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| NPRR Number | [1027](http://www.ercot.com/mktrules/issues/NPRR1027) | NPRR Title | Removal of Grey-Boxed Language Related to NPRR702, Flexible Accounts, Payment of Invoices, and Disposition of Interest on Cash Collateral |
| Date of Decision | | October 13, 2020 | |
| Action | | Approved | |
| Timeline | | Normal | |
| Effective Date | | November 1, 2020 | |
| Priority and Rank Assigned | | Not applicable | |
| Nodal Protocol Sections Requiring Revision | | 2.1, Definitions  9.7.1, Invoice Recipient Payment to ERCOT for the Settlement Invoices  9.7.2, ERCOT Payment to Invoice Recipients for the Settlement Invoices  9.9.1, Invoice Recipient Payment to ERCOT for the CRR Auction  9.9.2, ERCOT Payment to Invoice Recipients for the CRR Auction  9.11.1, Invoice Recipient Payment to ERCOT for CRR Auction Revenue Distribution  9.11.2, ERCOT Payment to Invoice Recipients for CRR Auction Revenue Distribution  9.11.3, Partial Payments by Invoice Recipients for CRR Auction Revenue Distribution  9.13.1, Payment Process for the Initial CRR Balancing Account  9.13.2.1, Invoice Recipient Payment to ERCOT for Resettlement of the CRR Balancing Account  9.13.2.2, ERCOT Payment to Invoice Recipients for Resettlement of the CRR Balancing Account  9.13.2.3, Partial Payments by Invoice Recipients for Resettlement of CRR Balancing Account  9.19, Partial Payments by Invoice Recipients  9.19.2.1, Invoice Recipient Payment to ERCOT for Default Uplift  9.19.2.2, ERCOT Payment to Invoice Recipients for Default Uplift  9.20, Payment of Invoices by Invoice Recipients and ERCOT (delete)  9.21, Flexible Accounts (delete)  9.21.1, Options for Flexible Accounts (delete)  9.21.2, Rules for All Flexible Accounts (delete)  16.11.6, Payment Breach and Late Payments by Market Participants | |
| Related Documents Requiring Revision/Related Revision Requests | | None | |
| Revision Description | | This Nodal Protocol Revision Request (NPRR) removes grey-boxed language related to NPRR702, Flexible Accounts, Payment of Invoices, and Disposition of Interest on Cash Collateral, from the Protocols. | |
| Reason for Revision | | Addresses current operational issues.  Meets Strategic goals (tied to the [ERCOT Strategic Plan](http://www.ercot.com/content/wcm/lists/144926/ERCOT_Strategic_Plan_2019-2023.pdf) or directed by the ERCOT Board).  Market efficiencies or enhancements  Administrative  Regulatory requirements  Other: (explain)  *(please select all that apply)* | |
| Business Case | | On February 28, 2020, ERCOT hosted a workshop concerning market payment processes, and proposed a variety of improvements thereto. ERCOT has determined that elimination of prepay accounts (Flexible Accounts) will reduce financial and operational risk, streamline payment processes, remove confusion concerning funds held in collateral and prepay accounts, and allow funds to bear interest in the Cash Collateral account.  On June 1, 2020, ERCOT eliminated the ability for Counter-Parties to maintain funds in prepay accounts. Funds remaining in a Counter-Party’s prepay account as of June 1, 2020 were either returned to the Counter-Party upon request or transferred into the Counter-Party’s Cash Collateral account.  As a result of the elimination of prepay accounts, NPRR702 is no longer necessary. | |
| Credit Work Group Review | | ERCOT Credit Staff and the Credit Work Group (Credit WG) have reviewed NPRR1027 and do not believe that it requires changes to credit monitoring activity or the calculation of liability. | |
| PRS Decision | | On 7/16/20, PRS voted unanimously via roll call to recommend approval of NPRR1027 as submitted. All Market Segments were present for the vote.  On 8/13/20, PRS voted via roll call to endorse and forward to TAC the 7/16/20 PRS Report and the Impact Analysis for NPRR1027. There was one abstention from the Investor Owned Utility (IOU) (Lone Star Transmission) Market Segment. All Market Segments were present for the vote. | |
| Summary of PRS Discussion | | On 7/16/20, participants discussed NPRR1027’s estimated cost savings.  On 8/13/20, there was no discussion. | |
| TAC Decision | | On 8/26/20, TAC voted unanimously via roll call to recommend approval of NPRR1027 as recommended by PRS in the 8/13/20 PRS Report. All Market Segments were present for the vote. | |
| Summary of TAC Discussion | | On 8/26/20, there was no discussion. | |
| ERCOT Opinion | | ERCOT supports approval of NPRR1027. | |
| Board Decision | | On 10/13/20, the ERCOT Board approved NPRR1027 as recommended by TAC in the 8/26/20 TAC Report. | |

