

WILLKIE FARR & GALLAGHER LLP

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March 19, 2021

Via email

Bill Magness
President and Chief Executive Officer
Electric Reliability Council of Texas Inc.
7620 Metro Center Drive
Austin, Texas 78744

Re: Short Payments and Uplift Charges

Dear Mr. Magness:

We write on behalf of our client, Citigroup Energy Inc., to request that the Electric Reliability Council of Texas, Inc. (“ERCOT”) provide us immediately with the information listed in the numbered requests below related to the February 2021 Texas winter weather event. The Public Utility Commission of Texas (the “PUC”) has emphasized that complete and accurate information about this event must be publicly available. *Order Requiring ERCOT to Disclose Certain Generator Outage Information*, Project No. 51812, Public Utility Commission of Texas (March 12, 2021). For example, the PUC ordered that generator outage information be made public because the information is “critical to facilitating a public dialogue.” *Id.* As the PUC correctly recognized, “a complete picture can only be developed if all relevant information is included in the analysis of this event.” *Id.* The same is true with respect to ERCOT’s efforts to recover the amounts owed to it by defaulting market participants. All market participants that have been short payed by ERCOT and that may receive default uplift charges have the right to know what ERCOT is doing to recover the money that it is owed—Payment Breaches that, if not collected, ERCOT ultimately may seek to pass through to non-defaulting market participants like our client.

As you know, pursuant to Section 16.11.6(1) of the ERCOT Nodal Protocols, “[i]t is the sole responsibility of each Market Participant to ensure that the full amounts due to ERCOT . . . by that Market Participant, are paid to ERCOT by the applicable time and date specified in the Protocols.” Under Section 16.11.6(3), “[t]he failure of a Market Participant to pay when due any payment or Financial Security obligation owed to ERCOT . . . under any Agreement with ERCOT, is a Late Payment and constitutes an event of ‘Payment Breach.’” If not cured within one Business Day of written notice, a Payment Breach constitutes “a Default under all other agreements between ERCOT and the Market Participant.” *Id.* ERCOT has reported that, as of March 17, 2021, the Market Participants listed on **Appendix A** hereto have defaulted on their payment obligations to ERCOT and, consequently, to all performing Market Participants. As a

direct result of these Payment Breaches, ERCOT thus far has short paid performing Market Participants in the amount of approximately \$2.9+ billion.

Section 16.11.6.1(1) sets forth the remedies available to ERCOT “[i]n addition to all other remedies that ERCOT has under any agreement, common law or the[] Protocols.” On February 21, 2021, and in order “to protect the overall integrity of the financial electric market in the ERCOT region,” the PUCT issued an Order that authorized ERCOT “to use its sole discretion in taking actions under the ERCOT Nodal Protocols to resolve financial obligations between a market participant and ERCOT.” *Order Directing ERCOT to Take Action and Granting Exception to ERCOT Protocols*, Project No. 51812, Public Utility Commission of Texas (Feb. 21, 2021) (the “February 21 Order”). The February 21 Order expressly did “not relieve market participants of [their] payment or financial security obligations [to] ERCOT” and emphasized that they “remain liable for all charges associated with any activity related to its relationship with ERCOT and any expenses arising from the consequences of termination of [their] agreements with ERCOT or revocation of [their] rights to conduct activities with ERCOT.” *Id.* The February 21 Order requires ERCOT to “report to the [PUCT] twice each day, beginning February 22, 2021, of the actions it has taken in response to this Order” but as far as we have been able to determine, ERCOT’s reports have not been made public.

We request that ERCOT immediately provide us with the following information about the remedies that ERCOT is pursuing against each defaulting Market Participant listed on Appendix A:

1. Has ERCOT ceased making payments to each defaulting Market Participant (Section 16.11.6.1.1)? If yes, when did it do so with respect to each Market Participant?
2. Has ERCOT drawn upon, held or distributed to performing Market Participants any Financial Security or other funds in ERCOT’s possession of each defaulting Market Participant (16.11.6.1.2)? If so, please identify each such defaulting Market Participant and the amounts drawn upon, held or distributed.
3. Has ERCOT declared the entire unpaid net balance owed to ERCOT by each defaulting Market Participant immediately due and payable without further notice and demand for payment (16.11.6.1.3)? If so, please identify the Market Participants for which ERCOT has made such a declaration and, separately, the Market Participants for which ERCOT has the authority to do so, but has not done so.
4. Has ERCOT repossessed all CRRs held by each Market Participant with a Payment Breach or other Default (16.11.6.1.4)? If so, please identify the Market Participants for which ERCOT has done so and, separately, the market participants for which ERCOT has the authority to do so, but has not done so.
5. Has ERCOT revoked each breaching Market Participant’s rights to conduct activities under ERCOT’s Protocols and terminated the breaching Market

Participant's agreements with ERCOT (16.11.6.1.6)? If so, please identify the Market Participants for which ERCOT has done so and, separately, the market participants for which ERCOT has the authority to do so, but has not done so.

