



MEMO

Date: October 10, 2006
To: ERCOT Board of Directors
From: Joyce Manske
Subject: 401(k) Match and FNEC

Issue for the ERCOT Board of Directors

ERCOT Board of Director Meeting Date: October 17, 2006

Agenda Item No.: 10b

Issue:

ERCOT needs to have the Board confirm and approve, by board resolution, the amount of 401(k) match and fixed non-elective contribution (FNEC) by ERCOT to the retirement Plan.

Background/History:

When ERCOT merged the 401(k) and Money Purchase Plans together on April 1, 2006 (“Plan”), ERCOT elected to require a board resolution any time the employer 401(k) match or the fixed non-elective contribution (FNEC) would be changed. Because, at the time ERCOT elected this option, there were not changes to the contribution or match amounts from the prior plan adoption agreement, no specific board resolution was done on contribution levels when the board approved the merger of the plans. However the Plan provider and counsel have recommended that we obtain a clarifying resolution confirming and approving the amount of the 401(k) match and FNEC. Pursuant to the Electric Reliability Council of Texas 401(k) Savings Plan, the ERCOT employer matching contribution is 75% of the employee’s contribution up to 6% of the employee salary (Section 1.10(a)(2), and the fixed non-elective contribution is 10% of an employee’s salary (Section 1.11(a)(1)).

Key Factors Influencing Issue:

Fidelity Investments (the Plan provider) and ERCOT counsel have recommended that we obtain a board resolution, effective April 1, 2006, confirming and approving the match and FNEC.

Alternatives:

Formally approve the existing employer match and FNEC as of April 1, 2006.

Conclusion/Recommendation:

Approve the current ERCOT 401(k) match of 75% of an employee’s contribution up to 6% of the employee’s salary and the current FNEC of 10% of an employee’s salary as of April 1, 2006.



MEMO

ELECTRIC RELIABILITY COUNCIL OF TEXAS, INC. **BOARD OF DIRECTORS RESOLUTION**

WHEREAS, in accordance with Section 1.10(a)(2) of the Electric Reliability Council of Texas 401(k) Savings Plan Adoption Agreement, effective April 1, 2006, the employer matching contribution equals 75% of an employee's election of up to 6% of the employee's salary; and

WHEREAS, in accordance with Section 1.11(a)(1) of the Electric Reliability Council of Texas 401(k) Savings Plan Adoption Agreement, effective April 1, 2006, the fixed non-elective contribution (FNEC) by ERCOT equals 10% of salary; and

WHEREAS, the ERCOT Board of Directors deems it desirable and in the best interests of ERCOT to maintain this current level of match and FNEC.

After full discussion and due consideration thereof, it was duly:

RESOLVED, that the ERCOT Human Resources Department is authorized and instructed, as of April 1, 2006 to maintain these contribution levels, in accordance with the provisions of the Electric Reliability Council of Texas 401(k) Plan Adoption Agreement unless and until directed by the ERCOT Board of Directors.

James Thorne
General Counsel and Corporate Secretary