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APPLICATION OF LCRA TRANSMISSION SERVICES CORPORATION FOR AUTHORITY TO CHANGE RATES	**§ § § §**	**BEFORE THE STATE OFFICE OF ADMINISTRATIVE HEARINGS**

TEXAS INDUSTRIAL ENERGY CONSUMERS' EXCEPTIONS TO PROPOSAL FOR DECISION

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I. INTRODUCTION AND SUMMARY

Texas Industrial Energy Consumers (TIEC) appreciates the hard work and consideration that went into the Proposal for Decision (PFD). However, TIEC believes the Commission should modify two of the PFD's recommendations. First, the Commission should recalculate the Lower Colorado River Authority – Transmission Services Corporation's ("LCRA TSC's" or "the Company's") revenue requirement using a debt service coverage ratio (DSCR) that is below the Company's requested 1.5x. The record shows that if the Commission applies a lower ratemaking DSCR, that will save customers significant amounts of money while still supporting the Company's credit and providing it more than enough revenue to continue providing safe and reliable transmission service. For instance, applying a ratemaking DSCR of 1.4x would save customers approximately ***$28.6 million*** in the first year that these rates will be in effect,[1] while still allowing LCRA TSC to exceed the 1.25x realized DSCR target that is required by its debt covenants, even under the aggressive capital investment assumptions in the Company's 2025 Business Plan.[2] Further, even under the Company's worst-case credit hypothetical, which was based on Commission Staff's recommended 1.25x DSCR, it would still have an extremely strong A- credit rating, and the Company's own witnesses admitted that that rating would be sufficient to

[1] *See infra* Sections III.B and III.E. As explained below, the difference in revenue requirement between the Company's proposed 1.5x DSCR and Staff's proposed 1.25x DSCR is $71.6 million per year. See LCRA TSC Ex. 16, Rebuttal Testimony of James D. Travis (Travis Reb.) at 23, Table 3. If a 0.25x change in DSCR is worth $71.6 million in revenue requirement, then a decrease of 0.1x in DSCR would result in a $28.64 million in revenue requirement. [0.1x/0.25x = 0.4] and [0.4 * $71.6 M = $28.64 M]

[2] *See infra* Section III.E.

provide the Company with access to adequate debt in order to support its capital investment program.[3]

Additionally, regardless of where the Commission sets LCRA TSC's revenue requirement, it should require the Company to calculate its wholesale transmission rate using the updated 2023 4CP data. Transmission rates are calculated by dividing the Company's approved revenue requirement by its share of the ERCOT 4CP, and the updated 2023 ERCOT 4CP that came out shortly after LCRA TSC filed this rate case was significantly higher than the 4CP values the Company used to calculate its proposed rates. As a result, ***if the Commission approves LCRA TSC's requested rates, the Company will immediately begin over-recovering its requested revenues by approximately $60 million per year, or 9.1%***. The Commission should require LCRA TSC to recalculate its rates using the updated ERCOT 4CP data to prevent the Company from receiving a windfall at customers' expense. As explained below, requiring LCRA TSC to recalculate its rates using the updated ERCOT 4CP values would be consistent with the Commission's recent decision in the Denton rate case,[4] and would also mirror LCRA TSC's voluntary actions in at least three prior interim TCOS proceedings.[5]

III. DEBT SERVICE COVERAGE AND RATE OF RETURN

As explained in the PFD, LCRA TSC calculated its revenue requirement using a debt service coverage ratio, or DSCR. The Company's DSCR represents the amount of revenues the

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[3] *See infra* Section III.C.2.

[4] *Application of Denton Municipal Electric to Change Rates for Wholesale Transmission Service,* Docket No. 52715, Order at FoF 59 Oct. 12, 2023).

[5] *E.g. Application of LCRA Transmission Services Corporation for Interim Update of Wholesale Transmission Rates Pursuant to Substantive Rule 25.192(h)(1),* Docket No. 44180, Application at 32 (Jan. 8, 2015) ("This proposed transmission rate update uses 63,680,720 kilowatts, the 2014 average four coincident peak (4-CP) filed on December 3, 2014 in Docket No. 43881, "Electric Reliability Council of Texas, Inc.'s Report on the 2014 4CP Coincident Peak Load in the ERCOT Region". This is the most recent average 4-CP for ERCOT. This 4-CP complies with Instruction 6 of the PUC Filing Requirements for Interim Update of Wholesale Transmission Rates."); *see id.* (application filed January 8, 2015); *see Electric Reliability Council of Texas, Inc.'s Report on the 2014 4CP Coincident Peak Load in the ERCOT Region,* Docket No. 43881, Commission Staff's Draft Transmission Matrix (Feb. 2, 2015); Docket No. 44180, Commission Staff's Recommendation on Final Disposition at pdf page 6 (Feb. 18, 2015); Docket No. 44180, Notice of Approval at OP 1 (Feb. 27, 2015) ("LCRA TSC's application, as modified by Commission Staff's recommendation, is approved."); *id.* at FoF 9 ("Commission Staff's recommendation adjusted the 4CP value to the amount used in the current docket establishing wholesale transmission charge in the ERCOT region for calendar year 2015.3 The value is 63,680,709.6 kW, which adjusted the interim wholesale transmission rate to $6.044657 per 4CP kW.").

Company receives above and beyond the level that is necessary to cover all of its expenses[6] and pay 100% of the collective payments that it owes to service its debt.[7] So for instance, to calculate the Company's revenue requirement using a 1.5x DSCR, the Commission would take the Company's expenses, add the Company's total anticipated debt service payments, and then add another 50% of the Company's total anticipated debt service payments on top of that.[8]

The Commission should reject the PFD's recommendation to adopt a 1.5x DSCR.[9] Instead, the Commission should adopt a DSCR that is between the 1.25x recommended by Commission Staff and the Company's requested 1.5x. As demonstrated below, there is ample room to reduce LCRA TSC's DSCR and save ratepayers significant amounts of money while also allowing the Company to maintain its credit rating and continue providing safe and reliable transmission service. Nevertheless, the PFD failed to adequately consider any DSCR between 1.25x and 1.5x.

A. A 1.5x DSCR is unnecessarily high because it allowed LCRA TSC to avoid filing a rate case for over twelve years.

The PFD wrongfully contends that no party made a credible challenge to LCRA TSC's requested rates.[10] However, in briefing, TIEC explained that using a 1.5x DSCR to determine LCRA TSC's revenue requirement in its last rate case provided the Company with substantially more revenues than it needed. This is apparent because the resulting rates allowed the Company to avoid coming in for another full rate review for the last ***twelve years***.[11] LCRA TSC's current rates (supplemented by interim TCOS updates for new transmission facilities[12]) were sufficient to

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[6] *See* TIEC Ex. 2 at Attachment 1 (Flow of Funds Chart); Tr. (Travis Cr.) at 91:5-24.

[7] *See* TIEC Ex. 2 at Attachment 1 (Flow of Funds Chart); Tr. (Travis Cr.) at 92:6-93:11; *see also* LCRA TSC Ex. 3, Direct Testimony of James D. Travis (Travis Dir.) at 19.

[8] *See, e.g.*, Tr. (Travis Cr.) at 116:3-7 (explaining implications of a 1.5x DSCR).

[9] PFD at 48.

[10] PFD at 48.

[11] Tr. (Travis Cr.) at 111:5-112:7 (explaining that interim TCOS filings over the last 12 years allowed LCRA TSC to keep up with its growing expenses).

[12] *See id.*; *see also* Tr. (Lapson Cr.) at 65:18-66:4; *see also* LCRA TSC Ex. 20 (Lapson Reb.) at Exhibit EL-4R (Fitch Rating Report for LCRA TSC) at 1 ("The regulatory process in ERCOT allows capex to be included in the transmission tariff in a timely manner, allowing revenues to keep pace with the increased debt costs."); Tr. (Travis Cr.) at 110:21-111:4.

cover an increase of ***over $113 million***[13] in yearly expense items while still making capital investments in its facilities.[14] For instance, LCRA TSC's Operations & Maintenance expense grew from $75.54 million in its last rate case test year[15] up to $164.58 million in the test year for this case[16]—an increase of approximately ***$89 million*** per year.[17] Yet LCRA TSC's transmission rates were sufficient to allow it to absorb that increase without coming in for a rate case and updating the amount of O&M in its rates. Similarly, LCRA TSC's expenses related to satisfying its statutory funding obligations, which are set by statute at 5% of its revenues,[18] were only $8.93 million when its rates were last set.[19] That is approximately ***$24 million*** less than the $32.96 million in statutory funding expenses LCRA TSC has requested in this proceeding.[20] This shows that the Company's current rates have also been sufficient to support this obligation, even as it has materially increased.

On top of allowing LCRA TSC to stay ahead of its growing expenses, rates based on a 1.5x DSCR also provided LCRA TSC with sufficient retained revenues over the last twelve years to increase its investments in its facilities. Specifically, the proportion of equity in the Company's facilities increased from a low of 15.2% in FY 2012 up to a peak of 22.6% in FY 2018, before that number fell back to 18.4% in FY 2023.[21] And that is all while the Company's rate base grew by 148.9% since its last rate case.[22]

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[13] LCRA TSC's O&M Expenses increased by $89 million per year since its last rate case. *See* Tr. (Travis Cr.) at 103:1-25. LCRA TSC's statutory funding obligations increased by approximately $24 million per year since it's last rate case. *See* LCRA TSC Ex. 1 (Application) at 1655, Line 2; Tr. (Travis Cr.) at 108:14-109:1; LCRA TSC Ex. 3 (Travis Dir.) at 32. Together, this accounts for $113 million per year of increased expenses.

