

NOTICE DATE: January 27, 2023

NOTICE TYPE: M-A050720-01 Legal

SHORT DESCRIPTION: Resolution of ADR Proceedings between ERCOT and South Texas Electric Cooperative, Inc. (ADR No. 2021-STE-01)

INTENDED AUDIENCE: Market Participants

DAY AFFECTED: February 15, 2021

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 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 South Texas Electric Cooperative, Inc. (STEC).

Relevant Facts:

STEC is a Qualified Scheduling Entity (QSE) that represents Resource Entities with Load Resources. On February 15, 2021, four Non-Controllable Load Resources (NCLRs) represented by STEC were obligated to provide 21.2 megawatts (MW) of Responsive Reserve Service (RRS). The Load Resources received dispatch instructions to deploy at approximately 1:07 a.m. However, from the time the Load Resources were deployed until around 4:07 a.m., STEC's telemetry incorrectly showed that the RRS responsibility for the Load Resources was 0 MW. Once STEC realized the telemetry was incorrect, it updated the telemetered RRS responsibility to 21.2 MWs and informed ERCOT.

On March 12, 2021, the Public Utility Commission of Texas (PUCT) issued an order instructing ERCOT to review QSE settlements for Ancillary Service (A/S) responsibilities during operating days February 14, 2021 through February 19, 2021.¹ In response to the PUCT's order, ERCOT issued a Market Notice which described the methodology ERCOT would use to analyze the QSE A/S settlements and responsibilities.² The methodology involved ERCOT analyzing the A/S responsibilities attributed to each QSE in the Energy and Market Management System (EMMS) for that time period and comparing that data against the A/S responsibilities reflected in the QSE's telemetry. Due to STEC's incorrect telemetry, ERCOT identified a failed quantity and assessed a "failure to provide" charge to claw-back the amounts paid for RRS for the time period at issue.³ STEC argues that the charges are not applicable because it contends that data submitted in connection with this ADR demonstrates that the Load Resources remained off-line for the intervals at issue and STEC therefore fulfilled its RRS obligations despite the telemetry error.

¹ The PUCT order is available at this link: http://interchange.puc.texas.gov/Documents/51812_164_1116026.PDF

² The Market Notice is available at: [M-A033021-01 Implementation of PUCT order directing ERCOT to apply failure-to-provide Settlement treatment to QSEs that failed on Ancillary Service Supply Responsibilities](#)

³ The charge assessed to STEC was "RRFQAMT" which is defined as: "Responsive Reserve Failure Quantity Amount per QSE—The charge to QSE q for its total capacity associated with failures on its Ancillary Service Supply Responsibility for RRS, for the hour." See ERCOT Protocols § 6.7.3(1)(c).

STEC filed a settlement and billing dispute regarding the claw-back charges which ERCOT denied. STEC initiated this ADR to challenge the denial of its settlement and billing dispute and seeks relief in the amount of \$645,630.00.⁴

ERCOT's Disposition/Reasoning:

ERCOT has determined that the appropriate disposition of this ADR proceeding is to deny STEC's request for relief.

QSEs have an obligation to provide Real-Time telemetry to ERCOT.⁵ For example, a QSE representing a Resource Entity that has a Load Resource must provide telemetry for each Load Resource which includes: Load Resource net real power consumption (in MW); Low Power Consumption (LPC); Maximum Power Consumption (MPC); A/S Schedule (in MW) for each quantity of RRS and Non-Spin, which is equal to the A/S Resource Responsibility minus the amount of A/S deployment; A/S Resource Responsibility (in MW) for each quantity of RRS for all Load Resources; and the Resource Status.⁶ If deployed for RRS, within one minute following a deployment instruction, the QSE must update the telemetered Ancillary Service Schedule for RRS to reflect the deployment amount for the Load Resources.⁷

It is undisputed that STEC had an obligation to provide accurate telemetry and failed to do so for the time period at issue.⁸ However, STEC argues that ERCOT's decision to assess the claw-back charges at issue was incorrect and inconsistent with the PUCT order. The PUCT's order, dated March 21, 2021, provided as follows:

1. ERCOT must settle each qualified scheduling entity that failed on its ancillary service supply responsibility in accordance with ERCOT Nodal Protocol section 6.4.9.1.3, entitled Replacement of Ancillary Service Due to Failure to Provide, for a particular ancillary service for any hour of ERCOT's operating days February 14, 2021 through February 19, 2021.
2. This Order supersedes and replaces the order addressing ancillary services dated March 3, 2021.

In response to the PUCT's order, ERCOT conducted an analysis of the settlements relating to QSE A/S responsibilities in a manner that closely resembles the process ordinarily utilized for identifying failed quantities in Real-Time pursuant to ERCOT Protocols Section 6.4.9.1.3.⁹

⁴ Because ERCOT has determined that STEC's claims should be denied, this Market Notice does not analyze the method of calculating the alleged damages, but it should be noted that if damages were granted, any award would have to be reduced by the amount of Ancillary Service Imbalance Charges that would have been assessed for all hours during which the Load Resources were deployed for RRS.

