

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

In re:	§	
	§	CASE NO. 21-30725 (DRJ)
BRAZOS ELECTRIC POWER	§	
COOPERATIVE, INC.,	§	Chapter 11
	§	
Debtor. ¹	§	

**BRAZOS ELECTRIC POWER COOPERATIVE, INC.’S
REQUESTS FOR PRODUCTION TO ERCOT**

Pursuant to Rules 9014 and 7034 of the Federal Rules of Bankruptcy Procedure and Rule 34 of the Federal Rules of Civil Procedure, Brazos Electric Power Cooperative, Inc. (the “Debtor”) serves the following Requests for Production on the Electric Reliability Council of Texas, Inc. (“ERCOT”). The Debtor requests production of all responsive documents on or before **August 16, 2021 at 5:00 p.m. (Prevailing Central Time)** to Norton Rose Fulbright US LLP, Attn: Paul Trahan (paul.trahan@nortonrosefulbright.com).

¹ The Debtor in this chapter 11 case, along with the last four digits of its federal tax identification number is: Brazos Electric Power Cooperative, Inc. (4729). Additional information regarding this case may be obtained on the website of the Debtor’s claims and noticing agent at <http://cases.stretto.com/Brazos>. The Debtor’s address is 7616 Bagby Avenue, Waco, TX 76712.

Dated: July 29, 2021

Respectfully submitted,

EVERSHEDS SUTHERLAND (US) LLP

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Counsel for the Debtor and Debtor in Possession

CERTIFICATE OF SERVICE

I certify that on July 29, 2021, I served the foregoing via electronic mail to counsel for ERCOT as indicated below:

Kevin M. Lippman, Esq. Deborah M. Perry, Esq. Jamil N. Alibhai, Esq. MUNSCH HARDT KOPF & HARR, P.C. 500 N. Akard Street, Suite 3800 Dallas, TX 75201-1664	
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/s/ Nick Hendrix
Nick Hendrix

DEFINITIONS

1. “Brazos” or “Debtor” means the debtor in this Chapter 11 Case, including any of its affiliates, subsidiaries, divisions, predecessors or successors, as well as its past and present officers, directors, partners, employees, members, owners and beneficiaries, agents, representatives, attorneys, consultants, advisors, or other Persons acting or purporting to act under its control or on its behalf.
2. “Communication” means both the documentary and any non-documentary transmission of facts, data, or any other information, and all attachments and enclosures thereto, whether transmitted verbally, visually, in writing, electronically, or by any other means or media from one Person to another Person, and shall include, but not be limited to, the following: hard copy/paper documents (writings, notebooks, drawings, graphs, charts, presentations, photographs, calendars, diaries, etc.); email and attachments; instant messages (including MS Communicator); personal e-mail or instant messaging accounts (e.g., Gmail); text messages, and any other electronic files and records in whatever form they are maintained. The non-documentary transmission of information shall include but not be limited to oral statements, telephone conversations, recorded voicemail messages, negotiations, conferences or meetings, however formal or informal. The term also includes information relating to oral communications and written communications, whether or not any such information or writings were themselves transmitted by their author or any other persons.
3. “Coop Members” means (1) Mid-South Electric Cooperative Association; (2) Wise Electric Cooperative, Inc.; (3) Denton County Electric Cooperative, Inc., d/b/a CoServ Electric (4) United Electric Cooperative Services, Inc., d/b/a United Cooperative Services; (5) Comanche County Electric Cooperative Association; (6) Hamilton County Electric Cooperative Association; (7) J-A-C Electric Cooperative, Inc.; (8) South Plans Electric Cooperative, Inc.; (9) Heart of Texas Electric Cooperative, Inc.; (10) Cooke County Electric Cooperative Association, d/b/a PenTex Energy; (11) Navarro County Electric Cooperative, Inc.; (12) Bartlett Electric Cooperative, Inc.; (13) Fort Belknap Electric Cooperative, Inc.; (14) HILCO Electric Cooperative, Inc.; (15) Navasota Valley Electric Cooperative, Inc.; and (16) Tri-County Electric Cooperative, Inc.
4. “Document” is used in the broadest sense possible and equal in scope to the use of the term in Federal Rule of Civil Procedure 34(a), made applicable to this proceeding by Rules 7034 and 9014 of the Federal Rules of Bankruptcy Procedure. For the avoidance of doubt, “documents” shall include, but not be limited to, hard copy/paper documents (writings, notebooks, drawings, graphs, charts, presentations, photographs, calendars, diaries, etc.); email and attachments; instant messages (including MS Communicator); personal e-mail or instant messaging accounts (e.g., Gmail); text messages, electronic files and records, including word processing, spreadsheets, presentations, PDFs, calendars, audio (including voicemail), video, database or other application records; data contained on any Intranet or Internet web site(s) under your control, databases, collaboration platforms (e.g., SharePoint), Wikis, and any other accessible source of electronic information maintained by you.
5. “Including” means including, without limitation.