[14] Tr. (Travis Cr.) at 100:3-11 (agreeing that LCRA TSC cannot update expense items in interim transmission rate proceedings).

[15] TIEC Ex. 3 (Schedule A from Docket No. 39891) at 3; Tr. (Travis Cr.) at 101:2-12.

[16] Tr. (Travis Cr.) at 99:20-24.

[17] *Id.* at 103:1-25.

[18] TIEC Ex. 3 (Schedule A from Docket No. 39891) at Line 6; Tr. (Travis Cr.) at 109:3-110:20; LCRA TSC Ex. 3 (Travis Dir.) at 36.

[19] TIEC Ex. 3 (Schedule A from Docket No. 39891) at Line 6.

[20] LCRA TSC Ex. 1 (Application) at 1655, Line 2; Tr. (Travis Cr.) at 108:14-109:1; LCRA TSC Ex. 3 (Travis Dir.) at 32.

[21] LCRA TSC Ex. 3 (Travis Dir.) at 21, Figure 4; Tr. (Travis Cr.) at 113:13-114:4.

[22] LCRA TSC Ex. 3 (Travis Dir.) at 29 ("LCRA TSC's rate base has grown at an even faster rate of 148.9 percent, from $1,716,780,088 in Docket No. 39891 to $4,272,972,401 requested in this application.").

Taken together, the Company's ability to outpace significant growth in its expenses while also investing substantial amounts of ratepayers' funds to increase the Company's equity stake in its quickly growing asset base demonstrates that the current 1.5x DSCR was far more than sufficient to meet the Company's needs. Accordingly, the Commission should thoroughly evaluate the Company's current rate request and consider decreasing the DSCR used to set LCRA TSC's rates to a more reasonable level.

B. LCRA TSC has failed to prove that using a 1.5x DSCR to set its rates would appropriately balance between the interests of ratepayers and LCRA TSC.

PURA and the Commission's rules require the Commission to set LCRA TSC's rates at a level that will appropriately balance the interests of the Company and ratepayers[23] and provide the Company a reasonable opportunity to earn a reasonable return.[24] In this rate proceeding, PURA places the burden on LCRA TSC to prove that its proposed rates are just and reasonable.[25] The Commission has found that "utilities have a statutory obligation to serve customers at just and reasonable rates. ***This includes providing service to their customers at the lowest reasonable cost.***"[26] The Company has not satisfied its burden of proof with respect to its requested 1.5x DSCR because setting LCRA TSC's rates that high would charge customers far more than is necessary to support the Company's credit and allow it to continue providing safe and reliable electric service.

The Company's requested rate of return is out of line with the returns that the Commission has awarded to other utilities in ERCOT. LCRA TSC's requested rates would result in an implied rate of return of ***7.87%***.[27] This is far above the Commission-authorized return for other ERCOT

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[23] PURA § 11.002(a) ("The purpose of this title is to establish a comprehensive and adequate regulatory system for public utilities to assure rates, operations, and services that are just and reasonable to the consumers and to the utilities."); *see also id.* at § 31.001(a).

[24] 16 TAC § 25.231(c) ("The Commission will allow each electric utility a reasonable opportunity to earn a reasonable rate of return.").

[25] PURA § 36.006(1) ("In a proceeding involving a proposed rate change, ***the electric utility has the burden of proving that . . . the rate change is just and reasonable***, if the utility proposes the change.") (emphasis added).

[26] *Rulemaking Proceeding to Amend PUC Subst. R. § 25.236 Relating to Recovery of Fuel Costs*, Project No. 41905, Order at 21 (May 29, 2014) (emphasis added); *see also, e.g., Application of Cent. Power & Light Co.*, Docket No. 9561, Examiner's Report at 10 (Nov. 13, 1990) (finding that utility rates should conform with the "sound public policy of providing the lowest possible rates while at the same time affording the Company a reasonable return on investment").

[27] LCRA TSC Ex. 3 (Travis Dir.) at 25.

utilities like Oncor (6.65%),[28] AEP Texas (6.45%),[29] and CenterPoint (6.51%).[30] The Company has not explained why it requires a significantly more generous return than other utilities in the state, many of which are also in periods of elevated capital investment.

The primary driver in the Company's requested return is its proposed 1.5x DSCR. The record shows the 1.5x DSCR that the Company has requested will impose substantial additional costs on ratepayers. To illustrate, if the Commission were to adopt the 1.25x DSCR recommended by Commission Staff, that would reduce the Company's revenue requirement by $71.6 million per year, or nearly $300 million over the next four years.[31] But that is not to say that the Commission should necessarily go all the way to a 1.25x DSCR. A more moderate reduction would still provide ratepayers with significant savings while not materially impacting the Company's access to capital or ability to continue providing safe and adequate transmission service. For instance, if the Commission applied a 1.4x DSCR, that would save customers ***$28.64 million*** per year,[32] or ***nearly $115 million*** over the next four years.[33]

The Company has failed to prove that using a 1.5x DSCR to set its rates strikes the appropriate balance between ratepayers' interests and its own. Instead, its application and direct testimony showed that using a 1.5x DSCR would result in rates that are ***more than*** sufficient to support the Company's credit[34] and ***more than*** sufficient to allow it to continue providing safe and

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[28] *Application of Oncor Electric Delivery Company LLC for Authority to Change Rates*, Docket No. 53601, Order on Rehearing at 2 (June 30, 2023).

[29] *Application of AEP Texas, Inc. for Authority to Change Rates*, Docket No. 49494, Final Order at 2 (April 6, 2020).

[30] *Application of CenterPoint Energy Houston Electric, LLC for Authority to Change Rates*, Docket No. 49421, Final Order at 2 (March 9, 2020).

[31] *See* LCRA TSC Ex. 16 (Travis Reb.) at 10; Tr. (Travis Cr.) at 118:20-25 (Staff's recommendation would reduce the Company's revenues by $71.6 million per year); Tr. (Lapson Cr.) at 53:2-10 (difference between Company's request and Staff's position amounts to $298.3 million over four years).

[32] As noted above, the difference in revenue requirement between the Company's proposed 1.5x DSCR and Staff's proposed 1.25x DSCR is $71.6 million per year. *See* LCRA TSC Ex. 16 (Travis Reb.) at 23, Table 3. If a 0.25x change in DSCR is worth $71.6 million in revenue requirement, then a decrease of 0.1x in DSCR would result in a $28.64 million in revenue requirement. [0.1x/0.25x = 0.4] and [0.4 * $71.6 M = $28.64 M]

[33] [$28.64 M * 4 = $114.56 M]

[34] *E.g.* LCRA TSC Ex. 3 (Travis Dir.) at 22 (arguing that LCRA TSC needs a 1.5x DSCR to "maintain its current credit ratings" and avoid a downgrade); *but see* LCRA TSC Ex. 3 (Travis Dir.) at 18 (noting that the Company only needs to maintain "investment grade" credit ratings); *and* Tr. (Lapson Cr.) at 68:9-18 (Company's credit ratings are many notches above the cutoff for investment grade, and even in the Company's worst-case scenario, would only fall to A-, which is still comfortably above the cutoff for "investment grade" credit); Tr. (Lapson Redir.) at 84:23-85:2

reliable electric service.[35] In rebuttal testimony, the Company argued that the 1.25x DSCR on long-term debt that was proposed by Commission Staff may not be sufficient to achieve those objectives.[36] But at no point has the Company shown that the Commission has to set its DSCR at 1.5x in order to support its financial stability and allow it to continue providing safe and adequate transmission service. The Company did not model,[37] and when asked, ***refused*** to model,[38] its anticipated debt service costs, retained revenues, and indicative credit metrics at any prospective DSCR on long-term debt between 1.25x and 1.5x. And as was revealed at the hearing, the Company also failed to provide sufficient information for those models to be re-created using different implied DSCRs on cross-examination.[39]

Importantly, the Commission has broad discretion to select a ratemaking DSCR that will strike the appropriate balance between the interests of ratepayers and the Company, and the Commission is not limited to choosing either the 1.5x ratemaking DSCR that the Company has requested or the 1.25x DSCR supported by Commission Staff. Accordingly, it is concerning that the Company's rebuttal testimony failed to address how the Company's financial situation and credit metrics would be impacted if the Commission adopted a DSCR between 1.25x and 1.5x on

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(acknowledging that utilities with "single A" credit ratings will have adequate access to the debt markets even in difficult market conditions); Tr. (Lapson Cr.) at 69:7-11 (same).