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| Sponsor | |
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| Company | ERCOT |
| Phone Number | 512-275-7444 / 512-275-7443 |
| Cell Number |  |
| Market Segment | Not Applicable |

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| **Market Rules Staff Contact** | |
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| **Comments Received** | |
| Comment Author | **Comment Summary** |
| None |  |

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| Market Rules Notes |

Please note that the following NPRR(s) also propose revisions to the following section(s):

* NPRR1036, Late Payment Enforcement Provisions
  + Section 16.11.6
* NPRR1039, Replace the Term MIS Public Area with ERCOT Website
  + Section 9.21.1

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| Proposed Protocol Language Revision |

## 2.1 DEFINITIONS







***9.7.1 Invoice Recipient Payment to ERCOT for the Settlement Invoices***

(1) The payment due date and time for the Settlement Invoice, with funds owed by an Invoice Recipient, is 1700 on the second Bank Business Day after the Settlement Invoice date, unless the second Bank Business Day is not a Business Day. If the second Bank Business Day is not a Business Day, the payment is due by 1700 on the next Bank Business Day after the second Bank Business Day that is also a Business Day.

(2) All Settlement Invoices due, with funds owed by an Invoice Recipient, must be paid to ERCOT in U.S. Dollars (USDs) by Electronic Funds Transfer (EFT) in immediately available or good funds (i.e., not subject to reversal) on or before the payment due date.



***9.7.2 ERCOT Payment to Invoice Recipients for the Settlement Invoices***

(1) Subject to the availability of funds as discussed in paragraph (2) below, ERCOT must pay Settlement Invoices with funds owed to an Invoice Recipient by 1700 on the next Bank Business Day after payments are due for that Settlement Invoice under Section 9.7.1, Invoice Recipient Payment to ERCOT for the Settlement Invoices, subject to ERCOT’s right to withhold payments for any reason set forth in these Protocols or as a matter of law, unless that next Bank Business Day is not a Business Day. If that next Bank Business Day is not a Business Day, the payment is due on the next Bank Business Day thereafter that is also a Business Day.

(2) ERCOT shall give irrevocable instructions to the ERCOT financial institution to remit to each Invoice Recipient for same day value the amounts determined by ERCOT to be available for payment to that Invoice Recipient under paragraph (d) of Section 9.19, Partial Payments by Invoice Recipients.



***9.9.1 Invoice Recipient Payment to ERCOT for the CRR Auction***

(1) The payment due date and time for the CRR Auction Invoice, with funds owed by an Invoice Recipient, is 1700 on the third Bank Business Day after the CRR Auction Invoice date, unless thirdBank Business Day is not a Business Day. If the third Bank Business Day is not a Business Day, the payment is due by 1700 on the next Bank Business Day after the third Bank Business Day that is also a Business Day.

(2) All CRR Auction Invoices due, with funds owed by an Invoice Recipient, must be paid to ERCOT in U.S. Dollars (USDs) by Electronic Funds Transfer (EFT) in immediately available or good funds (i.e., not subject to reversal) on or before the payment due date.

(3) All CRR Auction Invoices must be paid in full on the Invoice due date.



***9.9.2 ERCOT Payment to Invoice Recipients for the CRR Auction***

(1) CRR Auction Invoices with funds owed to an Invoice Recipient must be paid by ERCOT to the Invoice Recipient by 1700 on the next day that is both a Business Day and a Bank Business Day after the day that payments are due for that CRR Auction Invoice under Section 9.9.1, Invoice Recipient Payment to ERCOT for the CRR Auction, subject to ERCOT’s right to withhold payments under Section 16, Registration and Qualification of Market Participants or pursuant to the common law.

(2) ERCOT shall give irrevocable instructions to the ERCOT financial institution to remit, to each Invoice Recipient for same day value the amounts owed to each Invoice Recipient.



