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**BANKRUPTCY**

# Texas Co-op Brazos Keeps Control of Bankruptcy Fate, Fending Off Owners

A bankruptcy judge rejects some member-owners' opposition to the power company controlling its path out of bankruptcy



Brazos Electric Power Cooperative stayed in exclusive control of its bankruptcy proceedings, with a judge giving it more time to come up with a restructuring plan.

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By [Soma Biswas](#)

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A bankruptcy judge gave Brazos Electric Power Cooperative Inc. more time to formulate its own restructuring plan, ruling against two member-owner cooperatives that have criticized its focus on raising debt to cover the steep costs of a freak winter storm in Texas in February.

Tuesday's ruling by Judge David Jones of the U.S. Bankruptcy Court in Houston extends the deadline for Brazos to file a restructuring plan through next March and to solicit votes through May without the risk of a competing plan from creditors. Waco, Texas-based Brazos was the biggest Texas power company to fall victim to the winter freeze earlier this year, which knocked power plants offline and left millions of customers without electricity for days.

Brazos racked up roughly \$1.9 billion in charges from the state's grid operator, the Electricity Reliability Council of Texas, during the winter storm and another roughly \$180 million buying natural gas.

Brazos has challenged the invoices from Ercot in bankruptcy court, a continuing dispute at the heart of the bankruptcy case, Brazos lawyer Louis Strubeck said during Tuesday's court hearing.

"The Ercot claim is the primary gatekeeping issue here," Mr. Strubeck said.

Mr. Strubeck acknowledged the Ercot charges likely won't be resolved by the March deadline because any decision reached in bankruptcy court is likely to be appealed by the losing party. A trial over Brazos's lawsuit fighting the Ercot charges is scheduled in bankruptcy court in February. He said Brazos is considering several options to get out of bankruptcy, and can formulate an exit plan even without finality on how much must be paid to Ercot.

The grid operator has said its claim should be allowed in full and given administrative priority, entitling it to be paid ahead of other creditors, which Brazos disputes.

The two largest electric cooperatives that collectively own Brazos took issue with its remaining in exclusive control of its exit strategy. Denton County Electric Cooperative Inc., or CoServ, and the Tri-County Electric Cooperative Inc. said in court papers that raising debt to pay for the storm costs shouldn't be the only option on the table. They have said the co-op should explore selling off its power generation assets instead.

Lawyers for Denton and Tri-County criticized Brazos for picking JPMorgan Chase & Co. as an investment banker for a single purpose—to raise debt financing—rather than also using the banker to explore asset sales.

“Tri-County's CEO says there should be multiple paths running in parallel, said Abid Qureshi, a lawyer for Tri-County. “All we asked for is that [Brazos] hire bankers and be ready to go. But none of that work has been done.”

Brazos's lawyer countered the co-op is doing work on different restructuring options, rather than simply waiting for the outcome of the litigation against Ercot.

“This isn't where we wait to see what the ruling is,” Mr. Strubeck said. “We have a number of options we're considering.”

During the extreme winter storm of last February the Public Utility Commission of Texas had raised prices to the \$9,000 maximum, hoping to spur generation, but many generators were offline due to technical problems and couldn't produce power at any price.

Brazos has the option to pursue a sale of securitization debt to cover at least some of the sum owed to Ercot. State legislation enacted over the summer encourages co-ops to borrow to cover their storm costs and empowers Ercot to kick them out of the electricity market if they don't pay.

Judge Jones asked Brazos and its owners on Tuesday to take a more amicable approach to their disagreement, noting that the fights among them could land some of the member co-ops in bankruptcy themselves.

“Co-ops are fragile things...the volume is a little higher than it ought to be,” Judge Jones said. “I'd hate to see a series of not one, but two, three, four or five liquidations. Then I'd consider it a huge failure.”

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