[35] *See, e.g.*, LCRA TSC Ex. 16 (Travis Reb.) at 26 (arguing that the Company needs a realized DSCR above 1.25x to continue issuing additional debt or investing in new facilities); Tr. (Lapson Cr.) at 53:13-25 (same); *but see* LCRA TSC Ex. 16 (Travis Reb.) at Exhibit JDT-1R, page 8 (showing that a 1.5x ratemaking DSCR would result in realized DSCRs that range from 1.42x to 1.44x—comfortably above the 1.25x level required by the Company's debt covenants under the assumptions in the Company's 2024 business plan); *id.* at 23, Table 3 (data on projected "net margin for available debt service" and "debt service" from the Company's 2025 business plan that shows that a 1.5x ratemaking DSCR would result in realized DSCRs that range from 1.36x to 1.39x over the coming years, as shown in the chart in Section III.E titled "Company's Projected Realized DSCR Using 1.5x Ratemaking DSCR (2025 Business Plan)"); *see also* TIEC Initial Br. at 16-22 (demonstrating that the Company's bond covenants do not actually preclude it from issuing additional debt if its realized DSCR falls below 1.25x).

[36] *E.g.* LCRA TSC Ex. 16 (Travis Reb.) at 15; LCRA TSC Ex. 20 (Lapson Reb.) at 6-7.

[37] *See generally* LCRA TSC Ex. 16 (Travis Reb.) at 21-24; *see also* Tr. (Travis Cr.) at 166:8-18.

[38] TIEC Ex. 12 (LCRA Response to TIEC 3-3); *see also* Tr. (Travis Cr.) at 166:8-18.

[39] TIEC Ex. 13 (LCRA Response to TIEC 3-1) at Attachment 1 (providing model used in Mr. Travis's analysis, but not including the municipal bond yield curve the Company used to calculate the incremental debt service payment schedule in that model); Tr. (Travis Cr.) at 196:5-14 (explaining that results of applying municipal yield curve to projected debt payments were hard coded in the model); TIEC Ex. 14 (explaining methodology for re-running Mr. Travis's analysis, but not including the municipal bond yield curve that was used in the model); Tr. (Travis Cr.) at 208:8-9 ("***I do think you need the yield curve to accurately calculate this information***") (emphasis added); Tr. (Travis Cr.) at 211:1-10 (disagreeing with method for re-calculating debt service schedule used in his analysis because "It's not based upon a yield curve like what we did when we developed this.").

its long-term debt. As noted above, there is a huge cost difference between those two DSCR bookends. As detailed below, TIEC believes that a ratemaking DSCR for the Company's long-term debt somewhere between 1.25x and 1.5x would reasonably support LCRA TSC's continued stability and ability to provide adequate service while also significantly reducing the associated cost to ratepayers.

C. Ratepayers do not need to fund a 1.5x DSCR to "maintain and support" LCRA TSC's credit.

Commission Substantive Rule 25.321(c)(1)(A) requires the Commission to set utility rates at a level that will "maintain and support [the utility's] credit and enable it to raise the money necessary for the proper discharge of its public duties."[40] The record shows that LCRA TSC currently has extremely strong credit, and will continue to have strong credit and access to sufficient debt capital even in the most extreme scenario that the Company modeled, where the Commission adopts Commission Staff's proposed 1.25x DSCR for its long-term debt. Notably, if the Commission were to select any DSCR that is higher than 1.25x, that would result in better credit metrics than the Company assumed in its analysis. Given that a DSCR between 1.25x and 1.5x will still be more than sufficient to "maintain and support" LCRA TSC's credit and allow it to access ample debt financing, the Commission should consider adopting a ratemaking DSCR below the Company's requested 1.5x in order to provide substantial rate reductions to customers.

1. LCRA TSC has extremely strong credit ratings.

LCRA TSC currently has strong credit ratings that are far above the level that is necessary for it to maintain ready access to new debt. In his direct testimony, LCRA witness Mr. Travis stated that the Company needs to maintain "investment grade" credit ratings in order to maintain access to capital at reasonable and cost-effective rates.[41] But there is a huge gap between the Company's current ratings and the lower bound for "investment grade" credit. LCRA TSC's A+ (Stable) rating from Fitch is five notches above the cutoff for "investment grade" credit,[42] and it's

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[40] 16 TAC § 25.321(c)(1)(A).

[41] LCRA TSC Ex. 3 (Travis Dir.) at 18 ("At a minimum, ***maintaining an investment grade rating*** from applicable rating agencies is critical for LCRA TSC to maintain access not only to liquidity in the form of credit agreements but also for the ability to issue debt at reasonable and cost-effective rates.") (emphasis added).

[42] Tr. (Lapson Cr.) at 55:9-19.

A (Stable) rating from S&P is four notches above that level.[43] In addition to being solidly above the level necessary to be considered "investment grade," LCRA TSC's ratings are around the median level for public power utilities,[44] a group that is considered substantially lower risk than other utilities.[45] And LCRA TSC's relative rating is even stronger when it is only compared to other wholesale public power utilities,[46] which are more comparable to LCRA TSC[47] because, like LCRA TSC, they are generally unable to set their own rates.[48]

2. Even if the Commission adopted Staff's proposed 1.25x DSCR, LCRA TSC would still have extremely strong credit ratings.

Even in LCRA TSC's worst case credit hypothetical, using Staff's proposed DSCR, Mr. Travis and Ms. Lapson acknowledged that the Company's credit ratings might fall by just one to two notches, to A-.[49] That is still three notches above the cutoff for "investment grade" credit, which far exceeds the credit ratings that Mr. Travis claimed were necessary in his direct

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[43] *Id.*

[44] Tr. (Lapson Cr.) at 59:7-17; LCRA TSC Ex. 20 (Lapson Reb.) at Exhibit EL-6R, page 2 ("Given the balance of these fundamentals, ratings in this sector, in most cases, range from 'AA+' to 'A-' (with a current median rating of 'A+'), denoting high credit quality.").

[45] LCRA TSC Ex. 20 (Lapson Reb.) at Exhibit EL-6R, page 3 ("the public power sector enjoys a strong overall business risk profile").

[46] *See* LCRA TSC Ex. 20 (Lapson Reb.) at Exhibit EL-4R, pages 17-26 (Fitch public power peer review report separately comparing ratings of retail and wholesale utilities).

[47] Tr. (Lapson Cr.) at 63:1-5 (wholesale public power utilities generally have lower credit ratings than retail public power utilities); Tr. (Lapson Cr.) at 64:13-65:2 (acknowledging that Fitch uses different methodologies when rating retail and wholesale public power utilities). *see also* LCRA TSC Ex. 20 (Lapson Reb.) at Exhibit EL-4R at 25 (showing that LCRA TSC's ratings are currently equivalent to the ratings for South Texas Electric Cooperative, which is the only other wholesale transmission public power utility listed that is located in ERCOT); Tr. (Lapson Cr.) at 64:5-10 (acknowledging same).

[48] *Cf.* LCRA TSC Ex. 20 (Lapson Reb.) at Exhibit EL-6R, page 7 ("A utility system's ability to independently set rates for service significantly enhances revenue defensibility, allowing the utility to increase revenue as necessary to offset the effects of lower unit sales or meet unanticipated cost increases. However, Fitch believes the relative competitiveness of rates and affordability of utility services, particularly at the retail level, can serve as practical limitations on rate flexibility and a utility's capability to sustain strong financial performance."); *with* LCRA TSC Ex. 20 (Lapson Reb.) at Exhibit EL-6R, page 27 ("Fitch's analysis of rate flexibility for wholesale suppliers focuses primarily on the supplier's independent legal ability to determine rates of service.").

[49] Tr. (Lapson Cr.) at 68:9-18; LCRA TSC Ex. 20 (Lapson Reb.) at 21:18-24.

testimony.[50] As explained below, even that most extreme scenario—a credit rating of A- — would still put LCRA TSC in a strong financial position with more than adequate access to capital.

a) Even in the most extreme credit scenario, LCRA TSC's credit ratings would be more than sufficient to provide access to sufficient debt capital.

LCRA TSC would still be able to access sufficient capital to continue to provide safe and adequate transmission service even in the most extreme hypothetical scenario where the Company's credit rating is downgraded to A-. LCRA TSC witness Ms. Lapson testified that during periods of financial stress, the debt market "is extremely choppy for lower-rated issuers whereas for ***higher-rated issuers, with ratings in the single A category or AA category***, there is availability [of debt] even during some fairly poor capital market periods."[51] But even if the Company's credit rating fell to A-, LCRA TSC would still be a "higher-rated issuer" with a credit rating "in the single A category." Further, Ms. Lapson acknowledged that public power utilities with A- credit ratings are often able to access the debt markets and issue sizeable bonds.[52] Additionally, Ms. Lapson could not point to a single instance over the last ten years where an A-rated public power utility was unable to access sufficient debt capital.[53] Accordingly, LCRA TSC's witnesses agree that LCRA TSC would not lose its ability to issue sufficient debt during times of financial stress, even in a worst-case scenario where its credit rating was downgraded to A-. And as discussed below, awarding a DSCR between 1.25x and 1.5x would result in better credit metrics than the worst-case scenario that the Company modeled, and may not result in a rating downgrade at all.

b) Even in LCRA TSC's most extreme credit scenario, the Company would only see a minor increase in its debt service costs.

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[50] LCRA TSC Ex. 3 (Travis Dir.) at 18 ("At a minimum, ***maintaining an investment grade rating*** from applicable rating agencies is critical for LCRA TSC to maintain access not only to liquidity in the form of credit agreements but also for the ability to issue debt at reasonable and cost-effective rates.") (emphasis added).

