



ERCOT Finance & Audit Committee Meeting
7620 Metro Center Drive, Austin, Texas
Met Center, Conference Room 168
February 17, 2009; 7:30am – 10:00am*

Item #	Agenda Item Type	Description/Purpose/Action Required	Presenter	Time
1.		Call to order Executive Session	M. Espinosa	7:30am
2.	Decision required	2a. Approval of executive session minutes (Vote) (01/20/09)	M. Espinosa	7:30am
	For discussion	2b. Internal Audit status report	B. Wullenjohn	7:32am
	Informative	2c. Update on Internal Audit goals	B. Wullenjohn	7:35am
	Informative	2d. Update on Internal Audit staffing	B. Wullenjohn	7:45am
	Informative	2e. EthicsPoint update	B. Wullenjohn	7:50am
	Informative	2f. Contracts, personnel, litigation and security	Various	7:55am
		Recess Executive Session		8:05am
		Convene General Session		
3.	Decision required	Approval of general session meeting minutes (Vote) (01/20/09)	M. Espinosa	8:05am
4.	Decision required	Review of significant accounting policies - Treatment of investment losses (Vote) - Sales tax gain contingency	M. Petterson	8:07am
5.	Decision required	Review of Nodal Surcharge options and Debt Financing (Vote)	C. Yager	8:20am
6.	Decision required	Review and approval of updated Investment Standard (Vote) - Update on discussion of ownership of gains and losses from investment of market funds - Review draft Protocol language regarding investment gains/losses	C. Yager C. Yager C. Seely	8:40am
7.	For discussion	Credit update - Review ERCOT Market Credit Risk Standard draft - Review credit statistics - Review unsecured credit process - Update on financial statement requirement enforcement - Update on uplifts in process	C. Yager	8:55am
8.	Decision required	Review and approval of the standard form guarantee agreements (Vote)	C. Seely	9:15am
9.	Informative	Committee Briefs (Q&A only)	All	9:45am
10.	Informative	Future agenda items	S. Byone	9:50am
		Adjourn ISO meeting	M. Espinosa	9:55am

** Background material is enclosed or will be distributed prior to meeting. All times shown in the agenda are approximate. The next Finance & Audit Committee Meeting will be held Tuesday, March 17, 2009, at ERCOT, 7620 Metro Center Drive, Austin, Texas 78744, in Room 168.*

Decision required
For discussion

3. Approval of General Session Minutes Miguel Espinosa

- **Approval of General Session Minutes**
 - Vote 1/20/09

DRAFT ELECTRIC RELIABILITY COUNCIL OF TEXAS, INC.
MINUTES OF THE FINANCE & AUDIT COMMITTEE – GENERAL SESSION
7620 Metro Center Drive – Austin, Texas 78744
January 20, 2009

Pursuant to notice duly given, the Finance & Audit Committee of the Electric Reliability Council of Texas, Inc. convened on the above-referenced date. Clifton Karnei confirmed that a quorum was present and called the meeting to order at approximately **7:30 a.m.** The Committee met in Executive Session from **7:30 a.m. to 8:15 a.m.**, at which time it recessed to General Session.

General Session Attendance

Committee members:

Ballard, Don	Office of Public Utility Counsel	Residential Consumer	Present
Cox, Brad	Tenaska Power Services	Independent Power Marketer	Present
Espinosa, Miguel (Vice Chair)	Unaffiliated Board Member	Unaffiliated Board Member	Present
Gent, Michehl	Unaffiliated Board Member	Unaffiliated Board Member	Present
Jenkins, Charles	Oncor	Investor Owned Utility	Present
Karnei, Clifton (Chair)	Brazos Electric Cooperative	Cooperative	Present
Thomas, Robert	Green Mountain Energy	Ind. Retail Electric Provider	Present
Wilkerson, Dan	Bryan Texas Utilities	Municipal	Present

Other Board Members and Segment Alternates:

Walker, Mark	NRG Texas	Independent Generator	Present
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ERCOT staff and guests present:

Anderson, Troy	ERCOT – Manager, Program Administration
Brenton, Jim	ERCOT – Director, Security
Byone, Steve	ERCOT – Vice President and Chief Financial Officer
Comstock, Read	Direct Energy
Doolin, Estrellita	ERCOT – Assistant General Counsel
Grable, Mike	ERCOT – Vice President and General Counsel
Grendel, Steve	ERCOT – Director, Facilities and Site Development
Greer, Clayton	J Aron
Gresham, Kevin	Reliant Energy
Hancock, Misti	ERCOT – Manager, Budget and Finance
Jones, Don	Reliant Energy
Kahn, Bob	ERCOT – President and Chief Executive Officer
Leady, Vickie	ERCOT – Associate Corporate Counsel
Lester, Suzanne	ERCOT – Executive Assistant - Finance
List, Amanda	Direct Energy and Credit Work Group Chair
Petterson, Mike	ERCOT – Controller
Seely, Chad	ERCOT – Corporate Counsel
Stauffer, Tarra	ERCOT – Legal Assistant
Troxtehl, David	ERCOT – Director, Program Management Office
Wullenjohn, Bill	ERCOT – Director, Internal Audit
Yager, Cheryl	ERCOT – Treasurer

Approval of Prior Meeting General Session Minutes

Dan Wilkerson moved to approve the minutes for the General Session of the Finance & Audit Committee meeting held on December 9, 2008. Robert Thomas seconded the motion. The motion passed by unanimous voice vote with no abstentions.

Election of Committee Chair and Vice-Chair

Steve Byone explained that the Committee Charter requires that the Committee select its Chair by a majority vote of the Committee members. After brief discussion, **Michehl Gent moved to re-elect Clifton Karnei as Chair and Miguel Espinosa as Vice-Chair. Dan Wilkerson seconded the motion. The motion passed by unanimous voice vote with no abstentions.**

Approval of Credit Work Group Chair and Vice-Chair

Cheryl Yager asked the Committee to approve the re-election of Amanda List as Chair and Tim Coffing as Vice Chair of the Credit Work Group (CWG). **Robert Thomas moved to approve Amanda List as CWG Chair and Tim Coffing as CWG Vice-Chair. Miguel Espinosa seconded the motion. The motion passed by unanimous voice vote with no abstentions.**

Review of Finance and Audit Committee Structure

Don Ballard referred to materials that had been distributed prior to the meeting and summarized the advantages of splitting the Finance and Audit Committee into two separate committees—a Finance Committee and an Audit Committee. After a lengthy discussion including the pros and cons of creating two committees, the Committee decided to make no changes to the existing Committee structure. Mr. Karnei encouraged Mr. Ballard to initiate a discussion in the future if he continued to feel strongly about the need to change the existing structure of the Committee.

Review of 2009 Revised Base Operating Budget and 5-Year Financial Plan

Mike Petterson referred to materials that had been distributed to Board members prior to the meeting. After discussion, **Dan Wilkerson moved to recommend that the Board approve and adopt the proposed 2009 Revised Base Operating Budget and 2009 ERCOT Fee Schedule as presented in the board materials. Michehl Gent seconded the motion. The motion passed by voice vote with no abstentions.**

Review of Collateral Management Practices and Alternatives

Cheryl Yager referred to materials that had been distributed prior to the meeting then reviewed background information and several options to manage cash collateral held by ERCOT. Mr. Wilkerson asked if Option 2a was the approach closest to what ERCOT currently uses. Ms. Yager responded that Option 2a or Option 3 probably most closely reflected historical practice and noted that risk of loss had not been addressed in the past. Mr. Karnei reminded the Committee that PUC Chair Barry T. Smitherman favored Option 2b. Mr. Karnei made it clear that the Protocols may require revisions to clarify when a market participant would bear the risk of loss. After a lengthy discussion, Mr. Karnei asked staff to prepare Protocol language that would be consistent with Option 2b for the Committee's review in February. In conjunction with a further discussion about who bears the risk of loss for other market funds (e.g. TCR Revenues, prepaid settlements, etc.), Mr. Karnei asked staff to brief the Committee on factors to be considered with respect to risk of loss. It was suggested that the briefing include information about how ERCOT compares to other ISOs with regard to cash collateral management and risk of loss.