***9.11.1 Invoice Recipient Payment to ERCOT for CRR Auction Revenue Distribution***

(1) The payment due date and time for the CARD Invoice, with funds owed by an Invoice Recipient, is 1700 on the fifth Bank Business Day after the CARD Invoice date, unless the fifthBank Business Day is not a Business Day. If the fifth Bank Business Day is not a Business Day, the payment is due by 1700 on the next Bank Business Day after the fifth Bank Business Day that is also a Business Day.

(2) All CARD Invoices due, with funds owed by an Invoice Recipient, must be paid to ERCOT in U.S. Dollars (USDs) by Electronic Funds Transfer (EFT) in immediately available or good funds (i.e., not subject to reversal) on or before the payment due date.



***9.11.2 ERCOT Payment to Invoice Recipients for CRR Auction Revenue Distribution***

(1) CARD Invoices with funds owed to an Invoice Recipient must be paid by ERCOT to the Invoice Recipient by 1700 on the next day that is both a Business Day and a Bank Business Day after the day that payments are due for that CARD Invoice under Section 9.11.1, Invoice Recipient Payment to ERCOT for CRR Auction Revenue Distribution, subject to ERCOT’s right to withhold payments under Section 16 and pursuant to common law.

(2) ERCOT shall give irrevocable instructions to the ERCOT financial institution to remit, to each Invoice Recipient for same day value, the amounts owed to each Invoice Recipient.



***9.11.3 Partial Payments by Invoice Recipients for CRR Auction Revenue Distribution***

(1) If at least one Invoice Recipient owing funds does not pay its CARD Invoice in full (short-pay), ERCOT shall follow the procedure set forth below:

(a) ERCOT shall make every reasonable attempt to collect payment from each short-paying Invoice Recipient before any payments owed by ERCOT for that month’s distribution of CRR Auction Revenues is due to be paid to applicable Invoice Recipient(s).

(b) ERCOT shall draw on any available security pledged to ERCOT by each short-paying Invoice Recipient that did not pay the amount due under paragraph (a) above. If the amount of any such draw is greater than the amount of the short-paying Invoice Recipient’s cash collateral held in excess of that required to cover its Total Potential Exposure (TPE) (“Excess Collateral”), then a draw on available security for a short-paying Invoice Recipient shall be considered a Late Payment for purposes of Section 16.11.6, Payment Breach and Late Payments by Market Participants.



(c) ERCOT shall offset or recoup any amounts owed, or to be owed, by ERCOT to a short-paying Invoice Recipient against amounts not paid by that Invoice Recipient and ERCOT shall apply the amount offset or recouped to cover payment shortages by that Invoice Recipient.

(d) If, after taking the actions set forth in paragraphs (a), (b) and (c), above, ERCOT still does not have sufficient funds to pay all amounts that it owes to CARD Invoice Recipients in full, ERCOT shall reduce payments to all CARD Invoice Recipients owed monies from ERCOT. The reductions shall be based on a pro rata basis of monies owed to each CARD Invoice Recipient, to the extent necessary to clear ERCOT’s accounts on the payment due date to achieve revenue neutrality for ERCOT. ERCOT shall provide to all Market Participants payment details on all short payments and subsequent reimbursements of short pays. Details must include the identity of each short-paying Invoice Recipient and the dollar amount attributable to that Invoice Recipient, broken down by Invoice numbers. In addition, ERCOT shall provide the aggregate total of all amounts due to all Invoice Recipients before applying the amount not paid on the CARD Invoice.

***9.13.1 Payment Process for the Initial CRR Balancing Account***

(1) Payments for the Congestion Revenue Right (CRR) Balancing Account (CRRBA) are due on a Business Day and Bank Business Day basis in a one-day, one-step process, as detailed below.

(a) By 1700 on the first day that is both a Business Day and a Bank Business Day following the due date of the Settlement Invoice that includes the Real-Time Market (RTM) Initial Settlement Statement for the last day of the month and subject to ERCOT’s right to withhold payments under Section 16, Registration and Qualification of Market Participants, and pursuant to common law, ERCOT shall pay on a net credit shown on the CRRBA Invoice based on amounts due:

(i) To each short-paid CRR Owner a monthly refund from the positive balance in the CRRBA, with the amount paid to each CRR Owner as calculated in Section 7.9.3.4, Monthly Refunds to Short-Paid CRR Owners; and

(ii) To each Qualified Scheduling Entity (QSE), any remaining positive balance in the CRRBA, with the amount paid to each QSE as calculated in Section 7.9.3.5, CRR Balancing Account Closure.