[51] Tr. (Lapson Redir.) at 84:23-85:2 (emphasis added).

[52] Tr. (Lapson Cr.) at 69:7-11 ("Q: So Ms. Lapson, it's true that public power utilities with credit ratings at or below A- often access the debt markets and issue sizable bonds. Right? A: That is true.").

[53] Tr. (Lapson Cr.) at 68:19-69:2.

The Company's most extreme downgrade scenario would also not materially increase the cost associated with servicing the Company's debt. According to LCRA TSC witness Mr. Travis, if LCRA TSC had an A- credit rating, that would cause the interest rates on its long-term debt to go up by 0.15% to 0.3%.[54] By Mr. Travis's calculation, that would increase the total debt service costs related to the $800 million in loans the Company will take out in 2025 to go up by $24-$48 million over 30 years, or ***just $0.8-$1.6 million per year***.[55] Even assuming that a more moderate DSCR reduction could still result in the credit downgrades that LCRA TSC claims would occur at a 1.25x DSCR, the resulting increase in interest cost would be dwarfed by the associated savings that would flow through to ratepayers. As noted above, setting LCRA TSC's DSCR at 1.4x would save ratepayers approximately ***$28.64 million per year***—for a net savings of at least $27.04 million per year when additional debt costs are taken into account.[56] So even if a 1.5x DSCR is necessary to avoid LCRA TSC being downgraded to A-, it is apparent that the additional costs of funding that excessive DSCR are not worth it from customers' perspective.

3. A DSCR between 1.25x and 1.5x may not even result in LCRA TSC receiving a credit rating downgrade.

It is not at all clear that a DSCR between 1.25x and 1.5x would even result in a credit downgrade at all, much less LCRA TSC's most extreme downgrade scenario. This is evidenced by LCRA TSC's own experience since its last rate case. As Mr. Travis testified, LCRA TSC's equity ratio was just 15.2% following its last rate case,[57] and it was below the ratings agencies' 20%-30% target for public power utilities with LCRA TSC's credit rating in six of the last twelve years.[58] Nevertheless, that lower equity ratio did not cause the ratings agencies to downgrade the Company's credit ratings. In fact, even when the Company had a 15.2% equity ratio, its credit ratings were ***exactly the same*** as they are today.[59] That is because ratings agencies do not automatically downgrade utilities simply because their credit metrics fall below the targets for

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[54] TIEC Ex. 8 (LCRA Response to TIEC 3-8) at 1; Tr. (Travis Cr.) at 145:19-148:1.

[55] TIEC Ex. 8 (LCRA Response to TIEC 3-8) at 1; Tr. (Travis Cr.) at 145:8-147:25.

[56] [$28.64 M - $1.6 M = $27.04 M]

[57] LCRA TSC Ex. 3 (Travis Dir.) at 21, Figure 4; Tr. (Travis Cr.) at 112:19-23.

[58] LCRA TSC Ex. 3 (Travis Dir.) at 21, Figure 4; Tr. (Travis Cr.) at 130:9-22.

[59] Tr. (Travis Cr.) at 143:2-144:7.

their current ratings. Instead, as Ms. Lapson explained, "they take a longer view."[60] And the record in this proceeding shows that, even with a DSCR as low as 1.25x, LCRA TSC will be able to satisfy its funding needs and still have sufficient retained revenues such that its equity ratio will eventually trend back toward the 20% level.[61] And as mentioned above, the Company's credit metrics would undoubtedly be better if the Commission selected a DSCR that is higher than Staff's recommended 1.25x.

D. The Commission should not rely heavily on LCRA TSC's internal business plans when setting its rates because those plans target a best case scenario where the Company grows its equity stake while also investing in significant new capital.

The only modeling that the Company performed to support its rate request was based on its 2024 and draft 2025 business plans. But the Commission should be wary of using the Company's business plans as guides to set the Company's rates because the Company's financial policies require those business plans to present a best case scenario where the Company implements its entire capital investment plan[62] and does not modify its expenses[63] while ***simultaneously*** pushing for the amount of equity the Company owns in its facilities to remain at or above 20%.[64] However, as Mr. Travis acknowledged on cross examination, "[t]here's a balance between the amount of equity and rates,"[65] and the Company needs to consider the ***timing*** of when it builds equity in order to avoid placing an undue burden on ratepayers.[66] If the Company were to continue with its aggressive capital plan while also insisting on remaining close to a 20% equity ratio, that would require it to charge customers unduly high rates.

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[60] Tr. (Lapson Cr.) at 67:5-10.

[61] *E.g.* LCRA TSC Ex. 16 (Travis Reb.) at 29-30, Tables 4 and 5 (showing that even under LCRA TSC's modeling of Staff's recommendation, the Company's equity ratio trends back upward toward the later years of the projection).

[62] Tr. (Travis Cr.) at 159:13-160:7.

[63] *Id.*

[64] LCRA TSC Ex. 3 (Travis Dir.) at Exhibit JDT-2 at 3 ("LCRA TSC business plans will specifically address the accumulation of equity to achieve and maintain a minimum long-term equity position of 20%"); Tr. (Travis Cr.) at 133:13-25 (LCRA TSC's "business plan does make that assumption, to achieve that 20 percent"); *id.* at 136:25-137:4 ("at all times we are focused on maintaining that 20 percent . . . the Board requirements and the leverage metrics that are with the rating agency").

[65] Tr. (Travis Cr.) at 135:25-136:1.

[66] Tr. (Travis Cr.) at 136:22-25.

It would be unduly burdensome for ratepayers to support a 20% equity ratio at the Company while it is in a period of rapid capital expansion, as is currently the case. The Company's financial policies even recognize this, and note that "***LCRA TSC may be highly leveraged during periods of rapid growth***."[67] Because LCRA TSC is currently in a period of rapid growth, it makes sense that its leverage would continue to exceed target levels in the coming years. But that tradeoff is not reflected in the Company's business plans. Rather than raising rates to a level that would allow the Company to support capital expansion while also increasing the amount of equity it has in its facilities (as the Company's business plans are required to target), the Commission should set rates with an expectation that the Company's leverage will temporarily increase, and then trend back toward the 20% target in the future once the Company's pace of capital investment slows. This concept is reflected in the parent company LCRA's financial policies, which state that:

> ***LCRA will build equity during those periods when major capital projects are <u>not</u> being undertaken*** by financing capital projects from revenues. In this way, LCRA will build equity sufficient to maintain financial integrity, ensure access to the debt markets and provide for the growing needs of customers.[68]

The Commission does not need to, and should not, approve rates that will allow LCRA TSC to increase its equity ratio while simultaneously expanding its capital base. Instead, the Commission should set rates at a more reasonable level with the expectation that the Company's leverage will increase for a time, and the Company will build up equity afterwards "when major capital projects are ***not*** being undertaken."[69]

As shown below, rates that are established using a DSCR between 1.25x and 1.5x could still provide the Company with sufficient revenues over the coming years, while still allowing the Company to rebuild its equity stake (and further shore up its credit profile) in the future.[70] Accordingly, the Commission should consider using a ratemaking DSCR between 1.25x and 1.5x on LCRA TSC's long-term debt.

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[67] LCRA TSC Ex. 3 (Travis Dir.) at Exhibit JDT-2 at 3.

[68] TIEC Ex. 6 (LCRA Financial Policies) at 3 (emphasis added).

[69] *Id.*

[70] *See* LCRA TSC Ex. 16 (Travis Reb.) at 29-30, Tables 4 and 5 (showing that even under LCRA TSC's modeling of Staff's recommendation, the Company's equity ratio trends back upward toward the later years of the projection).

E. Even the Company's modeling based on its 2025 business plan demonstrates that there is ample room to reduce the Company's ratemaking DSCR without pushing its realized DSCR below the 1.25x level required by its debt covenants.

As explained in the PFD, LCRA TSC's financial policies and debt covenants require it to target a realized DSCR of 1.25x.[71] In his rebuttal testimony, LCRA TSC witness Mr. Travis presented an analysis that projected the Company's realized DSCR based on Commission Staff's proposed DSCR of 1.25x on long-term debt and implementing LCRA TSC's aggressive 2025 business plan. Below is a reproduction of Mr. Travis's Table 3, which shows the Company's projected realized DSCR using the Company's 2025 business plan (including the Company's most recent projections for $3.9 billion in capital investment over the next 5 years) and Commission Staff's proposed revenue reduction (based on a 1.25x ratemaking DSCR on the Company's long-term debt):

Table 3

LCRA TSC Fiscal Year 2025 Business & Capital Plan (in millions)*	FY 2025	FY 2026	FY 2027	FY 2028	FY2029
Net Margin Available for Debt Service (NMADS)	$ 473.4	$ 521.8	$ 594.8	$ 650.3	$ 688.9
Less: Staff Recommendation (1.25x DSC)	$ (71.6)	$ (71.6)	$ (71.6)	$ (71.6)	$ (71.6)
Less : Rate of Return decrease on Future iTCOS	$ (5.8)	$ (14.1)	$ (24.7)	$ (33.4)	$ (40.6)
Adjusted NMADS	$ 396.0	$ 436.1	$ 498.5	$ 545.4	$ 576.7
Debt Service	$ 346.5	$ 385.0	$ 429.2	$ 470.9	$ 495.7
Plus: Anticipated debt service due to lower revenue funding	$ 4.7	$ 10.0	$ 15.9	$ 22.4	$ 29.2
Adjusted Debt Service	$ 351.2	$ 395.0	$ 445.1	$ 493.3	$ 524.9
Adjusted Debt Service Coverage	1.13	1.10	1.12	1.11	1.10

As this table shows, if the Commission were to adopt Commission Staff's recommended ratemaking DSCR and the Company proceeded with its 2025 business plan without any modifications, that is projected to result in realized DSCRs below 1.25x. As explained in TIEC's prior briefing, that is not necessarily cause for alarm because a realized DSCR of below 1.25x would not automatically preclude the Company from issuing new debt or continuing with its projected capital plan.[72] However, if the Commission wanted to keep the Company's projected

[71] *See* PFD at 26-27 *citing* LCRA TSC Ex. 16 (Travis Reb.) at 22.

