

**LONG DESCRIPTION:** Upon ERCOT’s determination of the disposition of an Alternative Dispute Resolution (ADR) proceeding, ERCOT Protocol Section 20.9 requires ERCOT to issue a Market Notice providing a brief description of the relevant facts, a list of the parties involved in the dispute, and ERCOT’s disposition of the proceeding and reasoning in support thereof.

Parties: ERCOT and DC Energy Texas, LLC (DC Energy)

Relevant Facts:

On December 10, 2019, the ERCOT Board of Directors (Board), pursuant to ERCOT Protocol Section 4.5.3(5), approved a price correction for the Day-Ahead Market (DAM) for Operating Days (ODs) September 16-23, 2019. Specifically, the Board: (1) determined that the Day-Ahead Locational Marginal Prices (LMPs), Day-Ahead Settlement Point Prices (SPPs) and Market Clearing Prices for Capacity (MCPCs) for ODs September 16-23, 2019, were significantly affected by a software error; and (2) authorized ERCOT staff to implement a DAM price correction for those ODs.<sup>1</sup> Protocol Section 4.5.3(5)(b) provides that the “ERCOT Board may review and change DAM LMPs, MCPCs, or Settlement Point Prices if ERCOT gave timely notice to Market Participants and the ERCOT Board finds that such prices are significantly affected by an error.”

Following the Board’s decision to correct prices, ERCOT resettled the DAM by applying the corrected LMPs, MCPCs, and SPPs to the quantities originally awarded in the DAM, and issued Resettlement Statements to impacted Market Participants. DC Energy received Resettlement Statements for Point-to-Point (PTP) Obligations it had been awarded in the DAM for ODs September 16-23, 2019. As a result of the DAM price correction, DC Energy was charged for certain PTP Obligations for ODs September 16-23, 2019, at prices that were above the “Not-to-Exceed” (NTE) bid prices submitted by DC Energy.

In its ADR request, DC Energy asserts that it would never have been awarded these PTP Obligations for ODs September 16-23, 2019, based on the corrected DAM prices. DC Energy cites Protocol Section 4.5.1(13), which provides that “PTP Obligation bids shall not be awarded where the DAM clearing price for the PTP Obligation is greater than the PTP Obligation bid price plus \$0.01/MW per hour.” DC Energy also cites ERCOT Protocol Section 4.4.6(1), which defines a PTP Obligation bid as “a bid that specifies the source and sink, a range of hours, and a maximum price that the bidder is willing to pay (‘Not-to-Exceed Price’),” and ERCOT Protocol Section 4.6.3, which defines the clearing price for a PTP Obligation as the difference between the Settlement Point Price of its source and sink points. DC Energy argues that ERCOT violated these Protocols by issuing Resettlement Statements that charged DC Energy for PTP Obligations in excess of the NTE bid prices.

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<sup>1</sup> For details regarding the process used by ERCOT to correct prices in the DAM, see the presentation *Day-Ahead Market Price Correction for Operating Days September 16-23, 2019*, as presented to the ERCOT Board on December 10, 2019, available at [http://www.ercot.com/content/wcm/key\\_documents/lists/161483/9.1\\_Day-Ahead\\_Market\\_Price\\_Correction\\_for\\_Operating\\_Days\\_September\\_16-23\\_2019.pdf](http://www.ercot.com/content/wcm/key_documents/lists/161483/9.1_Day-Ahead_Market_Price_Correction_for_Operating_Days_September_16-23_2019.pdf).

DC Energy claims it should be reimbursed \$269,283.22, which it states is the net charge it incurred for the PTP Obligations that were charged in excess of their NTE bid prices for ODs September 16-23, 2019, due to the price correction.

ERCOT's Disposition/Reasoning:

Pursuant to ERCOT Protocol Section 20.1(1), a Market Participant may seek relief through the ADR process by making a claim that "ERCOT has violated or misinterpreted any law," including an ERCOT Protocol. In this ADR proceeding, ERCOT has determined that the appropriate disposition is to deny DC Energy's request for relief because ERCOT did not violate or misinterpret the ERCOT Protocols.

Although DC Energy argues that ERCOT violated Protocol Section 4.5.1(13), that Protocol section does not apply here. Protocol Section 4.5.1(13) imposes a limitation on how PTP Obligations must be awarded in the DAM clearing process. For ODs September 16-23, 2019, the clearing prices for the PTP Obligations awarded to DC Energy during the DAM clearing process were below the NTE bid prices submitted by DC Energy, in conformance with Protocol Section 4.5.1(13).<sup>2</sup> Protocol Section 4.5.1(13) does not apply to events that occur *after* awards are made in the DAM clearing process, such as price corrections authorized by the ERCOT Board under Protocol Section 4.5.3(5). Therefore, while the DAM price correction did result in some previously-awarded PTP Obligations being charged to DC Energy at prices above the NTE bid price, that was not a violation of Protocol Section 4.5.1(13).

