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Representative Jim Pitts
DISTRICT 10 • ELLIS & HILL COUNTIES

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PUBLIC UTILITY COMMISSION
FILING CLERK

December 2, 2011

The Honorable Donna Nelson, Chairman
The Honorable Ken Anderson, Commissioner
The Honorable Rolando Pablos, Commissioner
Public Utility Commission of Texas
1701 North Congress
Post Office Box 13326
Austin, TX 78711-3326

Re: *Relating to Utilities Codes 39.107(g) and for allowing utilities to set a market price that hedges against the volatility of the real-time time pricing model in ERCOT without violating the rule.*

Dear Chairman Nelson and Commissioners of the PUCT,

I applaud the Commission's due diligence ensuring Texas continues to have one of the best energy markets in the country, and in today's climate I applaud your efforts to keep Texas as the number one place to do business.

However, I want to address some concerns related to pre-paid utility providers and the rules that require them to price their services at or below the price set by the Provider of Last Resort ["POLR"]. The POLR's rate is in turn based upon the market clearing price of energy, or MCPE. When these rules were first enacted in the 1990s, the clearing price - in practice - was high. However, tremendous growth of the wind industry in Texas, coupled with unusually mild weather (and thus decreased demand for power), has resulted in the previously unimagined scenario where on several occasions the MCPE was actually negative - that is, electric generators have been **paying** to put their power onto the grid. For example, this was noticed during the mild spring and summer of 2010, and the negative MCPE consequently resulted in POLR rates that were abnormally low as well.

In practice, pre-paid utilities must determine their competitive bid several weeks, months and sometimes up to a year in advance. Providers pre-buy power at a fixed rate to limit the risk of huge price swings, such as the February 2011 winter storm which caused a \$3,000 MWH cost for providers that did not pre-pay, as well as the August 2011 summer heat wave where the average MCPE price for electricity was nearly 23 cents per kilowatt hour. Buying power in advance benefits the market as whole, because it tends to limit volatility and allows the generators to forecast the necessary output and plan accordingly. However, one cannot lock in a "negative price" because no generator will commit to sell at a loss in advance. In short, in such instances as during the spring and summer of 2010 where the POLR is artificially depressed, it is practically impossible for a pre-paid provider to sell at the minimum POLR rate.

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One such company that has been affected by the negative MCPE is Apollo Power & Light, which is based in Dallas, Texas and serves several thousand postpaid, commercial and prepaid customers across the state of Texas. On occasion they have purchased power in advance, hedging their bets on the market clearing price and at a price above the POLR rate, only to see prices drop dramatically. When the price of power drops, so does the POLR rate, which could place providers, such as Apollo, in jeopardy and directly affect millions of Texans who must pre-buy power in today's current economic environment.

The Commission and Commission Staff are to be commended for their work, and I hope will look into how to not punish REP's for being prudent in purchasing electricity in advance and to correct the issue of POLR when the MCPE goes negative. The final result will have a favorable long term benefit for all Texans

Sincerely,

A handwritten signature in black ink, appearing to read "Jim Pitts". The signature is written in a cursive, flowing style.

State Representative Jim Pitts