[72] *See* TIEC In. Br. at 3-4, 16-22 (demonstrating that the Company's bond covenants do not actually preclude it from issuing additional debt if its realized DSCR falls below 1.25x).

realized DSCR above 1.25x, there is still ample room for it to reduce LCRA TSC's rate request. This is obvious because the Company's own projections in its 2025 business plan show that a 1.5x ratemaking DSCR would result in realized DSCRs that range from 1.36x to 1.39x.[73]

Company's Projected Realized DSCR Using 1.5x Ratemaking DSCR (2025 Business Plan)

	FY 2025	FY 2026	FY 2027	FY 2028	FY 2029
Net Margin Available for Debt Service (NMADS)	$473.4	$521.8	$594.8	$650.3	$688.9
Debt Service	$346.5	$385.0	$429.2	$470.9	$495.7
Debt Service Coverage Ratio (NMADS / Debt Service)	1.37	1.36	1.39	1.38	1.39

While it is clear that the Company could absorb some decrease to its requested revenues without its realized DSCR falling below 1.25x, the dollar value of that potential decrease is not immediately apparent. However, it is possible to mathematically estimate how far the Commission could reduce LCRA TSC's requested revenues while still ensuring that its realized DSCR will remain above 1.25x, even under the assumptions in the Company's aggressive 2025 business plan.

Before going into this illustration, it is important to explain why it is necessary to estimate the impact of adopting a ratemaking DSCR between 1.25x and 1.5x rather than precisely calculating it. As noted above, LCRA TSC refused to respond to discovery that asked it to re-run its realized DSCR analysis at different ratemaking DSCRs between 1.25x and 1.5x.[74] Additionally, LCRA TSC failed to provide all of the information that was necessary for counsel for TIEC to re-create Mr. Travis's analysis on cross-examination.[75]

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[73] *See* LCRA TSC Ex. 16 (Travis Reb.) at 23, Table 3. Notably, the projected realized DSCRs in this chart exactly match the values that LCRA TSC put in its draft 2025 business plan, which was posted on LCRA's website shortly after the hearing. *See* LCRA, *Draft Fiscal Year 2025 Business and Capital Plans* at 7 (April 25, 2024) (available at: https://www.lcra.org/download/draft-lcra-tsc-fy2025-business-and-capital-plans/?wpdmdl=33566).

[74] TIEC Ex. 12 (LCRA Response to TIEC 3-3); *see also* Tr. (Travis Cr.) at 166:8-18.

[75] TIEC Ex. 13 (LCRA Response to TIEC 3-1) at Attachment 1 (providing model used in Mr. Travis's analysis, but not including the municipal bond yield curve the Company used to calculate the incremental debt service payment schedule in that model); Tr. (Travis Cr.) at 196:5-14 (explaining that results of applying municipal yield curve to projected debt payments were hard coded in the model); TIEC Ex. 14 (LCRA Response to TIEC 3-4) (explaining methodology for re-running Mr. Travis's analysis, but not including the municipal bond yield curve that was used in the model); Tr. (Travis Cr.) at 208:8-9 ("***I do think you need the yield curve to accurately calculate this information***") (emphasis added); Tr. (Travis Cr.) at 211:1-10 (disagreeing with method for re-calculating debt service schedule used in his analysis because "It's not based upon a yield curve like what we did when we developed this.").

Nevertheless, it is possible to mathematically demonstrate that a 1.4x ratemaking DSCR would be sufficient to keep LCRA TSC's realized DSCR above 1.25x, even if the Company expanded its capital investment program as projected in its 2025 business plan. This analysis starts with Mr. Travis's rebuttal Table 3:

Table 3

LCRA TSC Fiscal Year 2025 Business & Capital Plan (in millions)*	FY 2025	FY 2026	FY 2027	FY 2028	FY2029
Net Margin Available for Debt Service (NMADS)	$ 473.4	$ 521.8	$ 594.8	$ 650.3	$ 688.9
Less: Staff Recommendation (1.25x DSC)	$ (71.6)	$ (71.6)	$ (71.6)	$ (71.6)	$ (71.6)
Less : Rate of Return decrease on Future iTCOS	$ (5.8)	$ (14.1)	$ (24.7)	$ (33.4)	$ (40.6)
Adjusted NMADS	$ 396.0	$ 436.1	$ 498.5	$ 545.4	$ 576.7
Debt Service	$ 346.5	$ 385.0	$ 429.2	$ 470.9	$ 495.7
Plus: Anticipated debt service due to lower revenue funding	$ 4.7	$ 10.0	$ 15.9	$ 22.4	$ 29.2
Adjusted Debt Service	$ 351.2	$ 395.0	$ 445.1	$ 493.3	$ 524.9
Adjusted Debt Service Coverage	1.13	1.10	1.12	1.11	1.10

In order to understand this analysis, one first must understand how Mr. Travis calculated the realized DSCR projections in his Table 3, which shows the impact of adopting Commission Staff's recommendation under the assumptions in the Company's draft 2025 business plan. The "Adjusted Debt Service Coverage" number in Mr. Travis's Table 3 represents the projected realized DSCR. That number is calculated by dividing the "Adjusted Net Margin Available for Debt Service (NMADS)" by the "Adjusted Debt Service." That is represented by this equation:

- (Adjusted NMADS) / (Adjusted Debt Service) = Adjusted Debt Service Coverage
    - Where:
        - (Adjusted NMADS) = (NMADS – Revenue Reduction from Staff Recommendation – Rate of Return Decrease on Future iTCOS from to Staff Recommendation)
    - And:
        - (Adjusted Debt Service) = (Debt Service + Anticipated Additional Debt Service Due to Lower Revenue Funding from Staff Recommendation)

So for instance, in FY 2025 on Mr. Travis's Table 3, the Adjusted NMADS (under Staff's recommendation) of $396.0 million divided by the Adjusted Debt Service (under Staff's recommendation) of $351.2 million works out to a projected realized DSCR of 1.13x:

- (473.4 – 71.6 – 5.8) / (346.5 + 4.7) = 1.13
- (396.0) / (351.2) = 1.13

To estimate the Company's realized DSCR under ratemaking DSCRs between 1.25x and 1.5x, one can restate the equation above to target a 1.25x realized DSCR, replace the "Revenue Reduction from Staff Recommendation" with a variable **X**, and then solve for **X**. That represents a scenario where the Commission reduces the Company's requested revenues by **X** and the Company would still earn a 1.25x realized DSCR. That said, it is not possible to precisely revise the "Rate of Return decrease on Future iTCOS" and "Anticipated debt service due to lower revenue funding" lines of Mr. Travis's chart (both of which are based on Staff's proposed revenue reduction) without the municipal bond curves that LCRA TSC used in its analysis, which the Company failed to provide in discovery.[76] In order to get past this lack of information, this illustration simply leaves the "Rate of Return decrease on Future iTCOS" and "Anticipated debt service due to lower revenue funding" at the same level that Mr. Travis projected for Staff's recommended 1.25x DSCR. Critically, doing this will actually ***overstate*** the impact of a proposed revenue reduction on the Company's realized DSCR (meaning the actual realized DSCR would be higher than 1.25x) because at a lower revenue reduction, the Company's "Rate of Return decrease on Future iTCOS" and "Anticipated debt service due to lower revenue funding" numbers would be lower than if the Commission adopted Staff's recommendation. As a result, the projected DSCR calculated in this illustration is actually artificially low. Despite that, this rougher analysis is still sufficient to show that the Commission could substantially reduce the Company's rate

[76] Tr. (Travis Cr.) at 208:8-9 ("***I do think you need the yield curve to accurately calculate this information***") (emphasis added).

request without pushing its realized DSCR below 1.25x, even in the unrealistic situation where LCRA TSC still experienced reduced iTCOS revenues and increased debt service costs due to lower revenue funding as though the Commission had adopted Commission Staff's proposed $71.6 million reduction.