(b) ERCOT shall give irrevocable instructions to the ERCOT financial institution to remit, to each CRR Owner or QSE, for same day value, the amounts determined by ERCOT to be available for payment.



**9.13.2.1 Invoice Recipient Payment to ERCOT** **for Resettlement of the CRR Balancing Account**

(1) The payment due date and time for the resettlement CRRBA Invoice, with funds owed by an Invoice Recipient, is 1700 on the fifth Bank Business Day after the resettlement CRRBA Invoice date, unless the fifthBank Business Day is not a Business Day. If the fifth Bank Business Day is not a Business Day, the payment is due by 1700 on the next Bank Business Day after the fifth Bank Business Day that is also a Business Day.

(2) All resettlement CRRBA Invoices due, with funds owed by an Invoice Recipient, must be paid to ERCOT in U.S. Dollars (USDs) by Electronic Funds Transfer (EFT) in immediately available or good funds (i.e., not subject to reversal) on or before the payment due date.



**9.13.2.2 ERCOT Payment to Invoice Recipients for Resettlement of the CRR Balancing Account**

(1) Resettlement CRRBA Invoices with funds owed to an Invoice Recipient must be paid by ERCOT to the Invoice Recipient by 1700 on the next day that is both a Business Day and a Bank Business Day after the day that payments are due for that resettlement CRRBA Invoice as described in paragraph (1) of Section 9.13.2.1, Invoice Recipient Payment to ERCOT for Resettlement of CRR Balancing Account. The Invoice Recipient payment to ERCOT for resettlement of the CRRBA is subject to ERCOT’s right to withhold payments under Section 16, Registration and Qualification of Market Participants.

(2) ERCOT shall give irrevocable instructions to the ERCOT financial institution to remit to each Invoice Recipient for same day value, the amounts owed to each Invoice Recipient.



**9.13.2.3 Partial Payments by Invoice Recipients for Resettlement of CRR Balancing Account**

(1) If at least one Invoice Recipient owing funds does not pay its resettlement CRRBA Invoice in full (short-pay), ERCOT shall follow the procedure set forth below:

(a) ERCOT shall make every reasonable attempt to collect payment from each short-paying Invoice Recipient before any payments owed by ERCOT for that month’s distribution of resettlement CRRBA revenues is due to be paid to applicable Invoice Recipient(s).

(b) ERCOT shall draw on any available security pledged to ERCOT by each short-paying Invoice Recipient that did not pay the amount due under paragraph (a) above. If the amount of any such draw is greater than the amount of the short-paying Invoice Recipient’s cash collateral held in excess of that required to cover its Total Potential Exposure (TPE) (“Excess Collateral”), then a draw on available security for a short-paying Invoice Recipient shall be considered a Late Payment for purposes of Section 16.11.6, Payment Breach and Late Payments by Market Participants.



(c) ERCOT shall offset or recoup any amounts owed, or to be owed, by ERCOT to a short-paying Invoice Recipient against amounts not paid by that Invoice Recipient and ERCOT shall apply the amount offset or recouped to cover payment shortages by that Invoice Recipient.

(d) If, after taking the actions set forth in paragraphs (a), (b) and (c) above, ERCOT still does not have sufficient funds to pay all amounts that it owes to resettlement CRRBA Invoice Recipients in full, ERCOT shall reduce payments to all resettlement CRRBA Invoice Recipients owed monies from ERCOT. The reductions shall be based on a pro rata basis of monies owed to each resettlement CRRBA Invoice Recipient, to the extent necessary to clear ERCOT’s accounts on the payment due date to achieve revenue neutrality for ERCOT. ERCOT shall provide to all Market Participants payment details on all short payments and subsequent reimbursements of short pays. Details must include the identity of each short-paying Invoice Recipient and the dollar amount attributable to that Invoice Recipient, broken down by Invoice numbers. In addition, ERCOT shall provide the aggregate total of all amounts due to all Invoice Recipients before applying the amount not paid on the resettlement CRRBA Invoice.

**9.19 Partial Payments by Invoice Recipients**

(1) If at least one Invoice Recipient owing funds does not pay its Settlement Invoice in full (short-pay), ERCOT shall follow the procedure set forth below:

(a) ERCOT shall make every reasonable attempt to collect payment from each short-paying Invoice Recipient prior to four hours preceding the close of the Bank Business Day Central Prevailing Time (CPT) on the day that payments by ERCOT are due to be paid to applicable Invoice Recipient(s).