6. “Person” means natural persons, firms, associations, agencies, and/or other organizations and entities cognizable by law, including private corporations, public corporations, partnerships, unincorporated associations, offices, governments, governmental or political entities.
7. “PUCT” means the Public Utility Commission of Texas, as well as its past and present Commissioners, officers, directors, employees, and agents, representatives, attorneys, consultants, advisors, or other persons acting or purporting to act under its control or on its behalf.
8. “You” and “Your” or “ERCOT” means ERCOT, as well as its past and present officers, directors, partners, employees, members, owners, agents, representatives, attorneys, consultants, advisors, or other persons acting or purporting to act under its control or on its behalf.
9. “Winter Storm Uri” means the winter storm that impacted Texas between February 10-20, 2021.

INSTRUCTIONS

1. The use of the singular form of any word includes the plural and vice versa.
2. The use of the past tense of any verb includes the present tense and vice versa.
3. The connectives “and” and “or” shall be construed conjunctively or disjunctively as necessary to make each request for production inclusive rather than exclusive; to bring within the scope of the request all documents and communications and responses that otherwise might be construed to be outside the scope of the request.
4. If any documents or communications requested are withheld from production on a claim of privilege, please provide information reasonably sufficient to: (a) identify the category, nature, and general subject matter of the withheld document(s); and (b) enable the Committee and its counsel to assess and make a determination about the validity and propriety of any assertion of privilege.
5. Where documents or communications in the possession of a legal entity are requested, such request includes the entity’s employees, advisors, attorneys, representatives, agents, members, partners, officers, directors, independent contractors, successors and assigns, and all other persons acting for or on behalf of any one or more of them.
6. Please produce responsive documents as they have been kept in the usual course of business.
7. If there are no documents responsive to any particular request, please state so in writing.
8. Where only a portion of a document relates or refers to the subject of a request, the entire document is to be produced nevertheless, inclusive of any and all attachments, appendices, and exhibits.

9. If a responsive document was, but no longer is, within Your possession, custody or control, please state in detail: (i) the type of document and the author(s), sender(s), recipient(s) and copyee(s) of the document; (ii) a summary of the contents of the document; (iii) what disposition was made of such document; (iv) the date of such disposition; (v) whether the original or a copy thereof is within the possession, custody or control of any other person; and (vi) if the answer to (v) is affirmative, the identity of such person.
10. The requests herein are to be deemed continuing so as to require further and supplemental productions if You discover, receive, or generate additional responsive documents between the time of Your original production and the time of the final hearing held in this action.
11. Unless otherwise noted, the dates applicable to the document requests set forth below are **February 1, 2021 to the present** (the “Relevant Period”), and each request covers any and all documents created, dated, sent, received, in effect, or in Your possession at any time during the Relevant Period.

REQUESTS

1. All communications with the PUCT related to:
 - a. Real Time Market energy prices during Winter Storm Uri.
 - b. Ancillary Services prices during Winter Storm Uri.
 - c. ERCOT scarcity pricing signals prior to and during Winter Storm Uri.
 - d. Firm load shed during Winter Storm Uri.
 - e. The PUCT’s February 15, 2021 *Order Directing ERCOT to Take Action and Granting Exception to Commission Rules*, filed in Project No. 51617, Item No. 3. Include in your response all communications with the PUCT that occurred during Winter Storm Uri prior to the issuance of the referenced order.
 - f. The PUCT’s February 16, 2021 *Order Directing ERCOT to Take Action and Granting Exception to Commission Rules*, filed in Project No. 51617, Item No. 4. Include in your response all communications with the PUCT that occurred during Winter Storm Uri prior to the issuance of the referenced order.
 - g. Implementation of the PUCT’s February 15 & 16, 2021 Orders Directing ERCOT to Take Action and Granting Exception to Commission Rules filed in Project No. 51617, Item Nos. 3 and 4.
 - h. Available generation capacity on February 15, 2021 prior to the issuance of the PUCT *Order Directing ERCOT to Take Action and Granting Exception to Commission Rules* filed in Project No. 51617, Item No. 3.
 - i. Reliability Unit Commitment procedures and whether to implement same during Winter Storm Uri.
2. All communications with any ERCOT Market Participant, including with any person representing the interests of one or more Market Participants, regarding:
 - a. ERCOT scarcity pricing signals prior to and during Winter Storm Uri.

