



## Filing Receipt

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**DOCKET NO. 52709**

<b>COMPLIANCE FILING FOR DOCKET</b>	<b>§</b>	<b>PUBLIC UTILITY COMMISSION</b>
<b>NO. 52321 (APPLICATION OF ELECTRIC</b>	<b>§</b>	
<b>RELIABILITY COUNCIL OF TEXAS INC.</b>	<b>§</b>	<b>OF TEXAS</b>
<b>FOR A DEBT OBLIGATION ORDER</b>	<b>§</b>	
<b>PURSUANT TO CHAPTER 39,</b>	<b>§</b>	
<b>SUBCHAPTER M, OF THE PUBLIC</b>	<b>§</b>	
<b>UTILITY REGULATORY ACT)</b>	<b>§</b>	

**COMMISSION STAFF'S RESPONSE TO ORDER NO. 5**

On October 13, 2021, the Public Utility Commission of Texas issued a debt obligation order (Debt Obligation Order)<sup>1</sup> pursuant to Chapter 39, Subchapter M, of the Public Utility Regulatory Act (PURA).<sup>2</sup> In accordance with the Debt Obligation Order, the Electric Reliability Council of Texas (ERCOT) was ordered to make certain filings in this docket. On January 12, 2023, ERCOT filed a Supplemental Annual True-Up Compliance Filing (True-Up Filing) that detailed ERCOT's compliance with the true-up provisions of the Debt Obligation Order.<sup>3</sup>

On January 13, 2023, the ALJ filed Order No. 5, directing Commission Staff to make recommendations as to the sufficiency and completeness of ERCOT's Compliance Filing by 10:00 am on January 18, 2023. Commission Staff was further ordered to offer its opinion as to whether the reported adjustments made by ERCOT comply with PURA and the Debt Obligation Order. Therefore, this pleading is timely filed.

Commission Staff has reviewed ERCOT's True-Up Filing, and, as explained in the memorandum of Darryl Tietjen, Division Director, Rate Regulation Division, Commission Staff recommends that ERCOT's True-Up Filing be found to be sufficient and complete. Commission Staff further recommends that ERCOT's True-Up filing and the plans described therein be found to be in compliance with PURA and the relevant provisions of the Debt Obligation Order.<sup>4</sup>

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<sup>1</sup> *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 (Oct. 13, 2021).

<sup>2</sup> Public Utility Regulatory Act, Tex. Util. Code §§ 11.001-66.016.

<sup>3</sup> Debt Obligation Order, Findings of Fact Nos. 65-66 and 74 and Ordering Paragraph Nos. 15 and 15A.

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

Dated: January 18, 2023

Respectfully Submitted,

**PUBLIC UTILITY COMMISSION OF TEXAS  
MARKET ANALYSIS DIVISION**

Harika Basaran  
Division Director

/s/ R. Floyd Walker

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**DOCKET NO. 52709**

**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 January 18, 2023 in accordance with the Second Order Suspending Rules, issued in Project No. 50664.

/s/ R. Floyd Walker  
R. Floyd Walker

# *Public Utility Commission of Texas*

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## **Memorandum**

**TO:** Floyd Walker, Market Analysis

**FROM:** Darryl Tietjen, Rate Regulation

**DATE:** January 18, 2023

**RE:** Docket No. 52709 – *Compliance Filing for Docket No. 52321 (Application of Electric Reliability Council of Texas Inc. for a Debt Obligation Order Pursuant to Chapter 39, Subchapter M, of the Public Utility Regulatory Act)*

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### **Introduction**

On January 13, 2023, the Commission’s Office of Policy and Docket Management issued *Order No. 5, Requiring Commission Staff Recommendations and Establishing Other Deadlines* in this docket. The order requires Commission Staff to make, by 10:00 a.m. on January 18, 2023, “recommendations as to the sufficiency of the notice provided by ERCOT, and the sufficiency and completeness of ERCOT’s supplemental filing, including its opinion as to whether the true-up filing and the proposed adjustments comply with PURA and the Debt Obligation Order.”

### **Discussion**

On January 12, 2023, the Electric Reliability Council of Texas, Inc. (ERCOT), in its role as servicer (Servicer) of the bonds issued under Subchapter M of Chapter 39 of the Public Utility Regulatory Act, filed a supplemental annual true-up filing and notice of adjustment of default charges (Default Charges) under the provisions of the Debt Obligation Order adopted by the Commission in Docket No. 52321.<sup>1</sup> The Servicer filed a previous annual true-up on September 15, 2022; the Debt Obligation Order allows, however, for additional true-ups to correct for anticipated over-collections for the current or upcoming annual true-up period.<sup>2</sup>

As ERCOT describes in its January 12, 2023 filing, it has successfully pursued collection of amounts owed by market participants that otherwise would have been borne by other market participants or their customers. This includes the recently received \$374,763,872 from the Brazos Electric Power Cooperative, Inc. bankruptcy plan representing a recovery of amounts owed by a market participant. Those recoveries (Recoveries) are, pursuant to the Debt Obligation Order and PURA, payable by ERCOT to the Texas Electric Market Stabilization Funding M LLC (the Issuer), given that amounts related to those Recoveries were included in the default balance.