(b) ERCOT shall draw on any available Financial Security pledged to ERCOT by each short-paying Invoice Recipient that did not pay the amount due under paragraph (a) above. If the amount of any such draw is greater than the amount of the short-paying Invoice Recipient’s cash collateral held in excess of that required to cover its Total Potential Exposure (TPE) (“Excess Collateral”), then a draw on available security for a short-paying Invoice Recipient shall be considered a Late Payment for purposes of Section 16.11.6, Payment Breach and Late Payments by Market Participants. ERCOT may, in its sole discretion, hold up to 5% of Financial Security of each short-paying Invoice Recipient and use those funds to pay subsequent Settlement Invoices as they become due. Any funds still held after the last True-Up Statements will be applied to unpaid Invoices in conjunction with the default uplift process outlined in Section 9.19.1, Default Uplift Invoices.



(c) ERCOT shall offset or recoup any amounts owed, or to be owed, by ERCOT to a short-paying Invoice Recipient against amounts not paid by that Invoice Recipient, and ERCOT shall apply the amount offset or recouped to cover short pays by that Invoice Recipient. ERCOT may, in its sole discretion, hold credit Invoices and use those funds to pay subsequent Settlement Invoices as they become due. Any funds still held after the last True-Up Statement will be offset or recouped against unpaid Invoices in conjunction with the default uplift process outlined in Section 9.19.1.

(d) If, after taking the actions set forth in paragraphs (a), (b) and (c) above, ERCOT still does not have sufficient funds to pay all amounts that it owes to Settlement Invoice Recipients in full, ERCOT shall deduct any applicable administrative fees as specified in Section 9.16, ERCOT System Administration and User Fees, payments for Reliability Must-Run (RMR) Services, and the Congestion Revenue Right (CRR) Balancing Account (CRRBA) from the amount received or collected and then reduce payments to all Settlement Invoice Recipients owed monies from ERCOT. The reductions must be based on a pro rata basis of monies owed to each Settlement Invoice Recipient, to the extent necessary to clear ERCOT’s accounts on the payment due date to achieve revenue neutrality for ERCOT. ERCOT shall provide to all Market Participants payment details on all short pays and subsequent reimbursements of short pays. Details must include the identity of each short-paying Invoice Recipient and the dollar amount attributable to that Invoice Recipient, broken down by Invoice numbers. In addition, ERCOT shall provide the aggregate total of all amounts due to all Invoice Recipients before applying the amount not paid on the Settlement Invoice.

(e) If sufficient funds continue to be unavailable for ERCOT to pay all amounts in full to short-paid Entities for that Settlement Invoice and the short-paying Entity is not complying with a payment plan designed to enable ERCOT to pay all amounts in full to short-paid Entities, ERCOT shall uplift short-paid amounts through the Default Uplift process described below in Section 9.19.1 and Section 9.19.2, Payment Process for Default Uplift Invoices.

(f) When ERCOT enters into a payment plan with a short-pay Invoice Recipient, ERCOT shall post to the Market Information System (MIS) Secure Area:

(i) The short-pay plan;

(ii) The schedule of quantifiable expected payments, updated if and when modifications are made to the payment schedule; and

(iii) Invoice dates to which the payments will be applied.

(g) To the extent ERCOT is able to collect past due funds owed by a short-paying Invoice Recipient before the default uplift process defined in Section 9.19.1, ERCOT shall allocate the collected funds to the earliest short-paid Invoice for that short-paying Invoice Recipient. ERCOT shall use its best efforts to distribute collected funds quarterly by the 15th Business Day following the end of a calendar quarter for a short paying Entity when the cumulative amount of undistributed funds held exceed $50,000 on a pro rata basis of monies owed. Subsequently collected funds that have not previously been distributed will be applied against unpaid Invoices in conjunction with the uplift process outlined in Section 9.19.1.

(h) To the extent ERCOT is able to collect past due funds owed by a short-paying Invoice Recipient, after the default uplift process defined in Section 9.19.1, ERCOT shall allocate the collected funds using the same allocation method as in the default uplift process. ERCOT shall use its best efforts to distribute subsequently collected funds quarterly by the 15th Business Day following the end of a calendar quarter for a short paying Entity when the cumulative amount of undistributed funds held exceed $50,000.

