



Control Number: 56168



Item Number: 10

FILED
2024 MAR 06 PM 03:23
FEDERAL BUREAU OF INVESTIGATION
U.S. DEPARTMENT OF JUSTICE

OPEN MEETING COVER SHEET COMMISSIONER MEMORANDUM

MEETING DATE: March 7, 2024

DATE DELIVERED: March 6, 2024

AGENDA ITEM NO.: 20

CAPTION: Docket No. 56168 – Commission Staff’s Petition
for a Declaratory Order Interpreting 16 TAC §
25.475(b)(5)

DESCRIPTION: Commissioner Cobos Memorandum

Public Utility Commission of Texas

Memorandum

TO: Chairman Thomas J. Gleeson
Commissioner Jimmy Glotfelty
Commissioner Kathleen Jackson

FROM: Commissioner Lori Cobos 

DATE: March 6, 2024

RE: March 7, 2024 Open Meeting – Agenda Item No. 20
*Docket No. 56168, Commission Staff's Petition for a Declaratory Order
Interpreting 16 TAC § 25.475(b)(5)*

On August 28, 2023, Commission Staff filed a memorandum seeking guidance from the Commission regarding two issues that relate to the implementation of the Commission's Debt Obligation Order that was filed on October 13, 2021 in Docket No. 52322.¹ Specifically, Commission Staff sought confirmation from the Commission that: (1) Securitization Charges are not pass-through charges, and (2) Opt-outs under Public Utility Regulatory Act (PURA) § 39.653(d) are not transferable.² Commission Staff's memorandum noted that "[t]hese issues are currently affecting market participants, and Commission Staff believes that guidance from the Commission would aid market participants in complying with the Debt Obligation Order and prevent the need for other corrective measures."

At its September 14, 2023 open meeting, the Commission directed Commission Staff to file a petition for a declaratory order in a separate proceeding. The Commission's directive to file a petition for a declaratory order in a separate proceeding led to two separate proceedings—this proceeding and Docket No. 56125.³

This proceeding relates to a petition for declaratory order regarding whether securitization charges are pass-through charges. On February 2, 2024, the Administrative Law Judge (ALJ) in this proceeding issued Order No. 1, certifying the following two issues to the Commission:

1. Who are the persons and entities that may be affected by the declaratory order sought by Commission Staff's petition?

¹ Docket No. 52322, *Application of Electric Reliability Council of Texas, Inc. for a Debt Obligation Order Pursuant to Chapter 39, Subchapter N, of the Public Utility Regulatory Act*, Debt Obligation Order (Oct. 13, 2021).

² Docket No. 52710, *Compliance Filing for Docket No. 52322 (Application of Electric Reliability Council of Texas, Inc. for a Debt Obligation Order Pursuant to Chapter 39, Subchapter N, of the Public Utility Regulatory Act, Request for Guidance Regarding Issues Associated with Securitization Charges* (Aug. 28, 2023).

³ Docket No. 56125, *Commission Staff's Petition for Declaratory Order Regarding Opt-Out of Securitization Uplift Charges by Transmission Voltage Customers* (pending).

2. To whom, and by what method or methods, should Commission Staff be required to provide notice of its petition?

Based on my review of the parties' briefs filed in this proceeding, I recommend that the Commission make the following determinations:

1. The Declaratory Order can affect all REPs currently serving residential and/or small commercial customers under a contract for a fixed rate product; and
2. Notice should be provided to ERCOT, OPUC, ERCOT's Retail Market Subcommittee (i.e., all REPs), and all parties that participated in Docket No. 52322.⁴

Thank you for your consideration. I look forward to discussing these issues with you tomorrow.

⁴ Docket No. 52322, *Application of Electric Reliability Council of Texas, Inc. for a Debt Obligation Order Pursuant to Chapter 39, Subchapter N, of the Public Utility Regulatory Act*, Debt Obligation Order (Oct. 13, 2021).