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DOCKET NO. 52709

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

ORDER NO. 6
ADDRESSING ERCOT'S JANUARY 12, 2023 SUPPLEMENTAL TRUE-UP FILING

This Order addresses the supplemental annual true-up filing, report of recoveries, notice of default charge adjustment, and recalculation of both the initial revenue requirement and default charge schedule based on the expected optional early partial redemption of the Texas Stabilization M Bonds Series 2021 (Texas Stabilization M Bonds) filed by the Electric Reliability Council of Texas, Inc. (ERCOT) on January 12, 2023. In the true-up filing, ERCOT: (a) proposes the optional early redemption of \$382,288,420 of the Texas Electric Market Stabilization Funding M LLC Texas Stabilization M Bonds, Series 2021, which were issued on November 12, 2021, in the aggregate principal amount of \$800 million; (b) proposes the replacement of the existing revenue requirements to reflect the reduced amount of the Texas Stabilization M Bonds; and (c) provides a re-calculation of the default charge schedule resulting from the reduced amount of the Texas Stabilization M Bonds.

On July 16, 2021, ERCOT filed an application for a debt obligation order from the Commission under Subchapter M of Chapter 39 of PURA¹ to securitize extraordinary costs incurred due to Winter Storm Uri. That proceeding was assigned Docket No. 52321. On October 14, 2021, the Commission issued a Debt Obligation Order² that authorized the issuance of the debt obligations in an aggregate amount of up to \$800 million (the default balance) and approved the assessment of default charges to all wholesale market participants (except those

¹ Public Utility Regulatory Act, Tex. Util. Code §§ 11.001–66.016.

² *Application of the Electric Reliability Council of Texas, Inc. for a Debt Obligation Order Pursuant to Chapter 30, Subchapter M of the Public Utility Regulatory Act*, Docket No. 52321, Final Debt Obligation Order, (Oct. 14, 2021).

expressly exempted by PURA) in an amount sufficient to ensure the recovery of amounts expected to be necessary to timely provide all payments of debt service and other required amounts and charges in connection with the issuance of the debt obligations.

In accordance with the Debt Obligation Order, Texas Electric Market Stabilization Funding M LLC (the Issuer) issued on November 12, 2021, the Texas Stabilization M Bonds in an aggregate principal amount of \$800 million. ERCOT (the Servicer) began billing default charges, in accordance with the requirements of the Debt Obligation Order in January 2022. As Servicer for the Issuer, ERCOT bills, collects, receives, and adjusts the default charges imposed under the default property servicing agreement, dated November 12, 2021, that was entered into between the Issuer and the Servicer. The Servicer remits default charges received to the Indenture Trustee to repay the Texas Stabilization M Bonds. The Debt Obligation Order, ERCOT protocols, and the servicing agreement set out the terms and conditions under which the default charges will be billed and collected with respect to the Texas Stabilization M Bonds.

The Debt Obligation Order requires the Servicer to review and adjust default charges at least annually to correct for any under-collections or over-collections from the preceding annual true-up period, to estimate any anticipated under-collections or over-collections for the current or upcoming annual true-up period, and to ensure the expected recovery of amounts sufficient to provide all payments of debt service.³ True-up adjustments are based on cumulative differences, regardless of the reason, between the periodic payment requirements and the amount of default charge remittances made to the Indenture Trustee by the Servicer.⁴

As required under PURA § 39.159(c), ERCOT has, to date, successfully pursued collection of roughly \$382,292,691, 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. These recoveries are, under the Debt Obligation Order and PURA, payable by ERCOT to the Issuer because those recoveries were included in the default balance.⁵

³ *Id.* at finding of act 70 and ordering paragraphs 15 and 15A.

⁴ *Id.*

⁵ PURA § 39.603(c).

On January 12, 2023, ERCOT filed its true-up filing advising the Commission of its intent to optionally early redeem \$382,288,420 of the Texas Stabilization M Bonds. The true-up filing includes schedules and attachments which reflect: (a) the anticipated reduced principal balance of the Texas Stabilization M Bonds; (b) the anticipated reduced default charge; (c) the replacement of the revenue requirements (amortization schedule); and (d) the recalculation of the default charge schedule which will apply to the Texas Subchapter M Bonds after the anticipated optional early redemption.

In its true-up filing, ERCOT has provided evidence that the expected optional early redemption will significantly reduce the financing cost of the Texas Stabilization M Bonds by reducing by almost one half the amount of outstanding principal balance owed on the Texas Stabilization M Bonds. Such a result is in accordance with PURA and the Debt Obligation Order.⁶

The Debt Obligation Order allows for an optional early redemption (prepayment) of the Texas Stabilization M Bonds if it can be done without premium or penalty.⁷ That right to redeem without premium or penalty is expressly provided for in the Texas Subchapter M Bonds, so long as the optional redemption occurs before the third anniversary of the issuance of the Texas Subchapter M Bonds or at any time thereafter the Texas Comptroller of Public Accounts (Initial Purchaser) remains the owner of the Texas Stabilization M Bonds.⁸ The Debt Obligation Order provided to ERCOT and the Issuer flexibility in establishing the terms and conditions of the Texas Stabilization M Bonds, including the right to establish repayment schedules, payment dates, and optional early redemption rights.⁹

The anticipated optional early redemption does not involve any amendment to the Texas Stabilization M Bonds, does not involve the payment of any premium or penalty, and does not increase the ongoing costs of the Texas Subchapter M Bonds.

On January 18, 2023, Commission Staff recommended 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.

⁶ See PURA §§ 39.159(c) and 39.601(e).

⁷ Debt Obligation Order *supra* at finding of fact 49.

⁸ ERCOT Texas Stabilization M Bonds, Series 2021, Series Supplement Section 5.

⁹ *Id.*

No objections to the ERCOT filing have been made.

In light of the above, the Commission:

- approves the application of ERCOT for the optional early redemption of \$382,288,420 of the Texas Stabilization M Bonds; and
- conditionally approves the issuance of both the replacement revenue requirements (amortization schedule) and the default charge schedule (with such approval being conditioned on the early optional redemption taking place on or near February 1, 2023).

This docket will remain open for future compliance obligations.

Signed at Austin, Texas the 23rd day of January 2023.

PUBLIC UTILITY COMMISSION OF TEXAS



HUNTER BURKHALTER
CHIEF ADMINISTRATIVE LAW JUDGE