

Board Action Report

PRR Number	753	PRR Title	PRR Appeals Process	
Timeline	Normal	Action	Tabled	
Date of Decision		August 19, 2008		
Protocol Section Requiring Revision		21.4.11, Appeal of Decision		
Proposed Effective Date		October 1, 2008		
Priority and Rank Assigned		Not applicable.		
Revision Description		This Protocol Revision Request (PRR) provides for a more structured process for parties to appeal the decisions pertaining to PRRs made by the Protocol Revision Subcommittee (PRS) and the Technical Advisory Committee (TAC). This proposal also provides timelines for appealing PRS and TAC decisions and makes accommodating provisions for PRRs on an Urgent timeline.		
Overall Market Benefit		A structured and transparent appeals process creates predictability for all parties and ensures due process.		
Overall Market Impact		None		
Consumer Impact		None		
Credit Impacts		ERCOT Credit Staff and the Credit Work Group (Credit WG) have reviewed PRR753 and do not believe that it requires changes to credit monitoring activity or the calculation of liability.		
Procedural History		<ul style="list-style-type: none">➤ PRR753 and its associated Impact Analysis were posted on 2/4/08.➤ On 3/20/08, PRS considered PRR753.➤ On 4/18/08, PRS reviewed the Impact Analysis and the PRS Recommendation Report.➤ On 5/8/08, TAC considered PRR753.➤ On 6/17/08, the ERCOT Board considered PRR753.➤ On 7/17/07, PRS again considered PRR753.➤ On 8/7/08, TAC again considered PRR753.➤ On 8/19/08, the ERCOT Board again considered PRR753.		
PRS Decision		On 3/20/08, PRS voted to recommend approval of PRR753 as revised by PRS. The motion passed with one abstention from the Independent Generator Market Segment. All Market Segments were present for the vote.		

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	<p>On 4/18/08, PRS unanimously voted to endorse the PRS Recommendation Report and forward the document to TAC. Then PRS unanimously voted to endorse the Impact Analysis and forward the document to TAC. All Market Segments were present for the votes.</p> <p>On 7/17/08, PRS voted to recommend approval of the amendments to PRR753 to address the ERCOT Board concerns. The motion passed unanimously with all Market Segments present.</p>
Summary of PRS Discussion	<p>On 3/20/08, participants inquired whether the proposed subsection will apply to non-PRR related actions by subcommittees, TAC and the ERCOT Board and where an appeal process for non-PRR related appeals should properly reside. PRS noted that this is the subject of on-going discussion with the ERCOT Board. Participants also discussed the extent to which materials developed during an appeal are to be made available to the Public Utility Commission of Texas (PUCT) and whether ERCOT should be obligated to submit these records to the PUCT. ERCOT Legal Staff responded that there are already procedures in place for discovery and developing a record at the PUCT and that the PUCT Procedural Rules trump the Protocols.</p> <p>There was no discussion preceding the PRS votes on 4/18/08.</p> <p>On 7/17/08, PRS reviewed suggested revisions to address the first three ERCOT Board directives (see ERCOT Board Decision below). PRS agreed that the language developed to provide more structure to the processing of appeals on an expedited timeline would also address the ERCOT Board concerns regarding timing issues (the fourth issue). No party raised any additional issues.</p>
TAC Decision	<p>On 5/8/08, TAC voted to recommend approval of PRR753. There were eight opposing votes from the Consumer (4) and Independent Retail Electric Provider (IREP) (4) Market Segments. All Market Segments were present for the vote.</p> <p>On 8/7/08, TAC unanimously voted to recommend approval of PRR753 as revised by TAC. All Market Segments were present for the vote.</p>
Summary of TAC Discussion	<p>On 5/8/08, clarification was requested that the appeals process could be used by the “end-use Customer.” Concerns were raised that off-line conversations with ERCOT Board members regarding pending appeals were not captured in the Protocols. It was suggested that language be added to make the proposed appeals process the “only” process in which to communicate with ERCOT Board members</p>

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	<p>during a pending appeal. Some Market Participants were not comfortable making this change, explaining that the open communication with ERCOT Board members was necessary for education and information purposes.</p> <p>On 8/7/08, revisions were made to clarify that certain time frames were Business Days instead of calendar days. Language was revised to provide the ERCOT Board with the discretion to be able to consider information that was not submitted in a timely manner. A reference to the "Public Utility Commission" was made more specific.</p>
Board Decision	<p>On 6/17/08, the ERCOT Board remanded PRR753 to TAC with the directive to resolve the following four issues:</p> <ul style="list-style-type: none"> • Correct the cross-reference in Section 21.4.11.2, Appeal of TAC Action. • Add a limitation on the distribution of materials that are not timely submitted according to this Section to paragraph (f) of Section 21.4.11.2.1, Appeal of TAC Action – Normal Timeline. • Remove unfettered access to an expedited appeal process from paragraph (a) of Section 21.4.11.2.2, Appeal of TAC Action – Expedited Timeline, or develop criteria and a process to determine eligibility for an expedited appeals process. • Review and synchronize the potential timing issues identified during the ERCOT Board discussion, including potential manipulation of the schedule. <p>TAC may address any additional issues it deems appropriate.</p> <p>On 8/19/08, the ERCOT Board tabled PRR753.</p>