Review of Potential Changes to Investment Practices

Cheryl Yager directed the Committee members to materials distributed prior to the meeting and provided an overview of current investment practices as well as potential changes to investment

practices at ERCOT. After the Committee had discussed pros and cons for each of the investment approaches presented, Mr. Byone noted that staff had received enough feedback from the Committee to propose specific changes to the existing Investment Standard for the Committee's review in February.

Dan Wilkerson moved to instruct staff to begin investing cash holdings only in Treasury and Treasury-backed securities until the Investment Standard is revised to include additional investing instruction. Michehl Gent seconded the motion. The motion passed by voice vote with no abstentions.

Quarterly Review of Investment Results

Steve Byone directed the Committee to materials previously distributed and provided a summary of ERCOT investments for 4th quarter of 2008. Mr. Byone commented that low yields were consistent with downward trends in depository account yields and a move to more conservative investing with greater security. Cheryl Yager noted that funds received since September 15, 2008 were held in money market funds invested in Treasury or Treasury-backed securities.

Credit Update

Cheryl Yager informed the Committee that the CWG had approved the Market Credit Risk Standard draft and that TAC, RMS and WMS would consider the Standard draft in February. Ms. Yager added that the Standard draft would be presented to the Committee in March. Ms. Yager also briefed the Committee on the implications of NPRR 140 on changes to credit calculations.

Review and Recommendation on Updated Standard Form Guarantee Agreements

Cheryl Yager and Chad Seely referred to the list of seven proposed changes to the Standard Form Guarantee Agreement and presented ERCOT's position related to the proposed changes. Amanda List spoke on behalf of the CWG and explained why the seven proposed changes had been rejected. After much discussion, Mr. Karnei instructed staff to prepare a revised draft of the agreement that included proposed change #1 regarding waiver of substantive defenses and proposed change #2 regarding demand and receipt of funds—including a provision providing for two (2) Business Days for a Guarantor to pay following issuance of written demand by ERCOT. He instructed staff to exclude proposed changes #3 through #7. Finally, he instructed staff to continue to monitor issues related to the proposed changes #3 through #7 and to bring those issues to the Committee's attention.

Committee Briefs

Materials for the following areas were distributed prior to the meeting:

1. Market Credit
2. Internal Control Management Program (ICMP)
3. Enterprise Risk Management (ERM)
4. Project Management Organization (PMO)

Steve Byone noted that information about a large Project would be shared during the Board meeting.

Future Agenda Items

The following list of future agenda items was developed prior to the meeting:

1. Review and approval of updated investment policy
2. Review of ERCOT credit risk standard
3. Update on status of Financial Audit

4. Review and approval of the standard form guarantee agreements
5. Review of credit statistics
6. Committee briefs
7. Future agenda items

Adjournment

Clifton Karnei adjourned the meeting at approximately 10:00 a.m.

Estrellita J. Doolin
Assistant General Counsel and
Finance & Audit Committee Secretary


4. Review of Significant Accounting Policies – Treatment of Investment Losses (Vote) – Mike Petterson

Please see Board Agenda Item #11d for decision template.

4. Review of Significant Accounting Policies – Sales Tax Gain Contingency – Mike Petterson

Memo attached as a separate document.

Interoffice Memorandum

To: Accounting File
From: Roger Beckman 
Date: January 23, 2009
Re: Accounting Treatment for Sales Tax Refund Requests

OBJECTIVE

Identify and document the basis for the correct accounting treatment of sales tax refunds requested by ERCOT for the periods 2001 through 2008.

CONCLUSION

At December 31, 2008, ERCOT should not recognize a gain or contingent gain relating to its requests for sales tax refunds for the periods 2001 through 2008 for the following reasons:

1. No refund money has been received.
2. There is no signed contract, stipulation, or other agreement indicating ERCOT will receive the requested refund.
3. There are potentially significant unresolved administrative processes at the Texas Comptroller of Public Accounts relating to the refund request.
4. There are potentially significant unresolved issues regarding ERCOT's obligation to reimburse or otherwise share the requested refund amounts, if any are received by ERCOT, with municipalities and other taxing jurisdictions.

BACKGROUND

Pertinent facts regarding ERCOT's sales tax accounting issue are detailed in the points below.