For the FY 2025 calculation, the equation would look like the following:

- (NMADS – Modified Revenue Reduction **X** – Rate of Return Decrease on Future iTCOS from Staff Recommendation) / (Debt Service + Anticipated Additional Debt Service Due to Lower Revenue Funding from Staff Recommendation) = Target 1.25x Realized DSCR

  Or, substituting in the numbers for FY 2025:

- (473.4 – **X** – 5.8) / (346.5 + 4.7) = 1.25

By solving for "**X**" in the equation above, one can demonstrate that in FY 2025, the Company could fully implement its 2025 business plan—including making all of its planned capital investments—and still achieve a realized DSCR of 1.25x even if the Commission reduced the Company's revenue request by ***$28.6 million***.[77] And as explained above, this calculation unrealistically assumed that the Company's iTCOS revenues would be reduced and its debt funding needs would be increased as though the Commission adopted Staff's recommended $71.6 million revenue decrease, so the actual realized DSCR would be well above 1.25x. Notably, a $28.6 million revenue reduction corresponds almost exactly with a 1.4x ratemaking DSCR.[78]

The value of this analysis is, admittedly, limited because as explained above, it ***overstates*** the impact of reducing the Company's requested revenues on subsequent iTCOS revenue

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[77] The equations below show how to solve for X in this situation:

- (473.4 – X – 5.8) / (346.5 + 4.7) = 1.25
- (467.6 – X) / 351.2 = 1.25
- (467.6 – X) = 1.25 * 351.2
- (467.6 – X) = 439.0
- - X = 439.0 – 467.6
- - X = - 28.6
- X = ***$28.6 million***

[78] The difference in revenue requirement between the Company's proposed 1.5x DSCR and Staff's proposed 1.25x DSCR is $71.6 million per year. *See* LCRA TSC Ex. 16 (Travis Reb.) at 23, Table 3. If a 0.25x change in DSCR is worth $71.6 million in revenue requirement, then a decrease of 0.1x in DSCR would result in a $28.64 million in revenue requirement. [0.1x/0.25x = 0.4] and [0.4 * $71.6 M = $28.64 M]

reductions and increased debt service costs (which were left at the much higher level they would be at under Staff's recommended DSCR). This causes the calculation to show realized DSCRs that are lower than what the Company would actually expect, and the projected realized DSCRs would be artificially pushed even lower in years beyond FY 2025 (because the impact of iTCOS revenue reductions and increased debt service costs are cumulative[79]). However, given the limitations in the record and the Company's failure to provide the information that was necessary to fully re-run its realized DSCR analysis, this approximation is still valuable to show that the Company's requested DSCR is unnecessarily rich and could be substantially reduced and save customers money without pushing the Company's realized DSCR below 1.25x.

IV. WHOLESALE TRANSMISSION RATE

The Commission should reject the PFD's decision to rely on the 2022 4CP value when calculating LCRA TSC's wholesale transmission rates.[80] Instead, the Commission should use the updated 2023 4CP value to ensure that LCRA TSC's rates do not collect substantially more than the revenue requirement that is established in this proceeding. As the PFD recognized, LCRA TSC's requested transmission rate was determined by dividing the Company's revenue requirement by the 2022 ERCOT 4CP.[81] Importantly, if the Company were to charge its requested transmission rate on the amount of billing determinants associated with the 2022 ERCOT 4CP, it would earn exactly its requested revenue requirement. However, the 2022 4CP value is no longer current.[82] On May 16, 2024, the Commission approved the 4CP of 83,685,241.4 kW, which Staff provided in early 2023.[83] Due to load growth in ERCOT, the 2023 4CP is ***9.1% higher*** than the 2022 4CP that LCRA TSC used to determine its requested transmission rate.[84] Critically, when

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[79] *See* LCRA TSC Ex. 16 (Travis Reb.) at 23, Table 3 (showing that values for "Rate of return decrease on future iTCOS" escalate from $5.8 M in FY 2025 to $14.1 M, $24.7 M, $33.4 M, and $40.6 M in later years, and values for "Anticipated debt service due to lower revenue funding" escalate from $4.7 M in FY 2025 to $10.0 M, $15.9 M, $22.4 M, and $29.2 M in later years).

[80] PFD at FoF 124-126, CoL 15.

[81] PFD at 49.

[82] Additionally, the 2023 ERCOT 4CP data partially overlaps with LCRA TSC's test year, which ended in June 2023. *See* TIEC Ex. 1 (Ly Dir.) at 5.

[83] Docket No. 56050, Order (May 16, 2024); *see also* TIEC In. Br. at 42; Staff Ex. 1 (Direct Testimony of Jorge Ordonez) at 9 (Ordonez Dir.); TIEC Ex. 1 (Ly Dir.) at 5; Docket No. 56050, Commission Staff's Amended and Final Transmission Charge Matrix (March 18, 2024).

[84] TIEC Ex. 1 (Ly Dir.) at 4.

LCRA TSC's new rates go into effect, it will be charging its transmission rate on the ***updated*** billing determinants from the 2023 ERCOT 4CP.[85] As a result, if the Commission sets the Company's transmission rate based on the 2022 4CP, but the Company actually charges that rate based on the higher 2023 4CP, it will collect revenues that are far in excess of the revenue requirement that is set in this proceeding.[86] As discussed by TIEC witness Mr. Ly and Staff witness Mr. Ordonez, LCRA TSC's requested transmission rate would allow it to immediately over-recover its requested transmission cost of service by approximately ***$60 million per year***.[87] That over-recovery would continue until the rates from the Company's next interim TCOS filing go into effect.[88] Conversely, if the Commission uses the updated 2023 4CP value to calculate LCRA TSC's transmission rate, Company's revenues would exactly match the revenue requirement set in this proceeding. Put differently, ***using the updated 4CP value to calculate the Company's transmission rate is not a rate reduction***, as LCRA TSC has argued.[89] Instead, the 4CP update only ensures that LCRA TSC's realized revenues will be consistent with the revenue requirement set by the Commission.

The PFD determined that using the outdated 4CP value to calculate LCRA TSC's transmission rate was appropriate because it was consistent with the RFP Instructions. However, the RFP instructions only state that the applicant should use "the most recent average ERCOT 4CP at the time of application,"[90] but the instructions are silent on whether a utility can or should update its requested transmission rate to reflect changes to the 4CP value that occur while a case is

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[85] *Id.* at 4-5.

[86] *Id.*

[87] *Id.* at 4; Staff Ex. 1 (Ordonez Dir.) at 9.

[88] Interim TCOS filings update requires utilities to recalculate their transmission rate using the then-current ERCOT 4CP. *See* 16 TAC § 25.193(c).

[89] LCRA TSC Ex. 17, Rebuttal Testimony of Stephen W. Kellicker at 9 (Kellicker Reb.) (referring to updating the 4CP as a 9% rate decrease).

[90] Public Utility Commission of Texas, *Filing Requirements for Interim Update of Wholesale Transmission Rates Pursuant to Substantive Rule 25.193(a)(1)* at 6 (Feb. 10, 2000) (available at: https://ftp.puc.texas.gov/public/puct-info/industry/electric/forms/rfp/Interim_TCOS_Instr.pdf) ("[Approved TCOS $ + (change in net transmission plant times after tax rate of return)+ (change in annual transmission depreciation expense)] / [***the most recent average ERCOT 4CP at the time of application***]") (emphasis added); *Public Utility Commission of Texas Transmission Cost of Service Rate Filing Package for Non-Investor Owned Transmission Service Providers in the Electric Reliability Council of Texas* (Oct. 6, 2022) (available at: https://ftp.puc.texas.gov/public/puct-info/industry/electric/forms/rfp/Non_IOU_TCOS_Instr.pdf) ("This schedule should also show the derivation of the new wholesale transmission rate calculated by dividing the total transmission revenue requirement by ***the most recent total system ERCOT 4-CP at the time of application***.").

pending. Further, nothing bars the Commission from requiring LCRA TSC to update its 4CP value to ensure LCRA TSC's transmission rates will actually collect revenues that approximate the revenue requirement established in this proceeding.

A. The RFP Instructions are not determinative on whether the Company should update the 4CP value.

The PFD does not dispute that if the Commission calculates its transmission rate based on the stale 2022 4CP value, the Company would collect roughly $60 million per year in excess of its requested revenue requirement.[91] Instead, the PFD determined that the 2022 4CP value is "reasonable" based on the RFP instructions.[92] However, the RFP instructions do not address whether LCRA TSC can (or should) amend its application to account for the updated 4CP value. As discussed in more detail below, LCRA TSC has consistently amended its interim TCOS filings to reflect any changes in the 4CP value that occurred during the proceeding, and the RFP instructions for interim TCOS instructions are substantially similar to the RFP instructions for non-IOU rate cases.[93] Neither set of RFP of instructions bars the Commission from adopting the recently approved ERCOT 4CP values when approving rates in a proceeding. As in the rate case RFP, the iTCOS RFP only states that the applicant should use "the most recent average ERCOT 4CP at the time of application,"[94] and the instructions are silent on whether a utility can or should update its requested transmission rate to reflect changes to the 4CP value.

Notably, the RFP's instructions to use "the most recent average ERCOT 4CP at the time of application" are not binding on LCRA TSC or the Commission, and they do not have the force of law. In Docket No. 50110, Denton filed an application for an interim update to its transmission

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[91] PFD at 54-56.

[92] PFD at 54.

[93] *See infra* Section IV.B.