By its plain terms, Protocol Section 4.5.3(5) only authorizes the ERCOT Board to approve changes to LMPs, MCPCs, and SPPs when performing a DAM price correction—no authority is granted in the Protocols to change the quantities previously awarded in the DAM when performing a price correction.<sup>3</sup> The revision history of Protocol Section 4.5.3 reflects that it has always been made clear to stakeholders that a DAM price correction involves only the substitution of corrected *prices*, and that the entire DAM is not "rerun" and quantities are not re-awarded when a DAM price correction is performed.<sup>4</sup> In light of this, ERCOT acted in conformance with Protocol Section 4.5.3(5) when it implemented the DAM price correction for ODs September 16-23, 2019, by

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<sup>2</sup> For this reason, this matter is distinguishable from the *Resolution of ADR Proceedings between ERCOT and North Maple Energy LLC* ([http://www.ercot.com/services/comm/mkt\\_notices/archives/1495](http://www.ercot.com/services/comm/mkt_notices/archives/1495)). In that matter, ERCOT found that it was contrary to Protocols to award PTP Obligations above the NTE bid price *as part of the DAM clearing process*. Because no PTP Obligations were awarded above the NTE bid price as part of the DAM clearing process in this matter, ERCOT's resolution of the North Maple Energy LLC ADR does not control resolution of this dispute.

<sup>3</sup> The presentation to the Board in December 2019 made clear when discussing the impact of the price correction that "[q]uantities (awarded MWs) do not change; only prices." See Slide 5 of Item 9.1: Day-Ahead Market Price Correction for Operating Days September 16-23, 2019, at [http://www.ercot.com/content/wcm/key\\_documents\\_lists/161483/9.1\\_Day-Ahead\\_Market\\_Price\\_Correction\\_for\\_Operating\\_Days\\_September\\_16-23\\_2019.pdf](http://www.ercot.com/content/wcm/key_documents_lists/161483/9.1_Day-Ahead_Market_Price_Correction_for_Operating_Days_September_16-23_2019.pdf).

<sup>4</sup> See ERCOT Comments to NPRR 279, *Resolution of Alignment Item A144 - Clarify Posting of MCPC for DAM and SASM* (filed October 4, 2010) at 3 (explaining that in performing a DAM price correction the market is not "rerun" and that only "[p]rices will be substituted") available at [http://www.ercot.com/content/mktrules/issues/npr/276-300/279/keydocs/279NPRR-08\\_ERCOT\\_Comments\\_100410.doc](http://www.ercot.com/content/mktrules/issues/npr/276-300/279/keydocs/279NPRR-08_ERCOT_Comments_100410.doc).

issuing Resettlement Statements using the same quantities originally awarded and only substituting in corrected LMPs, MCPCs, and SPPs.

ERCOT cannot act beyond its authority in Protocol Section 4.5.3(5) by changing PTP Obligation awards quantities as part of the DAM price correction, even if the price correction results in a previously awarded PTP Obligation being resettled at a price above the NTE bid price. In order to reimburse DC Energy for the increased charges it incurred for its PTP Obligations as a result of the DAM price correction, ERCOT would have to uplift those costs to the market in order to maintain revenue neutrality. However, there is no language in the Protocols that would dictate who in the market should bear those costs. The absence of such an uplift mechanism in the Protocols further supports the conclusion that ERCOT properly implemented the DAM price correction for the relevant ODs under Protocol Section 4.5.3(5) by changing only prices and not award quantities.<sup>5</sup>

Because a DAM price correction involves only the correction of prices and not award quantities, other types of awarded DAM bids (such as an awarded energy bid) could also be resettled at prices above the awarded bid price when the DAM price correction is implemented. Given the nature of an awarded DAM energy bid, it is not functionally possible to change the quantity of such an award when performing a DAM price correction after the operative OD. ERCOT can find no basis in the Protocols for allowing PTP Obligation award quantities to be changed as part of a DAM price correction when other types of DAM awards cannot be given such treatment.

Finally, ERCOT notes that it has previously raised the issue of DAM price corrections causing price/award inconsistencies and has sponsored Protocol revisions to address this issue.<sup>6</sup> To date, however, stakeholders have yet to approve any such revisions.<sup>7</sup> If stakeholders wish to prohibit DAM price corrections that could result in inconsistencies between corrected prices and bid prices, that should be made clear through revisions to Protocol Section 4.5.3.

In conclusion, ERCOT did not violate any statute, rule, Protocol, Other Binding Document, or Agreement in implementing the DAM price correction for ODs September 16-23, 2019. Therefore, DC Energy's request for relief is denied.

This Market Notice serves to conclude the ADR proceedings between ERCOT and DC Energy.

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<sup>5</sup> For example, the Protocols include a methodology for uplift related to certain make-whole payments. *See, e.g.*, ERCOT Protocol Section 5.7.4.2, RUC Make-Whole Uplift Charge. No such mechanism exists here to address the necessary uplift charges that would be associated with awarding DC Energy the relief it seeks.

<sup>6</sup> *See* NPRR 807, *Day-Ahead Market Price Correction* (withdrawn June 6, 2018).

<sup>7</sup> A currently-pending NPRR, NPRR981, *Day-Ahead Market Price Correction Process*, does propose revisions to ERCOT Protocol Section 4.5.3 that, if approved, could alter the manner in which ERCOT performs DAM price corrections. Further, NPRR991, *Day-Ahead Market (DAM) Point-to-Point (PTP) Obligation Bid Clearing Price Clarification*, is also currently pending and proposes to add clarifying language to ERCOT Protocol Section 4.5.1(13).