1. ERCOT is a Texas non-profit corporation incorporated on October 10, 1990, and the IRS issued ERCOT a determination letter dated June 24, 1991 recognizing it as a tax-exempt organization described in Code section 501(c)(6).
2. Under such organizational classification, ERCOT was exempt from federal income tax but not Texas State sales and use taxes.
3. ERCOT paid Texas State sales and use taxes as due.
4. Based on ERCOT's activities and its relationship with the State of Texas, it believes it satisfies the requirements for recognition as a tax-exempt organization described in Code section 501(c)(4).
5. Further, ERCOT believes it has satisfied the requirements to be recognized as an organization described in Code section 501(c)(4) since

- April 4, 2000 when it began carrying on additional activities and performing functions on behalf of the State of Texas.
6. Since April 4, 2000, ERCOT has operated and conducted its affairs as an organization described in Code section 501(c)(4), and ERCOT believes that 501(c)(4) much more accurately describes it from this time period through the present than 501(c)(6).
 7. Accordingly, on April 20, 2006, ERCOT requested the IRS recognize it as an organization described in Code section 501(c)(4) as of April 4, 2000.
 8. On April 14, 2008, ERCOT received communication from the IRS that its request to be recognized as an organization described in Code section 501(c)(4) as of April 4, 2000 had been approved.
 9. As a tax-exempt organization described in Code section 501(c)(4), ERCOT is exempt from federal income tax and Texas State sales and use tax.
 10. ERCOT is also entitled to seek refund of sale tax payments for all "open" tax years dating back to April 4, 2000.
 11. On May 22, 2008, ERCOT received communication from the Texas Comptroller of Public Accounts recognizing its status as an tax-exempt organization described in Code section 501(c)(4).
 12. ERCOT began effort to stop paying Texas State sales taxes on vendor payments starting May 2008.
 13. ERCOT continues to pay Texas State sales and use taxes on its sales of goods and services, such as wide-area network telecommunication services.
 14. ERCOT filed a request with the Texas Comptroller of Public Accounts seeking refund of all Texas State sales and use taxes paid from 2001 through 2008.
 15. The Texas Comptroller of Public Accounts' administrative processing of ERCOT's refund request was not completed as of December 31, 2008 and is still in progress.

AUTHORITATIVE ACCOUNTING REFERENCE

Financial Accounting Standards #5, Accounting for Contingencies, establishes that that "contingent gains should not be recognized prior to their realization".

PricewaterhouseCooper's Accounting and Reporting Manual ¶5360.1.11 (ARM 5360.1.11) maintains that "a realized gain is one where cash (or other assets) have already been received without expectation of repayment or refund. In contrast, a gain is realizable when sufficient evidence exists that the entity has a right to the cash, even though it may not yet have been received. We believe the recognition of a gain is appropriate when the gain is realizable or realized."

ARM 5360.1.11 further states that the assessment of whether a gain not yet realized is realizable requires significant judgment and should include the evaluation of "whether there is a signed agreement or legally enforceable contract that stipulates the terms of the gain or settlement".

5. Review of Nodal Surcharge Options and Debt Financing (Vote): Overview – Cheryl Yager

- **Nodal Program Cost Recovery Assumptions**
- **Nodal Program Cost Recovery Assumptions – Option Specific**
- **Nodal Program Cost Recovery Options**
- **ERCOT Analysis**
- **Preliminary debt financing implications for 2009**
- **F&A recommendation**

5. Review of Nodal Surcharge Options and Debt Financing (Vote): Nodal Program Cost Recovery Assumptions – Cheryl Yager

- **General**

- Nodal Program costs to be financed through the Nodal Surcharge of \$526.4 million (excludes financing costs and interdependent projects).
 - Total cost \$ 658.7
 - Less: Financing cost – option 2a 92.6
 - Less: Interdependencies 39.7
 - Net costs to be financed – Nodal Surcharge \$ 526.4
- Average interest rate for debt financing is 6%
- Average useful life of assets is four years (three year life for hardware and a five year life for software)
- Revised Nodal Surcharge effective January 1, 2010
- Nodal market “Go live” by January 1, 2011

