



## **Filing Receipt**

**Filing Date - 2023-09-20 01:21:50 PM**

**Control Number - 52709**

**Item Number - 51**

**DOCKET NO. 52709**

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

**COMMISSION STAFF'S RESPONSE TO ORDER NO. 11**

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 September 14, 2023, ERCOT filed a 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 September 15, 2023, the administrative law judge filed Order No. 11, directing Staff (Staff) of the Public Utility Commission of Texas (Commission) to make recommendations as to sufficiency and completeness of ERCOT's True-Up Filing by September 20, 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: September 20, 2023

Respectfully Submitted,

**PUBLIC UTILITY COMMISSION OF TEXAS  
LEGAL DIVISION**

Marisa Lopez Wagley  
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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 September 20, 2023 in accordance with the Second Order Suspending Rules, issued in Project No. 50664.

/s/ Andy Aus  
Andy Aus

# *Public Utility Commission of Texas*

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## **Memorandum**

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

**FROM:** Darryl Tietjen, Rate Regulation

**DATE:** September 20, 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 September 15, 2023, the Commission’s Office of Policy and Docket Management issued *Order No. 11, Requiring Commission Staff Recommendations and Establishing Objections Deadline* in this docket. The order requires Commission Staff to “make recommendations as to the sufficiency of the true-up filing by ERCOT, including its opinion as to whether the filing and the request for an increase to the default charge comply with PURA and the Debt Obligation Order.”

### **Discussion**

On September 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, submitted its annual true-up filing, report of recoveries, and notice of a need for a default charge adjustment as required by the provisions of the Debt Obligation Order adopted by the Commission in Docket No. 52321.<sup>1</sup>

Finding of Fact Nos. 65, 66, 71, and 74 of the Debt Obligation Order set forth the procedures related to mandatory interim true-up calculations and true-up adjustments. Finding of Fact No. 66 and Ordering Paragraphs 15 and 15A of the Debt Obligation Order require the Servicer to recalculate default charges (the Annual True-up Calculation) and provide adjustments in an annual true-up filing (the Annual True-Up Filing) with the Commission no later than the 45<sup>th</sup> day after the anniversary date of the Debt Obligation Order. ERCOT’s filing provides details of the Annual True-Up Calculation and shows a proposed adjustment in the monthly default charges from \$1,553,571 to \$1,897,324, or an increase of \$343,753.

The Debt Obligation Order also requires the Servicer to periodically report on amounts repaid by, or recovered from, market participants whose unpaid obligations from the period of emergency were included in the securitized bonds so that, consistent with PURA Section 39.603(c), amounts repaid or recovered can be used to pay portions of the default charges over the remaining term of

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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, Finding of Fact Nos. 65, 66, 71, and 74 and Ordering Paragraphs Nos. 15 and 15A (Oct. 14, 2021).

the bonds. ERCOT's filing provides information showing that, to date, there has been recovery of unpaid obligations in the total amount of \$382,461,534.42, of which \$382,288,420<sup>2</sup> has been used to optionally redeem portions of the Stabilization M bonds.

The Debt Obligation Order also 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 November 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 have reviewed ERCOT's September 14, 2023 filing and related information and recommend that the Commission find that the filing in this compliance docket is sufficient and complete. Further, it is my opinion that ERCOT's filing and proposed adjustment comply with PURA and the requirements of the Debt Obligation Order. Accordingly, I recommend that the Commission approve the adjustment and proposals included in ERCOT's filing.

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<sup>2</sup> The \$382,288,420 amount of optionally redeemed bonds reflected \$374,763,872 of payments resulting from the Brazos Electric Power Cooperative, Inc. bankruptcy plan. For additional related details, see *Order No. 6, Addressing ERCOT's January 12, 2023 Supplemental True-up Filing* filed in this docket on January 23, 2023.