[94] Public Utility Commission of Texas, *Filing Requirements for Interim Update of Wholesale Transmission Rates Pursuant to Substantive Rule 25.193(a)(1)* at 6 (Feb. 10, 2000) (available at: https://ftp.puc.texas.gov/public/puct-info/industry/electric/forms/rfp/Interim_TCOS_Instr.pdf) ("[Approved TCOS $ + (change in net transmission plant times after tax rate of return)+ (change in annual transmission depreciation expense)] / [***the most recent average ERCOT 4CP at the time of application***]") (emphasis added); *Public Utility Commission of Texas Transmission Cost of Service Rate Filing Package for Non-Investor Owned Transmission Service Providers in the Electric Reliability Council of Texas* (Oct. 6, 2022) (available at: https://ftp.puc.texas.gov/public/puct-info/industry/electric/forms/rfp/Non_IOU_TCOS_Instr.pdf) ("This schedule should also show the derivation of the new wholesale transmission rate calculated by dividing the total transmission revenue requirement by ***the most recent total system ERCOT 4-CP at the time of application***.").

rates and requested a good cause exception from the Commission's substantive rules and the non-IOU TCOS RFP Instructions.[95] Specifically, Denton wanted to recover certain depreciation expenses that are not permitted under the TCOS RFP instructions.[96] When determining whether good cause existed, the ALJ in that case explained that the RFP instructions reflect the Commission Staff's interpretation of how to identify appropriate depreciation, and while the Commission's rules have the force of law, the instructions do not.[97] This determination holds true with respect to the RFP for non-IOU rate cases. Accordingly, the RFP instruction that directed LCRA TSC to calculate its rates using the 2022 4CP value may be instructive, but it is not determinative because it does not have the force of law.

B. The Commission's precedent and LCRA TSC's prior actions support updating the 4CP value during a proceeding to ensure accurate transmission rates.

In LCRA TSC's interim TCOS proceedings, the Company has consistently changed its requested transmission rates to reflect revisions to the 4CP value that occurred while those cases were pending.[98] While LCRA TSC has not made such a change during a base rate case, the language at issue is identical in the RFP instructions for interim TCOS updates and the RFP instructions for non-IOU rate cases.[99] Accordingly, LCRA TSC's prior actions in its interim

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[95] *Application of Denton Municipal Electric Utility for Interim Update of Wholesale Transmission Rates*, Docket No. 50110, Order No. 8 at 1 (May 22, 2020).

[96] Docket No. 50110, Order No. 8 at 1.

[97] Docket No. 50110, Order No. 8 at 2 ("The [Commission's] rule has the force of law, the rate filing package and instructions do not.").

[98] *E.g. Application of LCRA Transmission Services Corporation for Interim Update of Wholesale Transmission Rates Pursuant to Substantive Rule 25.192(h)(1)*, Docket No. 44180, Application at 32 (Jan. 8, 2015) ("This proposed transmission rate update uses 63,680,720 kilowatts, the 2014 average four coincident peak (4-CP) filed on December 3, 2014 in Docket No. 43881, "Electric Reliability Council of Texas, Inc.'s Report on the 2014 4CP Coincident Peak Load in the ERCOT Region". This is the most recent average 4-CP for ERCOT. This 4-CP complies with Instruction 6 of the PUC Filing Requirements for Interim Update of Wholesale Transmission Rates."); *see id.* (application filed January 8, 2015); *see Electric Reliability Council of Texas, Inc.'s Report on the 2014 4CP Coincident Peak Load in the ERCOT Region*, Docket No. 43881, Commission Staff's Draft Transmission Matrix (Feb. 2, 2015); Docket No. 44180, Commission Staff's Recommendation on Final Disposition at pdf page 6 (Feb. 18, 2015); Docket No. 44180, Notice of Approval at OP 1 (Feb. 27, 2015) ("LCRA TSC's application, as modified by Commission Staff's recommendation, is approved."); *id.* at FoF 9 ("Commission Staff's recommendation adjusted the 4CP value to the amount used in the current docket establishing wholesale transmission charge in the ERCOT region for calendar year 2015.3 The value is 63,680,709.6 kW, which adjusted the interim wholesale transmission rate to $6.044657 per 4CP kW.").

[99] *Public Utility Commission of Texas, Filing Requirements for Interim Update of Wholesale Transmission Rates Pursuant to Substantive Rule 25.193(a)(1)* at 6 (Feb. 10, 2000) (available at:

TCOS proceedings demonstrate that nothing prevents it from updating the 4CP value that it uses to calculate its transmission rate. For example, in Docket No. 44180, LCRA TSC proposed calculating its transmission rate using the draft 2015 average 4CP value, and argued that doing so was consistent with the instructions for interim updates to transmission rates.[100] Similar to this proceeding, LCRA TSC filed its application in Docket No. 44180 prior to Commission finalizing the new 4CP value.[101] Subsequently, Staff recommended that LCRA TSC update its transmission rate using the 4CP value in Commission Staff's final transmission charge matrix,[102] and the Commission approved LCRA TSC's application,[103] as modified by Commission Staff's recommendation.[104] Notably, LCRA TSC has also voluntarily updated its transmission rates to reflect changes in the 4CP value on at least two other occasions. In Docket Nos. 51786 and 50510, the Company initially calculated its transmission rates using the draft average 4CP calculation from the applicable dockets[105] and later revised its transmission rates to reflect changes to the 4CP

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https://ftp.puc.texas.gov/public/puct-info/industry/electric/forms/rfp/Interim_TCOS_Instr.pdf); *Public Utility Commission of Texas Transmission Cost of Service Rate Filing Package for Non-Investor Owned Transmission Service Providers in the Electric Reliability Council of Texas* (Oct. 6, 2022) (available at: https://ftp.puc.texas.gov/public/puct-info/industry/electric/forms/rfp/Non_IOU_TCOS_Instr.pdf).

[100] *Application of LCRA Transmission Services Corporation for Interim Update of Wholesale Transmission Rates Pursuant to Substantive Rule 25.192(h)(1)*, Docket No. 44180, Application at 32 (Jan. 8, 2015) ("This proposed transmission rate update uses 63,680,720 kilowatts, the 2014 average four coincident peak (4-CP) filed on December 3, 2014 in Docket No. 43881, "Electric Reliability Council of Texas, Inc.'s Report on the 2014 4CP Coincident Peak Load in the ERCOT Region". This is the most recent average 4-CP for ERCOT. This 4-CP complies with Instruction 6 of the PUC Filing Requirements for Interim Update of Wholesale Transmission Rates.").

[101] *See id.* (application filed January 8, 2015); *see Electric Reliability Council of Texas, Inc.'s Report on the 2014 4CP Coincident Peak Load in the ERCOT Region*, Docket No. 43881, Commission Staff's Draft Transmission Matrix (Feb. 2, 2015).

[102] Docket No. 44180, Commission Staff's Recommendation on Final Disposition at pdf page 6 (Feb. 18, 2015).

[103] Docket No. 44180, Notice of Approval at OP 1 (Feb. 27, 2015) ("LCRA TSC's application, as modified by Commission Staff's recommendation, is approved.").

[104] Docket No. 44180, Notice of Approval at FoF 9 ("Commission Staff's recommendation adjusted the 4CP value to the amount used in the current docket establishing wholesale transmission charge in the ERCOT region for calendar year 2015.3 The value is 63,680,709.6 kW, which adjusted the interim wholesale transmission rate to $6.044657 per 4CP kW.").

[105] *Application of LCRA Transmission Services Corporation for Interim Update of Wholesale Transmission Rates Pursuant to 16 Tex. Admin. Code § 25.192(h)(1)*, Docket No. 51786, Application at 42 (Feb. 2, 2021) ("This proposed interim transmission rate update uses 70,488,327.7 kilowatts, the draft average 4-CP in Docket No. 51612, Commission Staff's Petition to Set 2021 Wholesale Transmission Service Charges for the Electric Reliability Council of Texas, Inc."); *Application of LCRA Transmission Services Corporation for Interim Update of Wholesale Transmission Rates Pursuant to 16 Tex. Admin. Code § 25.192(h)(1)*, Docket No. 50510, Application at 44 (Feb. 3, 2020) ("This proposed interim transmission rate update uses 70,879,138.7 kilowatts, the draft average four coincident

value that occurred during the 4CP proceedings.[106] The Company had no qualms about changing the 4CP values mid-proceeding during interim updates, even though those proceedings were governed by nearly identical RFP instructions as the ones that apply to non-IOU transmission rate cases. Therefore, it is clear that the RFP instructions do not preclude LCRA TSC from using (or the Commission requiring LCRA TSC to use) the 2023 4CP value to calculate its transmission rate in this case. As such, to prevent a substantial over-recovery, the Commission should require LCRA TSC to recalculate its transmission rate using the updated, final 2023 4CP values.

C. Alternatively, the Commission should require LCRA TSC to file an interim TCOS using the updated 4CP values shortly after issuing a final order in this proceeding.