The Issuer has provided the required notice that it intends to use the Recoveries to early redeem \$382,288,420 of the Stabilization M Bonds. The effect of that early redemption will be to lower

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<sup>1</sup> *Application of the Electric Reliability Council of Texas, Inc. for a Debt Obligation Order Pursuant to Chapter 39, Subchapter M, of the Public Utility Regulatory Act*, Docket No. 52321, Final Debt Obligation Order (Oct. 14, 2021).

<sup>2</sup> *Id.* at Finding of Fact Nos. 65 and 71.

the outstanding principal balance of the Subchapter M Bonds from the current unpaid balance of \$786,088,420 to \$403,800,000. If the Default Charges are not reduced after the time of that early redemption from the existing level of \$3,221,826 to a level commensurate with the reduced principal balance of the Stabilization M Bonds, there will be an over-collection of Default Charges during the True-Up period being reviewed of approximately \$13,346,045.

Accordingly, ERCOT's Supplemental Annual True-Up Filing reflects a need to decrease Default Charges. The current monthly amount of the Default Charges is \$3,221,826. As shown in Attachment 2 and the accompanying workpapers to ERCOT's filing, the monthly Default Charges should be decreased from \$3,221,826 to \$1,553,571 effective March 1, 2023, provided the optional early redemption of the Stabilization M Bonds described above occurs. ERCOT's filing states that, absent unforeseen circumstances, the optional early redemption will occur on February 1, 2023. ERCOT's filing further states that if the Issuer cancels that early redemption for any reason, the Servicer will not reduce the amount of Default Charges from its existing level of \$3,221,826.

### **Right to Redeem the Stabilization M Bonds in Whole or in Part**

The Servicer has the right to early redeem the Stabilization M Bonds, in whole or in part, without penalty or premium for the first three years that the Stabilization M Bonds are outstanding or as long thereafter as the initial purchaser still holds the Stabilization M Bonds. Redemption of the Stabilization M Bonds involves the surrender of the existing Stabilization M Bonds and the reissuance in the unredeemed principal amount thereof in the form of a replacement Stabilization M Bond and the re-amortization of the reduced principal of the Stabilization M Bonds. As noted above, the Issuer intends to use the Recoveries to optionally redeem early, on February 1, 2023, \$382,288,420 of the Stabilization M Bonds, leaving an outstanding principal balance of \$403,800,000. The Debt Obligation Order required ERCOT to file an Issuance Advice Letter setting forth the terms of the Stabilization M Bonds, including the amortization schedule and the Nominal Default Charge Schedule (the anticipated level of Default Charges needed to amortize the principal, interest and the various fixed and variable costs associated with the administration of the Stabilization M Bonds) based upon the \$800 million original issuance amount of the Stabilization M Bonds. ERCOT filed the Issuance Advice Letter on November 5, 2021, in PUC Docket No. 52321. Assuming that the expected optional early redemption described above occurs, the Stabilization M Bonds are required to be reissued for the reduced principal amount and re-amortized based on that reduced principal balance. Attachments 4 and 5 of ERCOT's filing present both the recalculated amortization schedule and the recalculated Default Charge Schedule, in the same format as initially disclosed in the Issuance Advice Letter, based upon the expected early optional redemption.

### **Effective Date of True-up Adjustment**

The Debt Obligation Order requires the Servicer to file notice regarding annual true-up adjustments with the Commission not less than 45 days prior to the first billing cycle of the month in which the revised Default Charges come into effect. As Servicer, ERCOT proposes an effective date of the revised Default Charges for the March 2023 billing period. In accordance with Finding of Fact No. 74 of the Debt Obligation Order, the Commission has 15 days after the date of ERCOT's filing to confirm that the true-up adjustment complies with PURA and the Debt Obligation Order. Any true-up adjustment filed with the Commission is effective on its proposed effective date, which will not be less than 15 days after filing. The Debt Obligation Order also

provides that any necessary corrections to the adjusted default charge resulting from mathematical errors in the calculation of the default charge will be made in future true-up adjustments.

**Recommendation**

I recommend that the Commission find that ERCOT's proposed adjustments as filed in this compliance docket are sufficient and complete. Further, it is my opinion that ERCOT's proposed adjustments comply with PURA and the requirements of the Debt Obligation Order. Accordingly, I recommend that the Commission approve the adjustments and proposals included in ERCOT's filing.