**9.19.2.1 Invoice Recipient Payment to ERCOT for Default Uplift**

(1) The payment due date and time for the Default Uplift Invoice with funds owed by an Invoice Recipient is 1700 on the fifth Bank Business Day after the Default Uplift Invoice date, unless fifthBank Business Day is not a Business Day. If the fifth Bank Business Day is not a Business Day, then the payment is due by 1700 on the next Bank Business Day after the fifth Bank Business Day that is also a Business Day.

(2) All Default Uplift Invoices due, with funds owed by an Invoice Recipient, must be paid to ERCOT in U.S. Dollars (USDs) by Electronic Funds Transfer (EFT) in immediately available or good funds (i.e., not subject to reversal) on or before the payment due date.



**9.19.2.2 ERCOT Payment to Invoice Recipients for Default Uplift**

(1) Subject to the availability of funds as discussed in paragraph (2) below, uplifted funds received from Default Uplift Invoices must be paid by ERCOT to short-paid Invoice Recipients by 1700 on the next Bank Business Day after payments are due for that Default Uplift Invoice under Section 9.19.2.1, Invoice Recipient Payment to ERCOT for Default Uplift, subject to ERCOT’s right to withhold payments under Section 16, Registration and Qualification of Market Participants, or pursuant to common law unless that next Bank Business Day is not a Business Day. If that next Bank Business Day is not a Business Day, the payment is due on the next Bank Business Day thereafter that is also a Business Day.

(2) ERCOT shall give irrevocable instructions to the ERCOT financial institution to remit to each short-paid Invoice Recipient for same day value the amounts determined by ERCOT to be available for payment to that short-paid Invoice Recipient under paragraph (1)(d) of Section 9.19, Partial Payments by Invoice Recipients.



(3) Any short payments of Default Uplift Invoices must be handled under Section 9.19, Partial Payments by Invoice Recipients.







***16.11.6 Payment Breach and Late Payments by Market Participants***

(1) It is the sole responsibility of each Market Participant to ensure that the full amounts due to ERCOT, or its designee, if applicable, by that Market Participant, is paid to ERCOT by close of the Bank Business Day on which it is due.

(2) If a Market Participant receives separate Invoices for Subordinate QSE or various CRR Account Holder activity, netting by the Market Participant of the amounts due to ERCOT with amounts due to the Market Participant among those Invoices for payment purposes is not permitted. The amounts due to ERCOT on the separate Invoices for each Market Participant must be paid by the close of the Bank Business Day on which it is due. If a Market Participant does not pay the full amount due to ERCOT for all such Invoices by the required time, ERCOT shall deduct any and all amounts due and unpaid from any amounts due to the same Market Participant before allocating short payments to other Market Participants.

(3) The failure of a Market Participant to pay when due any payment or Financial Security obligation owed to ERCOT or its designee, if applicable, under any agreement with ERCOT, is a Late Payment and constitutes an event of “Payment Breach.” For purposes of designating a Late Payment, ERCOT shall consider multiple Invoices unpaid when due on a single Business Day by a single Market Participant as constituting one Late Payment. Any Payment Breach by a Market Participant under any agreement with ERCOT is a Default under all other agreements between ERCOT and the Market Participant unless cured within one Bank Business Day after ERCOT delivers to the Market Participant written notice of the Payment Breach.

(4) Upon a Payment Breach, ERCOT shall immediately attempt to contact the Market Participant’s Authorized Representative and/or Credit Contact telephonically to inform the Market Participant of the Payment Breach, and demand payment of the past due amount. ERCOT shall also provide the Market Participant with written notice of the Payment Breach via email. Upon a Payment Breach, ERCOT may impose remedies for Payment Breach, as set forth in Section 16.11.6.1, ERCOT’s Remedies, in addition to any other rights or remedies ERCOT has under any agreement, these Protocols or at common law.

(5) If a Market Participant makes a payment or a partial payment as allowed by these Protocols or a collateral call to ERCOT after the due date and time, or if a short-paid Invoice is settled by a draw on available security greater than the amount of Market Participant’s cash collateral held in excess of that required to cover its Total Potential Exposure (TPE) (“Excess Collateral”), then that payment is a “Late Payment.” ERCOT may, in its sole discretion, and upon a Market Participant’s showing that the failure to pay when due was not within the control of the Market Participant, waive the Payment Breach as a Late Payment. ERCOT shall track the number of Late Payments received from each Market Participant in each rolling 12-month period for purposes of imposing the Late Payment remedies set forth in Section 16.11.6.2, ERCOT’s Remedies for Late Payments by a Market Participant.