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PUBLIC UTILITY COMMISSION OF TEXAS

June 24, 2005

TO: All QSEs active in the ERCOT market.

FROM: Patrick J. Sullivan, Staff Attorney

SUBJECT: Docket No. 31058, *Complaint of CPS Energy, Lower Colorado River Authority and South Texas Electric Cooperative Against the Electric Reliability Council of Texas*

The purpose of this letter is to provide you notice of a complaint filed pursuant to P.U.C. PROC. R. 22.252(h) that may affect the settlement of ancillary services fees for the period January 7, 2003 through March 31, 2003.

On May 2, 2005, CPS Energy, the Lower Colorado River Authority (LCRA), and South Texas Electric Cooperative (STEC) (collectively "Complainants") filed a formal complaint against the Electric Reliability Council of Texas (ERCOT). Complainants assert that ERCOT did not properly implement the Commission decision in Docket No. 29210.⁴ On November 5, 2004, the Commission issued its final Order in Docket No. 29210, granting the appeal filed by Direct Energy, LP (Direct Energy) and Tenaska Power Services Co. (TPS) alleging that ERCOT had used flawed data in calculating its ancillary services obligations for the period of January 7, 2003 through March 31, 2003. The Commission directed ERCOT to resettle the obligations for that period of time using corrected data. ERCOT implemented the resettlement in a manner that it believed complied with the requirements of the Commission's Order. Complainants allege that ERCOT failed to follow the requirements of the Commission's Order and that ERCOT implemented a new and improper methodology in calculating the ancillary services obligations. Accordingly, Complainants have filed the appeal in Docket No. 31058 asking the Commission to "order ERCOT to resettle the ancillary services fees charged to all Qualified Scheduling Entities as a result of the Docket No. 29210 Order by using the Old Method in place during January 7, 2003 to March 31, 2003 supplemented by the use of most recent settlement data, as ordered by the Commission in Docket No. 29210."⁵

⁴ *Complaint of Direct Energy, LP and Tenaska Power Services Co. Against the Electric Reliability Council of Texas*, Docket No. 29210, Order, (November 5, 2004).

⁵ Complaint, pp. 13-14.

The Commission has scheduled this matter for briefing and a potential hearing. **IF THE COMMISSION GRANTS THE RELIEF REQUESTED BY COMPLAINANTS, ANCILLARY SERVICES OBLIGATIONS FOR THE JANUARY 7, 2003 THROUGH MARCH 31, 2003 MAY BE RECALCULATED, LEADING TO ADDITIONAL MONETARY OBLIGATIONS BY SOME QSES. THE EFFECT OF THE RESETTLEMENT ON INDIVIDUAL QSES WILL NOT BE KNOWN UNTIL AFTER THE COMMISSION'S DECISION ON THE ISSUES PRESENTED IN THE CASE. IF YOU HAVE AN INTEREST IN THE OUTCOME OF THIS PROCEEDING, YOU MUST INTERVENE BEFORE THE DEADLINE IN ORDER TO PARTICIPATE IN THE COMMISSION'S PROCEEDING.**

Persons who wish to intervene in this proceeding should notify the Commission no later than July 11, 2005. A request to intervene should be mailed to the Public Utility Commission of Texas, P.O. Box 13326, Austin, TX 78711-3326 and should comply with the requirements of the Commission's Procedural Rules. The request should reference Docket No. 31058. Additionally, if you desire a fact finding hearing on the matters raised by the complaint, you must file a written request for hearing by August 1, 2005.

If you have any questions regarding this matter, please feel free to contact me at (512) 936-7125.