



**STATEMENT OF POSITION ON ANTITRUST ISSUES**  
**FOR MEMBERS OF ERCOT COMMITTEES, SUBCOMMITTEES AND**  
**WORKING GROUPS**

It is ERCOT's policy and expectation that all persons participating in ERCOT activities (including all ERCOT meetings, committee meetings, conference calls, email communications and informal discussions) comply with the antitrust laws. Antitrust laws are intended to promote competition in markets, and violations of these laws can result in severe criminal penalties and civil liabilities for individuals and their companies.

As discussed in a memorandum provided by ERCOT's outside counsel,<sup>1</sup> the judicially recognized state action exemption is likely to protect ERCOT stakeholders from antitrust liability with respect to their participation in the development of ERCOT Protocols and other standards so long as approved standards fall within the scope of ERCOT's authority under the Public Utility Regulatory Act, Public Utility Commission rules, and applicable federal laws, including NERC Reliability Standards. Among other things, these laws authorize ERCOT to ensure the reliability and adequacy of the ERCOT system and to establish and enforce requirements for the operation and oversight of the markets for the production and sale of electricity. Proposals that pursue these objectives should raise no antitrust concern. The fact that one proposal or another may incidentally benefit one or more entities at the expense of others is not itself expected to raise an antitrust concern as long as the proposal falls within the scope of ERCOT's legal authority.

Stakeholder advocacy activities in ERCOT committees, subcommittees, and working groups should also be protected under the *Noerr* exemption from antitrust liability, which recognizes a private party's right to petition for changes to laws.

If you have any questions about this statement of position, please contact the ERCOT Legal Department.

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***DISCLAIMER***

***This document is not intended as legal advice for you or your company. If you need legal advice, you should consult with your attorney.***

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<sup>1</sup> See Memorandum of September 25, 2014 from Steve Baron, Baron Consulting & Legal Services to Chad V. Seely and Nathan Bigbee re Antitrust laws' applicability to the Electric Reliability Council of Texas, Inc. This memorandum is available at <http://www.ercot.com/about/governance/index.html>.