could be established and maintained through a transmission charge that is applied to the entirety of the ERCOT market. ERCOT could procure any necessary reliability services through a market auction and pay for that service by withdrawing from this reliability action fund. If those reliability products are procured on a multi-year basis, it would add stability and predictability of cost for customers.

To the extent the Commission approves reliability services beyond what the market delivers without a separate fund, the only sustainable solution is to allow retail electric providers to pass through reliability charges (such as the additional ancillary services requirement costs) that are imposed mid-contract term to fixed price customers because it imposes a new cost or fee beyond the REP's control. The goal should be to achieve market reliability without use of command and control actions, but to the extent these non-market-based actions occur, load serving entities must be able to pass these costs through to all customers who are the ultimate beneficiaries of reliable power.

WHOLESALE MARKET DESIGN PRINCIPLES

Regulatory certainty and sufficient advanced notice of market design changes stabilizes wholesale markets, which promotes competition and brings benefits to customers. To the extent the Commission adopts market-based changes, those changes should first be competitively neutral. Any changes that favor one particular business model over others does not meet the competitive market criteria put in place by Senate Bill 7 over 20 years ago.

In accordance with the legislative principles governing our market, ERCOT has four primary responsibilities:

- Maintain system reliability
- Facilitate a competitive wholesale market
- Facilitate a competitive retail market
- Ensure open access to transmission

In order to bring the benefits of a competitive retail electric market to customers, any market design changes must include first principles of wholesale market liquidity and transparency. It is contrary to a competitive retail market to impose requirements on load serving entities to procure wholesale market products (e.g. ancillary services) in such a manner that these costs cannot be hedged because there is not a healthy and open bilateral offering of those products in the wholesale market. Any market-based mechanism needs to accommodate dynamic load obligations and customers switching between retailers. To the extent the Commission creates a product that can only be obtained from a handful of providers on a bilateral basis, this lack of liquidity cannot reasonably be hedged and therefore brings incredible risk into the retail price offered to customers. This is especially true when the providers of those products are not required to offer the product into the market for procurement. In all other RTOs power is purchased as a commodity and is not tied to a particular resource. That market construct must be maintained to achieve liquidity and transparency.

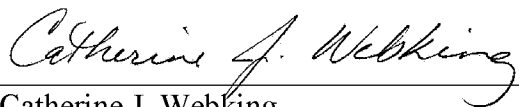
To the extent existing or new ancillary services are implemented as a means of ensuring additional reserves based on generation outage contingencies, the Commission should examine the imposition of this cost entirely on load serving entities. As an alternative, the Commission could consider applying the cost to capacity short entities, much like the RUC charges are recovered under current rules. Or, the incremental or new ancillary services could be assigned to generation resources based on some reliability metric tied to actual performance.

Successful meeting of the statutory purpose of a healthy competitive retail market is essential to bringing the benefits in both price and type of service to customers in Texas. As the legislature has found, a competitive market will provide the most benefits to customers.

Another essential element to ensure a healthy competitive retail electric market is to provide regulatory certainty for the customer and the market participants. Investment in the market cannot go forward if there is a concern that the rules may change to render an asset or a service without value in the market. REPs and their customers generally enter into term contracts for terms of 1 to 3 years. Any market design changes that affect the cost to serve existing contracts should confirm the ability of the retail electric provider to pass those newly minted costs through to customers if their contract allows it.

CONCLUSION

Just Energy appreciates the opportunity to engage in these very important discussions and looks forward to working with the Commission and market participants to continue market design improvements to ensure that customers get the full benefits of a robustly competitive retail electric market. Respectfully submitted,



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