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DOCKET NO. 52709

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

COMMISSION STAFF'S RESPONSE TO ORDER NO. 7

On October 13, 2021, the Public Utility Commission of Texas issued a debt obligation order (Debt Obligation Order)¹ pursuant to Chapter 39, Subchapter M, of the Public Utility Regulatory Act (PURA).² In accordance with the Debt Obligation Order, the Electric Reliability Council of Texas (ERCOT) was ordered to make certain filings in this docket. On February 14, 2023, ERCOT filed a Semi-Annual True-Up Compliance Filing (True-Up Filing) that detailed ERCOT's compliance with the true-up provisions of the Debt Obligation Order.³

On February 15, 2023, the ALJ filed Order No. 7, directing Commission Staff to make recommendations as to the notice, sufficiency and completeness of ERCOT's True-Up Filing by February 17, 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.⁴

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 (Oct. 13, 2021).

² Public Utility Regulatory Act, Tex. Util. Code §§ 11.001-66.016.

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

⁴ *Id.*

Dated: February 17, 2023

Respectfully Submitted,

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

Harika Basaran
Division Director

/s/ R. Floyd Walker

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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 February 17, 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

Memorandum

TO: Floyd Walker, Market Analysis Division
Andy Aus, Legal Division

FROM: Darryl Tietjen, Rate Regulation Division

DATE: February 17, 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)*

Introduction

On February 15, 2023, the Commission’s Office of Policy and Docket Management issued *Order No. 7, Requiring Commission Staff Recommendations and Establishing Other Deadlines* in this docket. The order requires Commission Staff to make, by February 17, 2023, “recommendations as to the sufficiency of the notice provided by ERCOT, and the sufficiency and completeness of ERCOT’s semi-annual filing, including its opinion as to whether the true-up filing complies with PURA and the Debt Obligation Order.”

Discussion

On February 14, 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 its mandatory semi-annual true-up filing, report of recoveries, and notice of (no) adjustment in its default charges (Default Charges) under the provisions of the Debt Obligation Order adopted by the Commission in Docket No. 52321.¹

As ERCOT describes in its 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. Effective February 1, 2023, the Texas Electric Market Stabilization Funding M LLC (the Issuer) of the Stabilization M Bonds early redeemed \$382,288,420 of the bonds using the proceeds of recoveries; this figure includes the recently received amount of \$374,763,872 from the Brazos Electric Power Cooperative, Inc. bankruptcy plan, representing a recovery of amounts owed by a market participant. The amounts of the recoveries are, pursuant to the Debt Obligation Order and PURA, payable by ERCOT to the Issuer, given that amounts related to those recoveries were included in the default balance. In Attachment 1 of its filing, ERCOT provides information showing that, to date, there has been recovery of unpaid obligations in the total amount of \$382,292,691.

¹ *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).

The Servicing Agreement requires a semi-annual interim true-up calculation to be prepared no later than forty-five (45) days prior to the collection period of each April. 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. Given the level of current funding in the Excess Funds Subaccount resulting from the February 1, 2023 early redemption of a portion of the Subchapter M Bonds, ERCOT's filing reflects no need to change the \$1,553,571 amount of current monthly default charges.

Effective Date of True-up Adjustment

In addition to filing the semi-annual calculation, the Servicer is required to file notice regarding mandatory interim true-up adjustments with the Commission not less than forty-five (45) days prior to the first billing cycle of the month in which the revised default charges shall come into effect. The Servicer proposes no revision to the default charges for the May 2023 billing period. In accordance with Finding of Fact No. 74 of the Debt Obligation Order, the Commission has fifteen (15) days after the date of this filing to confirm the true-up filing 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 fifteen (15) days after filing. Any necessary corrections to the adjusted default charge due to 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 February 14, 2023 filing in this compliance docket is sufficient and complete. Further, it is my opinion that ERCOT's filing and proposal to keep the amount of Default Charges at its current level comply with PURA and the requirements of the Debt Obligation Order. Accordingly, I recommend that the Commission approve the filing and the proposals included in ERCOT's filing.