Spending Projection and Billing Determinant

	Total	Life to date 12/31/08	2009	2010	2011	2012	2013	2014	There after
Nodal Program spend by year (\$ millions)	526.4	281.0	155.6	89.8					
GWh assumption (million MWh)			319.4	324.8	331.9	339.2	345.6	351.3	358.3

5. Review of Nodal Surcharge Options and Debt Financing (Vote): Nodal Program Cost Recovery Assumptions – Option Specific

- **Option 1**
 - \$0.169 remains in effect until all costs are recovered
- **Option 2a and 2b – Flat fee options**
 - a) \$0.169 remains in effect through 2009, b) Surcharge increased to \$0.226 on March 1, 2009
 - At January 1, 2010, Surcharge is set at a flat rate projected to recover remaining costs over the average useful life of the assets (through December 2014)
- **Options 3a and 3b – Historical ERCOT Capex Revenue Funding Options (40%)**
 - a) Surcharge is increased to \$0.226 on March 1, 2009, b) \$0.169 remains in effect through 2009
 - At January 1, 2010, Surcharge is set to fund 40% of the estimated total cost of the project by the “go-live” date consistent with historical ERCOT base operations. Surcharge then remains constant until remaining costs are fully recovered.
- **Options 4a and 4b – Rate parity options**
 - a) \$0.169 remains in effect through 2009, b) Surcharge is increased to \$0.226 on March 1, 2009
 - At January 1, 2010, Surcharge is set at a level consistent with the projected System Admin Fee for 2010. This Surcharge then remains constant until remaining costs are fully recovered.
- **Options 5a and 5b – 100% Funding options**
 - a) \$0.169 remains in effect through 2009, b) Surcharge is increased to \$0.226 on March 1, 2009
 - At January 1, 2010, Surcharge is set to recover all Nodal costs by the “go-live” date

5. Review of Nodal Surcharge Options and Debt Financing (Vote): Nodal Program Cost Recovery Options – Cheryl Yager

	Historical ERCOT Capex Revenue Funding Options (40%)								
	No Change	Flat Fee Options		Rate Parity Options		100% Funding Options			
	Option 1	Option 2a	Option 2b	Option 3a	Option 3b	Option 4a	Option 4b	Option 5a	Option 5b
	\$0.169 through full recovery	\$0.169 through 2009; Flat fee through 2014	\$0.226 through 2009; Flat fee through 2014	\$0.226 through 2009; 40% rev funding by go-live	\$0.169 through 2009; 40% rev funding by go-live	\$0.169 through 2009; \$0.473 thereafter	\$0.226 through 2009; \$0.473 thereafter	\$0.169 through 2009; 100% rev funding by go-live	\$0.226 through 2009; 100% rev funding by go-live
Nodal costs to be financed	526.4	526.4	526.4	526.4	526.4	526.4	526.4	526.4	526.4
Debt financing costs	146.0	92.6	89.8	78.7	75.4	64.1	61.0	38.9	38.0
Costs recoverable via Nodal Surcharge	<u>\$ 672.4</u>	<u>\$ 618.9</u>	<u>\$ 616.1</u>	<u>\$ 605.0</u>	<u>\$ 601.8</u>	<u>\$ 590.5</u>	<u>\$ 587.4</u>	<u>\$ 565.3</u>	<u>\$ 564.4</u>
Expected Nodal Surcharge - 2009 (\$/MWh)	\$ 0.169	\$ 0.169	\$.169 / .226	\$.169 / .226	\$ 0.169	\$ 0.169	\$.169 / .226	\$ 0.169	\$.169 / .226
Expected Nodal Surcharge - 2010 thru full recovery (\$/MWh)	\$ 0.169	\$ 0.285	\$ 0.273	\$ 0.324	\$ 0.375	\$ 0.473	\$ 0.473	\$ 1.315	\$ 1.264
Projected end of collection period (if rate remains in effect for full period)	2nd Qtr 2019	4th Qtr 2014	4th Qtr 2014	1st Qtr 2014	3rd Qtr 2013	4th Qtr 2012	3rd Qtr 2012	4th Qtr 2010	4th Qtr 2010
Estimated "peak" Nodal debt (curr - Dec 2008, all options - Dec 2010)	383.6 Dec-10	344.7 Dec-10	331.7 Dec-10	314.8 Dec-10	327.4 Dec-09	327.4 Dec-09	311.4 Dec-09	327.4 Dec-09	311.4 Dec-09
Percent revenue funding during development	27.1%	34.5%	37.0%	40.2%	40.2%	46.5%	49.7%	100.0%	100.0%

Note: All amounts are in \$ millions unless otherwise noted.