ERCOT/Market Segment Impacts and Benefits

Assumptions	1		
	2		
	3		
	4		
Market Cost		Impact Area	Monetary Impact
	1	<i>No costs to Market Participants are anticipated.</i>	<i>No costs to Market Participants are anticipated.</i>
	2		
	3		
Market	4		
		Impact Area	Monetary Impact

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Benefit	1	<i>No quantifiable impacts are anticipated.</i>	<i>No quantifiable monetary impacts are anticipated.</i>
	2		
	3		
	4		
Additional Qualitative Information	1	<i>Structured and transparent processes create predictability and benefit all Market Participants.</i>	
	2		
	3		
	4		
Other Comments	1		
	2		
	3		
	4		

Comments Received	
Comment Author	Comment Summary
None	

Original Sponsor	
Name	Andrew Gallo
Company	ERCOT
Market Segment	n/a

Proposed Protocol Language Revision

21.4.11 Appeal of Decision

The following processes are to be used to appeal a decision by either PRS or TAC related to a PRR decision. In either case, this is the method by which Market Participants or other interested parties may communicate issues and/or concerns related to the decision pertaining to a PRR that has been appealed by another party. The documentation submitted in these processes may be used by any party in a subsequent appeal to the PUCT.

21.4.11.1 Appeal of PRS Action

If PRS rejects the PRR, any ERCOT Member, Market Participant, ~~the~~ PUCT Staff or ERCOT Staff may appeal directly to the TAC. Such appeal to the TAC must be submitted to ERCOT's General Counsel and the TAC Chair within ten (10) Business Days after the date of the relevant ~~PRS action decision~~. ERCOT shall reject a Appeals made after ~~that~~ is time ~~shall be rejected~~. ERCOT shall post the appeal on the ERCOT web page dedicated to the TAC and the specific PRR within three (3) Business Days of receiving the appeal. If the appeal is submitted to ERCOT at least eleven (11) days before the next regularly scheduled TAC meeting, ERCOT

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shall Appeals to the TAC shall be posted on the MIS within three (3) Business Days and placed on the appeal on the agenda or for the next available regularly scheduled TAC meeting. If the appeal is submitted to ERCOT less than eleven (11) days before the next regularly scheduled TAC meeting, provided that the appeal is provided to ERCOT at least eleven (11) days in advance of the TAC meeting; otherwise, the TAC will hear the appeal will be heard by the TAC at the its next nextsubsequent regularly scheduled TAC meeting.

21.4.11.2 Appeal of TAC Action

- (1) If TAC rejects the PRR, aAny ERCOT Member, Market Participant, the PUCT Staff or ERCOT Staff may appeal directly to the ERCOT ERCOT Board any TAC the action of the TAC regarding a PRR. Upon appeal of a TAC action on a PRR, the TAC Chair shall designate a representative ("TAC Advocate") to support the TAC action. The TAC Advocate shall coordinate with any ERCOT Member, Market Participant, PUCT Staff or ERCOT Staff supporting the TAC action, as necessary, to provide relevant information to the ERCOT Board. At its discretion, the ERCOT Board may decline to will not consider any data, information or arguments not included in a timely-submitted position statement as described in item (5e) of Section -21.4.11.2.1, Appeal of TAC Action – Normal Timeline.
- (2) The ERCOT Board Chair shall determine the total time designated on the ERCOT Board agenda for the appeal with time evenly allocated between those appealing and advocating the TAC action. Questions from ERCOT Board members shall not diminish a party's time allocation. The ERCOT Board shall also provide notice of other ERCOT Board? meetings where the appeal may be discussed.

21.4.11.2.1 Appeal of TAC Action – Normal Timeline

An appeal submitted to ERCOT more than eleven (11) days before the next regularly scheduled ERCOT Board meeting shall be considered on the following timeline (unless the appealing party requests expedited treatment of an appeal as described in 21.4.11.2.2, Appeal of TAC Action – Expedited Timeline:

- (a) The Such appeal of the TAC action to the ERCOT Board must be submitted to ERCOT's General Counsel and the TAC Chair within ten (10) Business Days after the date of the relevant TACdecision action. ERCOT shall reject aAppeals made after thatis time shall be rejected.
- (b) Within two (2) Business D4 days of receiving notice of an appeal, the TAC Chair shall appoint the TAC Advocate and provide to ERCOT's General Counsel the TAC Advocate's name and contact information.
- (c) Within three (3) Business Days of receiving notice of an appeal of a TAC action, ERCOT shall post the appeal on the ERCOT web page dedicated to the ERCOT Board and the specific PRR, and shall provide Notice of the appeal to the TAC.