⁵ See ERCOT Nodal Operating Guide § 7.3, Telemetry.

⁶ ERCOT Protocols at § 6.5.5.2(5)(a)-(m).

⁷ *Id.* at § 8.1.1.4.2(1)(a).

⁸ STEC provided meter data that it contends demonstrates that the Load Resources were fully deployed for the duration of the RRS obligation. ERCOT's position is that the meter data would not change its determination in this case and therefore ERCOT has not analyzed the accuracy of the meter data provided by STEC.

⁹ ERCOT Protocol § 6.4.9.1.3(1), in relevant part, provides: "A QSE is considered to have failed on its Ancillary Services Supply Responsibility when ERCOT determines, in its sole discretion, that some or all of the QSE's Resource-specific

Ordinarily, when an ERCOT control room operator identifies telemetry reflecting that a QSE's A/S responsibility is not being provided, the operator will mark the failed quantity in ERCOT's systems. This action causes the A/S responsibility to be effectively removed from EMMS and the QSE's A/S payment is clawed back in settlement. However, in many instances, the ERCOT control room operators did not complete this manual process as they were managing other priorities during Winter Storm Uri.¹⁰ As a result, STEC and other QSEs were not assessed failure to provide charges in their original settlements. ERCOT Protocols Section 6.4.9.1.3(1) provides that a QSE is considered to have failed on its A/S Supply Responsibility when ERCOT determines, in its sole discretion, that some or all of the QSE's Resource-specific A/S capacity will not be available in Real-Time. In response to the PUCT's order, ERCOT reviewed the A/S responsibilities attributed to each QSE in the EMMS and compared that data against the A/S responsibilities reflected in the QSE's telemetry, the same analysis that would ordinarily occur in Real-Time. If a QSE's telemetry did not identify the same A/S responsibility reflected in the EMMS, ERCOT assessed a claw-back charge. ERCOT finds that this claw-back analysis complied with the PUCT's order.

STEC argues ERCOT may rely on Premise-level interval meter data to confirm that the Load Resources provided the full amount of RRS on February 15, 2021, despite the telemetry error. In support of this argument, STEC in part notes that an Other Binding Document (OBD) titled "Requirements for Aggregate Load Resource Participation in the ERCOT Markets" demonstrates that "ERCOT must rely on meter data for validation of performance."¹¹ STEC cites the following excerpt from page 6 of the OBD: "ERCOT will use this Premise-level interval meter data both as the foundation of the telemetry validation process and for event performance measurement and verification." This language does not support STEC's claim because the OBD does not apply in this case. The OBD applies to Aggregate Load Resources (ALRs) and the STEC Load Resources at issue are not ALRs. Further, the only Ancillary Service that ALRs are permitted to provide is Non-Spinning Reserve (Non-Spin), not RRS.

STEC complains that ERCOT failed to accurately account for "electricity production and delivery" as required under the Protocols and the Public Utility Regulatory Act (PURA). ERCOT settled STEC in accordance with the Protocols and the telemetry submitted by STEC pursuant to its obligations. The Day-Ahead Market (DAM) was functioning properly – it was not suspended or restarted during the dates at issue.¹² Further, if STEC had telemetered the correct A/S values, then it would not have been assessed a claw-back charge. Accurate telemetry is a cornerstone principle to ensuring ERCOT's observability of the Texas power grid – especially during an Emergency Condition, as was the case during Winter Storm Uri. As a result, ERCOT does not find that it failed to properly account for the production or delivery of electricity as asserted by STEC.

Ancillary Service capacity will not be available in Real-Time." Section 6.4.9.1.3(3) further provides: "ERCOT shall charge each QSE that has failed according to paragraph (1) on its Ancillary Service Supply Responsibility for a particular Ancillary Service for a specific hour."

¹⁰ ERCOT attempted to automate this manual process for identifying failed quantities when it proposed Nodal Protocol Revision Request (NPRR) 947: Clarification to Ancillary Service Supply Responsibility Definition and Improvements to Determining and Charging for Ancillary Service Failed Quantities. However, the NPRR was withdrawn in August 2020 for various reasons including the system cost and the implementation of Real-Time co-optimization.

¹¹ The OBD is available on ERCOT's website at: <https://www.ercot.com/services/programs/load/laar>.

¹² See generally ERCOT Protocols § 25 (describing the procedures for Market Suspension and Restart).

STEC has not demonstrated that ERCOT violated any obligation under the ERCOT Protocols or other applicable law.¹³ As a result, the claims asserted by STEC are denied. This Market Notice serves to conclude the ADR proceedings between ERCOT and STEC.

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.

¹³ ERCOT Protocols Section 20.1(1) provides that the ADR procedure only applies to a “claim by a Market Participant that ERCOT has violated or misinterpreted any law, including any statute, rule, Protocol, Other Binding Document, or Agreement, where such violation or misinterpretation results in actual harm, or could result in imminent harm, to the Market Participant.”