If the Commission does not require LCRA TSC to update its transmission rate in this proceeding, the Commission should adopt Staff's alternative proposal and require LCRA to file an interim proceeding shortly after the final order in this case. The PFD claims that (1) it's not clear 30 days is practical and (2) this proceeding was not abnormally long like the Denton proceeding that concluded earlier this year.[107] However, none of the PFD's reasoning justifies letting LCRA TSC immediately collect over $60 million per year more than its requested revenue requirement for an undetermined amount of time.[108]

First, if filing an interim TCOS update within 30 days is not practical, the Commission could order LCRA TSC to file an interim proceeding within 45 to 60 days. Requiring the Company

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peak (4-CP) in Docket No. 50333, Electric Reliability Council of Texas, Inc.'s Report on the 4CP Coincident Peak Load in the ERCOT Region. This is the most recent average 4-CP for ERCOT.").

[106] Docket No. 51786, LCRA TSC's Filing of Revised Proposed Tariff and Revised Schedule A at 1 (March 9, 2021) (updating Schedule A to reflect the revised transmission charge matrix incorporating the ETEC addition into the 4CP); Docket No. 51786, Notice of Approval at FoF 7 (March 29, 2021) ("On March 9,2021, LCRA filed a revised proposed tariff and Schedule A. LCRA's revised proposed tariff requests a revised interim wholesale transmission rate of $7.057753 per kW together with the rate of $0.5035102 per kW that LCRA collects for six other transmission service providers. The revision was filed to reflect the 2020 Final Revised Four-Coincident Peak (4CP) Transmission Charge Matrix filed in Docket No. 51612"); Docket No. 50510, LCRA TSC's Filing of Revised Proposed Tariff and Revised Schedule A at 1 (March 11, 2020) (updating schedule A to reflect Staff's revised 4CP report); Docket No. 50510, Notice of Approval at FoF 6 (April 3, 2020) ("On March 11, 2020, LCRA TSC amended its application by filing a filed revised proposed tariff and revised schedule A, modifying the requested transmission rates to $6.415553 per kW together with the rate of $0.436688 per kW that LCRA TSC collects for six other transmission service providers. The amendment was filed in response to the 2019 Revised Four-Coincident Peak (4CP) Report filed in Docket No. 50331.").

[107] PFD at 54-55.

[108] *See* Staff Br. at 26; TIEC Initial Br. at 42; Tr. (Kellicker Cr.) at 29:8-11 (explaining that Mr. Kellicker is unaware of when LCRA TSC will file an interim TCOS proceeding).

to file an interim update at ***any time*** after this proceeding would benefit ratepayers, while ensuring the Company's revenues will approximate the revenue requirement established in this docket. As TIEC explained in briefing, LCRA TSC will update its transmission rate to reflect the 4CP value at the time of filing its interim TCOS application.[109] Accordingly, requiring an interim update on any reasonable timeline after this proceeding will at least reduce the amount of time that wholesale transmission service customers are subject to rates that will allow the Company to recover significantly more than the revenue requirement established in this proceeding.[110]

Additionally, the PFD wrongfully determined that an interim TCOS filing is unnecessary because this case is shorter than the Denton case.[111] The length of the proceeding is irrelevant, other than the fact that the timing in ***both*** proceedings would result in unjustly enriching the utility. The reality is that, just as in the Denton case, "the information provided here may no longer be a fully reliable representation of [the utility's] current cost of providing service."[112] Notably, the 4CP value has increased more since LCRA TSC filed this proceeding than it did over the two years that Denton's rate case was pending.[113] As explained previously, due to load growth, the 2023 ERCOT 4CP is ***9.1% higher*** than the 2022 4CP that LCRA TSC used to calculate its requested transmission rate.[114] Conversely, in Docket No. 52715, Denton filed its rate case using the 2020 4CP value, and by the time the Commission ordered Denton to file an interim proceeding, the most recent 4CP value was only ***8.08% higher*** than it was at the time of Denton's application.[115] Further, because Denton is a much smaller utility, LCRA TSC would immediately over-recover

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[109] TIEC Initial Br. at 44; Tr. (Kellicker Cr.) at 22:10-14 ("If a new 4CP is approved by the Commission it stands, and then we'll use it or catch up with it, if you will, that's the lag you're referring to, we'll catch up with it in our next rate filing whenever that happens to be.").

[110] TIEC Initial Br. at 44; Staff Ex. 1 (Ordonez Dir.) at 10.

[111] PFD at 55.

[112] *See* TIEC Ex. 18 (Docket No. 52715 Proposal for Decision) at 002.

[113] *See* Docket No. 52715, Order on Rehearing at FoF 58H (Oct. 12, 2023) (explaining Denton's annual wholesale transmission rate was based on the average four-coincident peak demand in ERCOT for 2020); *Commission Staff's Petition to Set 2020 Wholesale Transmission Service Charges for the Electric Reliability Council of Texas, Inc.*, Docket No. 50333, Order at Ordering Para. 1 (May 1, 2020) (adopting the 2020 matrix with a 4CP of 70,980,872.4); *Commission Staff's Petition to Set 2023 Wholesale Transmission Service Charges for the Electric Reliability Council of Texas*, Docket No. 54507, Order at Ordering Para 1 (May 11, 2023) (adopting the 2023 matrix with a 4CP of 76,713,857.9).

[114] TIEC Ex. 1 (Ly Dir.) at 4.

[115] (76,713,857.9-70,980,872.4)/70,980,872.4 x 100 = 8.08%

substantially ***more*** than Denton would have in Docket No. 52715 on an absolute dollar basis. As explained previously, if LCRA TSC calculates its transmission rate based on the 2022 ERCOT 4CP, it will immediately over-recover its requested transmission cost of service by approximately ***$60 million per*** **year, or approximately** ***9%***.[116] Comparatively, in Docket No. 52715, the Commission required Denton to file an interim proceeding to limit the amount of time Denton would over-recover its revenue requirement by approximately ***$2 million per year***.[117] Accordingly, Docket No. 52715 is an accurate comparison to the current situation because if LCRA TSC calculates its transmission rate based on the outdated 4CP value, it will over-recover its revenue requirement by a much greater degree than Denton would have on both a percentage and a dollar basis.

Notably, from a practical standpoint, requiring LCRA TSC to file an interim TCOS proceeding in 2024 would have no impact on LCRA TSC's interim TCOS filing schedule. During briefing, LCRA TSC suggested that filing an interim update during 2024 would somehow extend regulatory lag associated with its upcoming investments,[118] but that is plainly untrue. The Commission's rules only permit LCRA TSC to file an interim proceeding once per calendar year to reflect changes in invested capital.[119] Because the Company is updating its rates in this proceeding, it seems highly unlikely that LCRA TSC plans to file an interim update during the 2024 calendar year. Notably, Mr. Kellicker testified that he was unsure of when the Company would file its next interim TCOS update, and as the Chief Financial Officer, he would likely be aware of any plans to file an interim update this calendar year.[120] Similarly, LCRA TSC did not identify any plans to file an interim TCOS update during 2024 in its briefing.[121] Importantly,

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[116] $60,153,150/$661,931,762 x 100 = 9.09%. *See* TIEC Initial Br. at 42; TIEC Ex. 1 (Ly Dir.) at 2, 4 (explaining that Denton would recover $60,153,150 more than its requested revenue of $661,931,762); Staff Ex. 1 (Ordonez Dir.) at 9.

[117] $0.35895/kW x 76,713,857.9 = $27,536,439.3 and $27,536,439.3 - $25,479,240 = $2,057,199.29 *See* Docket No. 52715, Order on Rehearing at FoF 58G-H (Oct. 12, 2023) (explaining Denton had a revenue requirement of $25,479,240 with a transmission rate of $0.35895/kW); *Commission Staff's Petition to Set 2023 Wholesale Transmission Service Charges for the Electric Reliability Council of Texas*, Docket No. 54507, Order at Ordering Para 1 (May 11, 2023) (adopting the 2023 matrix with a 4CP of 76,713,857.9).

[118] LCRA TSC Initial Br. at 54-55.

[119] 16 TAC § 25.192(h)(1).

[120] Tr. (Kellicker Cr.) at 29:8-11 (explaining that Mr. Kellicker is unaware of when LCRA TSC will file an interim TCOS proceeding).

[121] *See* LCRA TSC Initial Br. at 54-55; LCRA Reply Br. at 44.

requiring the Company to file an interim proceeding during the 2024 calendar year would have no effect on LCRA TSC's ability to use interim updates to reduce regulatory lag associated with future investments in calendar year 2025 and beyond. And even if the Company found it necessary to file an additional interim TCOS proceeding during calendar year 2024, LCRA TSC could request (and would have good reason to receive) a good cause exception from the Commission. Under 16 TAC § 25.3(b), the Commission may make exceptions to its substantive rules for good cause, which would include allowing LCRA TSC to file an additional interim update in calendar year 2024 if the Commission requires it to file an interim update shortly after the conclusion of this case.

V. CONCLUSION

For the reasons discussed above, the Commission should (1) set LCRA TSC's revenue requirement using a DSCR that is between 1.25x and 1.5x and (2) require LCRA TSC to recalculate its transmission rates using the updated 2023 ERCOT 4CP values.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I, John R. Hubbard, Attorney for TIEC, hereby certify that a copy of this document was served on all parties of record in this proceeding on this 28th day of August, 2024 by electronic mail, facsimile, and/or First Class, U.S. Mail, Postage Prepaid.

/s/ John R. Hubbard

John R. Hubbard