

Statement of Position
Luminant Energy Company LLC
TIEC Appeal of February 5, 2009 TAC Action

Luminant Energy Company LLC (“Luminant Energy”), a member of ERCOT in the Investor-Owned Utility (“IOU”) segment, appreciates the opportunity to provide our position on the Texas Industrial Electric Consumers (“TIEC”) appeal of the February 5, 2009 ERCOT Technical Advisory Committee (“TAC”) decision to table Protocol Revision Request (“PRR”) 776 - Automatic MCPE Adjustment During Intervals of Non-Spinning Reserve Service Deployment to the ERCOT Board of Directors.

Procedural Standing

Luminant Energy believes that, contrary to TIEC’s Appeal of the “rejection” of PRR776, the only issue that is currently ripe for Board review is TAC’s tabling of PRR776 in combination with PRR791 - Shortage Pricing Mechanism. Under Section 8.1 of the Board’s procedures, an entity is only permitted to appeal an “action” of TAC. TAC has not taken any “action” to reject PRR776 by itself. A Motion to Approve PRR776 did not pass; however, there was no subsequent Motion to Reject PRR 776. Therefore, TAC has not “acted” to approve or reject PRR776 and such a decision is not properly before the Board. To consider PRR776 alone would be contrary to the Board’s own procedures. The only issue that is properly before the Board is the TAC’s February 5th vote that approved the tabling of PRR776 in combination with PRR791 for consideration at the March 5th TAC meeting.

Procedural History

Importantly, the issues underlying PRR776 have been under discussion by numerous ERCOT market participants (and ERCOT staff) for several months. There were two meetings in November 2008 of the PRR776 discussion group. The ERCOT Wholesale Market Subcommittee (“WMS”) then met on November 19 and provided their recommendations of changes to PRR776 to accommodate issues and concerns raised by the WMS membership. The WMS minutes of that meeting note that the WMS “finds that the BES Substitution and NSRS Deployment Floor Methodology proposal is a better alternative than PRR776.” Thus, WMS believed that there was a better solution than the one originally offered by TIEC and made that recommendation to TAC for its December 4 meeting. At the December meeting, the TAC membership voted unanimously to table PRR776 for one month in order for TIEC to draft comments to match the WMS recommendations. TIEC did not file its comments related to these recommendations until December 31, 2008. Luminant identified several deficiencies in TIEC’s comments relative to the WMS recommendations and corrected those deficiencies in its comments filed on January 7, 2009. In those comments, Luminant also included the language from PRR791 - Shortage Pricing Mechanism. The language contained in those comments on PRR776 as well as the language contained in PRR791 were the result of negotiations among the various Market Participants during the discussion meetings held in December and represented a “package” of changes that a group of Market Participants agreed were necessary in order to address the issue raised originally by TIEC. At the TAC meeting in

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January 2009, the PRR was tabled to allow further discussion on the Luminant comments. The PRR776 discussion group met twice more in January prior to the February 5 TAC meeting where TAC voted to table PRR776 and PRR791 together. There is now an additional meeting of the PRR776 discussion group scheduled for February 12.

The Tabling of PRR776 and PRR791

Contrary to the insinuation in TIEC's Appeal, the tabling of PRR776 and PRR791 at the February 5th TAC meeting was not the result of needless delay by TAC. The market participants are diligently working to resolve issues surrounding these two PRRs, as evidenced by the numerous meetings described above to address them and the significant compromise embodied in the current versions of these PRRs. In fact, the compromise versions of the combined PRR776 and PRR791 failed to pass by merely three votes in the February 5th TAC meeting. In that February TAC meeting, however, several questions were raised regarding PRR776 and PRR791 that resulted in a vote approving the tabling of those PRRs in anticipation of resolution at the March 5th TAC meeting. Those remaining questions regard a clarification of the role of on-line generation, a rough evaluation of the potential impacts of 776 and 791, and a discussion of other alternatives that may build further consensus among the parties. Indeed, Luminant Energy feels very strongly that the remaining issues surrounding PRR776 and PRR791 will be resolved prior to the March 5th TAC meeting and that the March 5th TAC meeting will bring finality and TAC "action" to these PRRs. The Board should approve the tabling of these PRRs and allow the ERCOT stakeholder process to continue to work.

The Linkage between PRR776 and PRR791

If the Board chooses to look beyond the vote to table PRR776 and PRR791 to an evaluation of the substance of these Protocols, the Board should understand why PRR776 and PRR791 should be considered together. The original intent of PRR 776 was ***"After-the-fact price adjustments resulting from PRR650 prevent price-responsive loads from reacting to prices in Real Time."*** Market participants worked diligently through a working group to find the most viable and quickly implementable solution to TIEC's price transparency issue. That solution proposes to convert supplemental operating reserve capacity (*i.e.*, Non-Spinning Reserve Service (NSRS)) into energy in the Balancing Energy Service (BES) offer stack. However, this proposed solution will impact supply, while demand would remain the same. As a result, PRR776 would impact short-term and long-term prices during times of capacity shortages. Sensing that this would be an issue, the Independent Market Monitor assisted Market Participants in developing the shortage pricing mechanism contained in PRR791 to help address the pricing impacts of PRR776 and to aid in the overall effectiveness of the ERCOT market.

In conclusion, the urgent and hurried quest for price transparency and certainty during NSRS deployment intervals led stakeholders to a quickly implementable solution that

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would, otherwise, artificially depress prices. Indeed, without a necessary design adjustment, such as the IMM's shortage pricing mechanism (*i.e.*, PRR 791) that will enable scarcity pricing when conditions warrant, the ERCOT market will likely incur near and long term damage to its energy-only market design by eliminating needed shortage pricing. If the ERCOT Board (contrary to its procedures), considers and ultimately rules upon the merits of TIEC's concern, then, if a PRR is in need of passage, the Board should only approve the version of PRR776 that contains the scarcity pricing mechanism language of PRR791. To do otherwise will cause pricing during times of capacity shortage to be distorted, adversely affecting system reliability and ERCOT generation adequacy.