

**SOAH DOCKET NO. 473-11-3648
DOCKET NO. 39192**

PETITION OF COMMISSION STAFF TO REVOKE THE RETAIL ELECTRIC PROVIDER CERTIFICATE OF ABACUS ENERGY RESOURCES, LLC	§ § § § §	PUBLIC UTILITY COMMISSION OF TEXAS
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**ELECTRIC RELIABILITY COUNCIL OF TEXAS, INC.'S CROSS-PETITION
TO THE PETITION OF COMMISSION STAFF TO REVOKE THE RETAIL
ELECTRIC PROVIDER CERTIFICATE OF ABACUS ENERGY RESOURCES, LLC**

COMES NOW Electric Reliability Council of Texas, Inc. (ERCOT), and files this Cross-Petition to the Petition of Commission Staff to Revoke the Retail Electric Provider Certificate of Abacus Energy Resources, LLC,¹ pursuant to the Procedural Schedule set forth in SOAH Order No. 2 Memorializing Prehearing Conference; Adopting Procedural Schedule; and Notice of Hearing.

I. JURISDICTION

The Public Utility Commission of Texas (Commission) has jurisdiction over this matter pursuant to Sections 14.001, 14.002, 14.051, 17.051, 17.052, 39.151, 39.352, and 39.356 of the Public Utility Regulatory Act (PURA),² and PUC Subst. R. §25.107.

II. IDENTIFICATION OF APPLICANT

The name and address of the cross-petitioner is the Electric Reliability Council of Texas, Inc., 7620 Metro Center Drive, Austin, Texas 78744. The contact information of ERCOT's authorized legal representatives for service of all documents and pleadings are:

¹ Because neither statute nor Commission rules provide for the filing of cross-petitions, it is important to note that the intent of this pleading is to assert ERCOT's claims concerning monies related to the Commission's Petition to Revoke Abacus' REP Certificate, and to designate how notice to persons affected by this proceeding will be provided.

² Tex. Util. Code Ann. (Vernon 2007 & Supp. 2010).

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III. PROCEDURAL HISTORY

On February 28, 2011, Commission Staff filed a Petition to Revoke the Retail Electric Provider (REP) Certificate of Abacus Energy Resources, LLC (Abacus). Therein, Commission Staff requested the revocation of Abacus' REP Certificate No. 10106. On March 10, 2011, ERCOT filed a Motion to Intervene, and as reflected in SOAH Order No. 2, was admitted as a party to this case at a prehearing conference on March 17, 2011.

IV. FACTS

ERCOT is the independent organization under PURA §39.151, and provides services related to serving Customer Load for the geographic area under the Commission's jurisdiction within the state of Texas. Abacus was registered with and doing business as a Load Serving Entity (LSE), Qualified Scheduling Entity (QSE), and Renewable Energy Credit (REC) Account Holder with ERCOT between November 2009 and February 2011. On February 9, 2011, Abacus defaulted on its financial obligations to ERCOT under the ERCOT Protocols, which resulted in the termination of Abacus' Standard Form Market Participant Agreement (SFA) with ERCOT and the Mass Transition of Abacus' Customers to two designated Competitive Retailers (CR) on February 10, 2011.

ERCOT estimates the current amount of losses incurred by the ERCOT market and resulting from Abacus' default to be in excess of \$730,000.00. Pursuant to PURA §39.151, the PUC has oversight over ERCOT and its Protocols. All Market Participants, including REPs, must comply with the procedures of ERCOT (which include the ERCOT Protocols). See PURA §39.151(j). The ERCOT Protocols require payment of the amounts due to ERCOT. Further, PUC SUBST. R. §25.107(f)(4)(F) provides that the PUC's executive director or designee may draw on a REP's irrevocable stand-by letter of credit if ERCOT performs a mass transition of the

REP's customers, or the PUC issues an order revoking the REP's certificate. The proceeds from a REP's irrevocable stand-by letter of credit may then be used to satisfy the REP's obligations for services provided by the independent organization related to serving customer load. See PUC SUBST. R. §25.107(f)(6)(A)(iv).

ERCOT (a) performed a Mass Transition of Abacus' Customers on February 10, 2011, (b) is the independent organization that provided services related to serving Abacus' customer load, and (c) has incurred monetary losses resulting from Abacus' default of its financial obligations. In further support of these facts, is a Confidential Custodian of Records Affidavit, attached to and incorporated in, Commission Staff's Petition to Revoke the REP Certificate of Abacus and Request for Referral to SOAH.

V. NOTICE

Pursuant to PUC SUBST. R. §22.55, ERCOT will provide reasonable notice of this cross-petition to persons affected by this proceeding in the following manner:

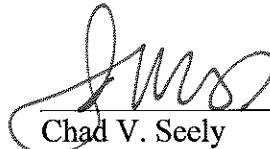
- (a) via electronic mail distribution to ERCOT's Qualified Scheduling Entities (QSEs), Technical Advisory Committee (TAC), Retail Market Subcommittee (RMS), Wholesale Market Subcommittee (WMS), and Commercial Operations Subcommittee (COPS); and
- (b) by posting such to ERCOT's website at:
http://www.ercot.com/about/governance/legal_notices.html.

Pursuant to PUC SUBST. R. §22.183, ERCOT hereby notifies Abacus that the factual allegations in this cross-petition could be deemed admitted and the relief sought herein granted by default if Abacus fails to appear at scheduled hearings.

VI. PRAYER

WHEREFORE, PREMISES CONSIDERED, and for the reasons explained above, ERCOT respectfully requests that the Commission: (a) revoke Abacus' REP Certificate; (b) issue an order disbursing the proceeds from Abacus' irrevocable stand-by letter of credit on file with the Commission to satisfy Abacus' obligations for services provided by ERCOT related to serving customer load; and (c) grant any further relief to which ERCOT may show itself to be entitled.

Respectfully submitted,



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ATTORNEYS FOR ELECTRIC
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CERTIFICATE OF SERVICE

I hereby certify that a copy of this document was served on all parties of record on March 31, 2011 by hand delivery, electronic mail, or first class U.S. mail.