6. Has ERCOT instituted legal proceedings to recover the net balance owed to ERCOT by each defaulting Market Participant? If yes, please identify each such proceeding.

Please also advise us how ERCOT plans to determine the amount and time for payment of Default Uplift Invoices.

Please provide a complete response to our questions by the close of business on Wednesday, March 24, 2021. If we do not receive a response by that date, we will take appropriate action to ensure that CEI and other Market Participants receive the information requested herein.

Please contact us if you have any questions about our information requests.

Sincerely yours,



Paul J. Pantano, Jr.

Attachment

cc: Jeyant Tamby, Senior Vice President and Chief Administrative Officer, ERCOT
Betty Day, Vice President, Security & Compliance and Chief Compliance Officer, ERCOT
Chad V. Seeley, Vice President, General Counsel and Corporate Secretary, ERCOT
Connie Corona, Deputy Executive Director, ERCOT
Jeffrey Gollomp, Director and General Counsel, Citigroup Energy Inc.

APPENDIX A

From: [LISTS.ERCOT.COM] Notice_CRR <NOTICE_CRR@LISTS.ERCOT.COM> **On Behalf Of**
[LISTS.ERCOT.COM] ERCOT Client Services
Sent: Wednesday, March 17, 2021 6:03 PM
To: NOTICE_CRR@LISTS.ERCOT.COM
Subject: M-B031721-01 Payments by Short-Paying Invoice Recipients and Estimated Cumulative Aggregate Short Pay Amount

******* EXTERNAL email. Please be cautious and evaluate before you click on links, open attachments, or provide credentials. *******

NOTICE DATE: March 17, 2021

NOTICE TYPE: M-B031721-01 Settlements

SHORT DESCRIPTION: Payments by Short-Paying Invoice Recipients and Estimated Cumulative Aggregate Short Pay Amount

INTENDED AUDIENCE: QSE and CRRAH Settlement Personnel

DAYS AFFECTED: March 17, 2021

LONG DESCRIPTION: The following short-paying Invoice Recipients have, to date, paid amounts owed:

- City of Garland
- Heritage Power LLC
- Wolverine Trading LLC

The current estimated cumulative aggregate short pay amount is \$2,916,869,044.57, which does not include ERCOT's application of \$800 million in CRR Auction revenue funds. This amount reflects payments received for previously short-paid Invoices and the application of available Financial Security to short-paid balances, where available. The following table identifies outstanding short-paying QSEs/CRRAHs by Counter-Party and amount owed:

Counter-Party	\$ Total
BRAZOS ELECTRIC POWER CO OP INC (CP)	1,864,669,390.67
BULB US LLC (CP)	8,622,013.10
EAGLES VIEW PARTNERS LTD (CP)	1,152,199.09
ENERGY MONGER LLC (CP)	8,514,248.45
ENTRUST ENERGY INC (CP)	290,353,388.82
GBPOWER LLC (CP)	19,894,437.63
GRIDDY ENERGY LLC (CP)	29,094,871.79
GRIDPLUS TEXAS INC (CP)	1,225,692.50

Counter-Party	\$ Total
HANWHA ENERGY USA HOLDINGS CORP DBA 174 POWER GLOBAL (CP)	60,700,196.19
ILUMINAR ENERGY LLC (CP)	39,858,137.31
MQE LLC (CP)	13,082,623.20
POWER OF TEXAS HOLDINGS INC VIRTUAL (CP)	9.41
RAYBURN COUNTRY ELECTRIC COOPERATIVE INC (CP)	574,354,847.23
VOLT ELECTRICITY PROVIDER LP (CP)	5,346,989.18
Total	2,916,869,044.57

The following table identifies the outstanding short pay total by Invoice due date:

Invoice Due Date	\$ Total
2/22/2021	11,752,977.49
2/23/2021	16,601,147.27
2/25/2021	1,905,300,310.49
2/26/2021	304,044,799.44
3/1/2021	722,514.09
3/2/2021	26,539.27
3/3/2021	101,729.97
3/4/2021	159,173.02
3/5/2021	23,820,612.09
3/8/2021	351,381,057.84
3/9/2021	243,896,227.14
3/10/2021	53,343,421.05
3/11/2021	18,359.13
3/12/2021	10,238.26
3/15/2021	11,788.81
3/16/2021	5,678,149.21
Total	2,916,869,044.57

CONTACT: If you have any questions, please contact your ERCOT Account Manager. You may also call the general ERCOT Client Services phone number at (512) 248-3900 or contact ERCOT Client Services via email at ClientServices@ercot.com.

If you are receiving email from a public ERCOT distribution list that you no longer wish to receive, please follow this link in order to unsubscribe from this list: <http://lists.ercot.com>.