

DOCKET NO. 36345

ERCOT REQUEST FOR INTERIM  
RELIEF REGARDING ORDERING  
PARAGRAPH NO. 2 OF THE FINAL  
ORDER IN DOCKET NO. 31540  
APPROVING NODAL PROTOCOLS

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PUBLIC UTILITY COMMISSION  
OF TEXAS

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FILED CLEAR

**APPLICATION FOR INTERIM RELIEF REGARDING  
COMPLETION DATE OF NODAL MARKET IMPLEMENTATION**

COMES NOW, the Electric Reliability Council of Texas, Inc. ("ERCOT"), and, pursuant to P.U.C. PROC. R. § 22.125, respectfully requests that the Commission grant ERCOT interim relief from a prior Commission Order regarding the implementation date for the nodal market in the ERCOT region. The facts stated herein are verified in the attached affidavit of ERCOT President and Chief Executive Officer Mr. Bob Kahn. In support of its request, ERCOT states as follows:

**I. INTRODUCTION AND BACKGROUND**

1. As the Commission is aware, ERCOT announced on May 20, 2008, that the nodal market will not open on December 1, 2008, as planned, due to critical software deliveries being later than expected, and the cascading effects of those late deliveries on program completion. Since the May 2008 announcement, the delay in the opening of the nodal market has been discussed extensively among Market Participants, at Commission Open Meetings, and at ERCOT Board of Directors and committee meetings.

2. At the direction of the Commission, ERCOT staff is working with Commission staff and consultants from Charles River Associates to update the cost-benefit analysis ("CBA") of the implementation of a nodal market in the ERCOT region. The expected date of the delivery of the CBA to the Commission is December 15, 2008.

3. Concurrent with the development of the CBA, ERCOT is conducting a comprehensive review of the nodal implementation program. This review will culminate in a revised schedule and budget for completion of nodal market implementation. Any final nodal schedule and budget prepared by ERCOT must necessarily take into account input from the Commission after the Commissioners analyze the updated nodal CBA.

4. The Commission approved the Nodal Protocols in its Final Order in Docket No. 31540, *Proceeding To Consider Protocols To Implement A Nodal Market in the Electric Reliability Council of Texas Pursuant to P.U.C. SUBST. R. § 25.501* (April 5, 2006).

5. The Final Order in Docket No. 31540 includes an ordering paragraph providing as follows: “The nodal market created by the protocols as adopted by this Order will be implemented by ERCOT no later than January 1, 2009.” Docket No. 31540, *Final Order*, at 20 (Ordering Paragraph 2).

6. The delay in completion of the nodal market will result in the nodal market being implemented after the January 1, 2009 date established by the Commission. Accordingly, after January 1, 2009, ERCOT could be viewed to be in technical violation of the terms of the Commission’s Order in Docket No. 31540.

## **II. REQUEST FOR INTERIM RELIEF**

7. ERCOT requests that the Commission order, on an interim basis, that the completion date for implementation of the Nodal Protocols be extended beyond the January 1, 2009 date incorporated into Ordering Paragraph 2 in the Final Order in Docket No. 31540.

8. ERCOT requests that the Commission’s order be interim only, so that the Commission retains the opportunity to require a new implementation date, if it so chooses, after its CBA review and ERCOT’s development of a revised nodal schedule and budget.

9. There is good cause for the Commission to issue an interim order lifting the January 1, 2009, nodal market completion date, in that the interim relief requested by ERCOT will: (a) permit ERCOT to remain in compliance with the Commission's orders as it continues work on nodal market implementation; (b) recognize the reality of the delay in nodal market operations; and (c) enable the Commission to revisit the issue of a nodal implementation deadline once the additional facts now being developed – as part of the CBA process and ERCOT's comprehensive nodal program review – are before the Commission.

10. ERCOT files this request for interim relief pursuant to P.U.C. PROC. R. § 22.125(b).<sup>1</sup> The Commission's Interim Relief Rule requires that any request for interim relief "shall be filed no later than 30 days before the interim relief is proposed to take effect." *Id.* ERCOT requests that the change in the nodal market completion deadline proposed herein take effect no later than December 31, 2008. This request for interim relief is thus timely filed under the Commission's Rule.

11. Because ERCOT's application involves a request for relief on a relatively expeditious schedule, ERCOT has provided extensive notice of its request by serving this Request for Interim Relief by electronic mail and U.S. Mail on all parties to ERCOT's most recent System Administration Fee and Nodal Surcharge proceedings (Docket Nos. 35785, 35428, and 32686), as well as the parties to Docket No. 31540.<sup>2</sup>

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<sup>1</sup> ERCOT's request does not involve interim approval of a fee or rate charged by ERCOT. Therefore, the interim relief provision in the Commission's Procedural Rules specific to ERCOT fees does not apply to this request for interim relief. *See* P.U.C. PROC. R. § 22.252(b).

<sup>2</sup> As noted in footnote 1, this application for interim relief does not involve a fee or rate request. Therefore, the specific notice requirements for ERCOT fee cases are not applicable to this proceeding. *See* P.U.C. PROC. R. § 22.252(d).

### III. CONCLUSION

**WHEREFORE**, for all the reasons stated, ERCOT respectfully requests that the Commission order, on an interim basis, that the completion date for implementation of the Nodal Protocols be extended beyond the January 1, 2009 date incorporated into Ordering Paragraph 2 of the Final Order in Docket No. 31540. ERCOT further requests that the interim relief requested be effective no later than December 31, 2008.

Respectfully submitted,

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By: 

Matt Morais  
MA Bar No. 625380

ATTORNEYS FOR THE ELECTRIC  
RELIABILITY COUNCIL OF TEXAS

**CERTIFICATE OF SERVICE**

I certify that a copy of this document was served on all parties of record in Docket Nos. 31540, 32686, 35428 and 35785 on November 3, 2008, in the following manner: by email or first-class U.S. mailing.

A handwritten signature in black ink, appearing to be "A. B. C.", written in a cursive style.


**AFFIDAVIT**

**STATE OF TEXAS**       §  
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**COUNTY OF TRAVIS**   §

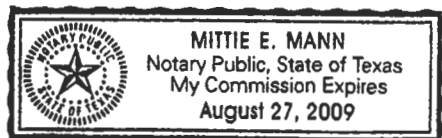
**BEFORE ME**, the undersigned authority, Bob Kahn, who, being first duly sworn, deposes and states:

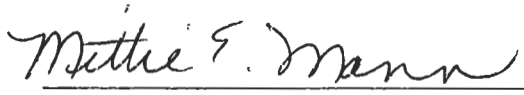
“My name is Bob Kahn. I am employed as President and Chief Executive Officer of ERCOT, having its principal place of business at 7620 Metro Center Drive, Austin, Texas. I am over the age of twenty-one and am competent to make the following affidavit:

The information contained in the foregoing Request for Interim Relief regarding Ordering Paragraph Number 2 in the Final Order in Docket No. 31540 is true and correct and the opinions stated therein are, in my judgment and based upon my professional experience, true and correct.”

  
\_\_\_\_\_  
Bob Kahn

SUBSCRIBED AND SWORN TO BEFORE ME this 3<sup>rd</sup> day of November, 2008.



  
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Notary Public, State of Texas