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- (d) ERCOT shall, within two (2) Business Days of the date on which the TAC Chair supplies the TAC Advocate's name and contact information to ERCOT's General Counsel:
 - (i) Post on its web page dedicated to the ERCOT Board, the name and contact information of the TAC Advocate, and
 - (ii) Provide that information to the TAC.
- (e) No less than twelve (12) days before the scheduled date of the ERCOT Board meeting in which the appeal will be heard, the appealing party, the TAC Advocate and any other interested party shall provide to ERCOT's General Counsel a position statement, including any supporting data, ("Position Statement") for distribution to the ERCOT Board.
- (6f) ERCOT will distribute all timely submitted Position Statements that are timely submitted pursuant paragraph (e) to the ERCOT Board in accordance with ERCOT's procedures for providing meeting materials to ERCOT Board members. Appeals to the ERCOT Board shall be posted on the MIS within three (3) Business Days and placed on the agenda of the next available regularly scheduled ERCOT Board meeting, provided that the appeal is provided to the ERCOT General Counsel at least eleven (11) days in advance of the Board meeting; otherwise the appeal will be heard by the Board at the next regularly scheduled Board meeting

21.4.11.2.2 Appeal of TAC Action – Expedited Timeline

- (1) If an appeal is submitted to ERCOT eleven (11) or fewer days before the next regularly scheduled ERCOT Board meeting, the ERCOT Board will consider the appeal at its next subsequent, regularly scheduled meeting and the timelines set forth above in Section 21.4.11.2.1 Appeal of TAC Action – Normal Timeline, shall apply, unless the appeal meets the criteria set forth in item (2).:
- (2) Appeals that meet either one of the following criteria shall be processed on an expedited basis:
 - (a) The appealing party requests an expedited appeal; or
 - (b) The PRR has Urgent status as defined in Section 21.5, Urgent Requests; or
 - (b) A Commissioner of The Public Utility Commission or the ERCOT Board Chair requests an expedited timeline for the appeal; or
 - (c) A request for an expedited timeline for the appeal is granted by the ERCOT Board Chair or Vice-Chair due to the nature of the appeal subject.
- (3) For an expedited appeal, the following timeline shall apply:

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- (a) The appeal of a TAC action to the **ERCOT** Board must be submitted to ERCOT's General Counsel and the TAC Chair by 3 PM Central Prevailing Time ~~Noon~~ of the next Business Day after the date of the relevant TAC action. ERCOT shall place appeals made after that time on a "normal" timeline as set forth in Section 21.4.11.2.1 Appeal of TAC Action – Normal Timeline^{above}.
- (b) The TAC Chair shall designate a TAC Advocate and provide to ERCOT's General Counsel the TAC Advocate's name and contact information by 5:00 P.M. Central Prevailing Time of the next Business Day after the **Notice of the appeal** date of the relevant TAC action.
- (c) ERCOT shall post on its web page dedicated to the **ERCOT** Board the name and contact information of the TAC Advocate and shall provide that information to the TAC within one (1) Business Day of the date on which the TAC Chair supplies to ERCOT's General Counsel the TAC Advocate's name and contact information.
- (d) Within one (1) Business Day of receiving notice of an appeal of a TAC action, ERCOT shall post the appeal on the ERCOT web page dedicated to the **ERCOT** Board and the specific PRR, and provide Notice of the appeal to the TAC.
- (e) No less than five (5) days before the scheduled date for the **ERCOT** Board meeting where the appeal will be heard, the appealing party, the TAC Advocate and any other interested party shall provide to ERCOT's General Counsel any Position Statement, including any supporting data, for distribution to the **ERCOT** Board.
- (f) ERCOT will distribute all timely-submitted Position Statements to the **ERCOT** Board two (2) Business Days before the scheduled date for the next regularly scheduled **ERCOT** Board meeting.
- (g) When the **ERCOT** Board considers an appeal of a TAC action on a PRR, the **ERCOT** Board may take one of the actions set forth in Section 21.4.9, ERCOT Board Vote, or postpone consideration of the PRR until a subsequent regularly scheduled meeting.

21.4.11.3 Appeal of **ERCOT** Board Action

Any ERCOT Member, Market Participant or PUCT Staff may appeal any decision of the ~~ERCOT~~**ERCOT** Board regarding the PRR to the PUCT or other Governmental Authority. Such appeal to the PUCT or other Governmental Authority must be made within thirty-five (35) days of the date of the relevant decision. If the PUCT or other Governmental Authority rules on the PRR, ERCOT shall post the ruling on the MIS.