- b. Firm load shed during Winter Storm Uri.
 - c. The PUCT's February 15, 2021 *Order Directing ERCOT to Take Action and Granting Exception to Commission Rules*, filed in Project No. 51617, Item No. 3. Include in your response all communications that occurred during Winter Storm Uri prior to the issuance of the referenced order.
 - d. The PUCT's February 16, 2021 *Order Directing ERCOT to Take Action and Granting Exception to Commission Rules*, filed in Project No. 51617, Item No. 4. Include in your response all communications that occurred during Winter Storm Uri prior to the issuance of the referenced order.
 - e. Implementation of the PUCT's February 15 & 16, 2021 Orders Directing ERCOT to Take Action and Granting Exception to Commission Rules filed in Project No. 51617, Item Nos. 3 and 4.
 - f. Available generation capacity on February 15, 2021 prior to the issuance of the PUCT Order Directing ERCOT to Take Action and Granting Exception to Commission Rules filed in Project No. 51617, Item No. 3.
 - g. Reliability Unit Commitment procedures and whether to implement same during Winter Storm Uri.
3. All internal documents and communications during Winter Storm Uri regarding:
- a. Real Time Market energy prices.
 - b. Ancillary Services prices.
 - c. ERCOT scarcity pricing signals.
 - d. Firm load shed.
 - e. The PUCT's February 15, 2021 Order Directing ERCOT to Take Action and Granting Exception to Commission Rules, filed in Project No. 51617, Item No. 3. Include in your response all documents and communications that occurred during Winter Storm Uri prior to the issuance of the referenced order.
 - f. The PUCT's February 16, 2021 Order Directing ERCOT to Take Action and Granting Exception to Commission Rules, filed in Project No. 51617, Item No. 4. Include in your response all documents and communications that occurred during Winter Storm Uri prior to the issuance of the referenced order.
 - g. Implementation of the PUCT's February 15 & 16, 2021 Orders Directing ERCOT to Take Action and Granting Exception to Commission Rules filed in Project No. 51617, Item Nos. 3 and 4.
 - h. Available generation capacity on February 15, 2021 prior to the issuance of the PUCT Order Directing ERCOT to Take Action and Granting Exception to Commission Rules filed in Project No. 51617, Item No. 3.
 - i. Reliability Unit Commitment procedures and whether to implement same.
4. All communications with any person during Winter Storm Uri regarding ERCOT's scarcity pricing mechanism.

5. All communications between ERCOT and former PUCT Commissioner Deann Walker between February 10 and March 1, 2021 regarding energy prices within ERCOT during Winter Storm Uri.
6. All communications between ERCOT and former PUCT Commissioner Shelly Botkin between February 10 and March 8, 2021 regarding energy prices within ERCOT during Winter Storm Uri.
7. All communications between ERCOT and former PUCT Commissioner Arthur D'Andrea between February 10 and April 1, 2021 regarding energy prices within ERCOT during Winter Storm Uri.
8. Provide all documents and communications identifying any and all generation capacity that was available to provide service within ERCOT, but did not provide service within ERCOT, on February 15, 2021 prior to the issuance of the PUCT *Order Directing ERCOT to Take Action and Granting Exception to Commission Rules* filed in Project No. 51617, Item No. 3.
9. All communications with any person regarding the continued imposition of \$9,000/MWh prices on the real time market during the period after firm load shed ceased: approximately midnight on February 18, 2021 until approximately 9 a.m. on February 19, 2021.
10. All documents and communications related to any contract between ERCOT and Brazos.
11. All documents and communications related to the calculation of any invoice sent to Brazos.
12. All documents and communications related to the existence of a force majeure event during or following Winter Storm Uri.
13. All documents and communications concerning the value of electricity provided to Brazos.
14. All documents and communications supporting your contention that ERCOT's claim is entitled to 503(b)(9) treatment.
15. All documents and communications concerning any actual or contemplated deviation from the ERCOT Protocols.
16. All document and communications regarding any cybersecurity event within the ERCOT system during Winter Storm Uri, including any investigation regarding the existence and/or impact of a cybersecurity event on generation, transmission, or gas facilities.
17. All documents and communications with Potomac Economics related to energy prices during Winter Storm Uri.
18. All documents and communications regarding generation capacity across the ERCOT system during Winter Storm Uri.
19. All documents and communications regarding weather-related outages to generation across the ERCOT system during Uri.
20. All documents and communications regarding weather-related outages to transmission across the ERCOT system during Uri.

21. All documents and communications regarding weather-related interruptions to the delivery of natural gas across the ERCOT system during Winter Storm Uri.
22. All documents and communications regarding ERCOT's planning and preparation for Winter Storm Uri.
23. All documents and communications regarding repricing or resettlement of Winter Storm Uri related invoices.
24. All documents and communications regarding any actual or contemplated Uplift charges following Uri.
25. All documents and communications between February 1, 2021 and February 14, 2021 related to the availability of natural gas for gas-fired generation facilities located in ERCOT.