

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

In re:

BRAZOS ELECTRIC POWER
COOPERATIVE, INC.,

Debtor.¹

Chapter 11

Case No. 21-30725 (DRJ)

BRAZOS ELECTRIC POWER
COOPERATIVE, INC.,

Plaintiff,

Adv. Proc. No. 21-03863 (DRJ)

v.

ELECTRIC RELIABILITY COUNCIL OF
TEXAS,

Defendant.

**BRAZOS ELECTRIC POWER COOPERATIVE, INC.’S
SECOND SET OF 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. (“Brazos Electric” or the “Debtor”) serves the following Second Requests for Production on the Electric Reliability Council of Texas, Inc. (“ERCOT”). The Debtor requests production of all responsive documents on or before September 30, 2021 to the undersigned counsel.

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: August 31, 2021
Houston, Texas

Respectfully submitted,

EVERSHEDS SUTHERLAND (US) LLP

By: /s/ Lino Mendiola

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Counsel for the Debtor and Debtor in Possession

CERTIFICATE OF SERVICE

I certify that on August 31, 2021, I served the foregoing via electronic mail to counsel for ERCOT as indicated below:

Jamil N. Alibhai
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Deborah M. Perry
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Dallas, TX 75201-1664

/s/ Jim Silliman

Jim Silliman

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.
10. "ERCOT Claim" means Stretto Claim No. 403 from Claimant Electric Reliability Council of Texas, Inc. filed on June 14, 2021 in the as-filed amount of \$1,899,152,990.64 (and with the priority in the amount of \$1,877,591,506.10 and the general unsecured in amount of \$21,561,484.54).

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 copy(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.

SECOND SET OF REQUESTS FOR PRODUCTION TO ERCOT

1. All documents and communications related to ERCOT's efforts to mitigate the ERCOT Claim.
2. All documents and communications related to lessons learned from Winter Storm Uri, including but not limited to discussions on how ERCOT could have performed differently in the weeks leading up to and during Winter Storm Uri.
3. All documents and communications related to the status and availability of ERCOT's black start units leading up to, during, and after Winter Storm Uri.
4. All documents and communications related to the ERCOT Virtual Meeting held February 9, 2021.
5. All documents provided to and communications made to the press related to Winter Storm Uri.
6. All timelines reflecting generation outages in ERCOT from February 11, 2021 through February 20, 2021.
7. All documents and communications related to generation outages in ERCOT during from February 11, 2021 through February 20, 2021, including names and locations of such generation facilities and the duration of such outages.
8. All documents and communications related to generation outages in ERCOT during from February 11, 2021 through February 20, 2021, caused by disruption of fuel supply, including names and locations of such generation facilities and the duration of such outages.
9. All documents and communications related to Nodal Protocol Revision Request 1081.
10. All documents and communications related to the decision to issue market warnings or energy emergency alerts in February 2021.
11. All documents and communications related to any investigation by or at the direction of ERCOT about the cause(s) of the widespread generation outages during Winter Storm Uri, including (as applicable) any reconstructed timelines of events in the weeks leading up to, during, and after Winter Storm Uri.
12. All documents and communications related to ERCOT's preparation, finalization, and filing of emergency operations plans with the PUC under 16 Texas Admin. Code 25.53.