- **ERCOT staff does not consider Option 1, the “No Change” option to be consistent with previously stated financing goals but included it for comparison purposes.**
- **ERCOT believes that the scenarios shown in options 2 – 5 can be financed with the following caveats:**
 - The plan is approved by the PUCT
 - Credit markets do not deteriorate
 - No significant unexpected borrowing needs arise

5. Review of Nodal Surcharge Options and Debt Financing (Vote): Preliminary Debt Financing Implications for 2009 – Cheryl Yager

Estimated debt funding needs as of December 31, 2009 (in \$ millions)	With \$0.169 through 2009		With \$0.226 through 2009	
Outstanding debt at December 31, 2008	341		341	
2009 base operations capex to be funded with debt	23		23	
2009 Nodal Program spend to be debt funded	118		102	
2009 scheduled debt repayment	(26)		(26)	
Projected debt at December 31, 2009	<u>455</u>		<u>439</u>	
Average liquidity requirement	<u>50</u>		<u>50</u>	
Total capacity needed as of Dec 31, 2009	505		489	
Estimated debt capacity at Dec 31, 2008 (excl capacity expiring during 2009)	<u>443</u>		<u>443</u>	
Additional debt capacity needed by Dec 31, 2009	<u><u>62</u></u>		<u><u>46</u></u>	
At December 31, 2008				
Fixed	262	77%	262	77%
Floating	79	23%	79	23%
	<u>341</u>		<u>341</u>	
At December 31, 2009 ⁽¹⁾				
Fixed	248	54%	248	56%
Floating	207	46%	191	44%
	<u>455</u>		<u>439</u>	

(1) Assumes no new fixed debt is added. This condition to be evaluated with F&A prior to exceeding 40% floating.

5. Review of Nodal Surcharge Options and Debt Financing (Vote): Preliminary Debt Financing Implications for 2009 – Cheryl Yager

- **Based on maintaining a \$0.169 or \$0.226 Nodal Surcharge through 2009, ERCOT estimates it will need to increase debt capacity no later than mid-summer 2009.**
- **The balance between fixed and floating rate debt will also require adjustment to remain compliant with the ERCOT Financial Corporate Standard.**
- **ERCOT staff will develop proposals to address these needs subsequent to Board approval of a revised Nodal Surcharge.**

5. Review of Nodal Surcharge Options and Debt Financing (Vote): F&A Recommendation

Discuss and vote on recommendation for Board consideration

MEMORANDUM

TO: Finance & Audit Committee

FROM: Mike Grable, ERCOT General Counsel

RE: Assigning Investment Losses to Market Participants

Date: February 10, 2009

At the January 20, 2009 Finance & Audit (F&A) Committee meeting, Chairman Clifton Karnei requested a memo on the enforceability of Protocol language assigning the risk of investment losses (whether ERCOT-related or Market Participant-related) to Market Participants. This memorandum addresses that request and points out options for consideration by the F&A Committee.

The Standard Form Market Participant Agreement (Agreement) is a legal contract that establishes the terms and conditions by which ERCOT and Market Participants will discharge their respective duties and responsibilities under the ERCOT Protocols. Thus, the Agreement incorporates the ERCOT Protocols as the binding terms of the contract. Any Protocol language adopted to address the risk of investment losses to Market Participants would be legally enforceable and defensible so long as it is approved in accordance with Section 21, Process of Protocol Revision, of the ERCOT Protocols.

In evaluating changes to the ERCOT Investment Corporate Standard and the ERCOT Protocols, the F&A Committee may consider the following three options to be available to the Committee in specifying the risk of loss associated with investments:

- (1) Investment losses incurred on funds held on behalf of Market Participants are attributable to Market Participants and not borne by ERCOT, Inc., while investment losses incurred on funds held on behalf of ERCOT, Inc. are borne by ERCOT, Inc.
- (2) Investment losses incurred on funds held on behalf of Market Participants where the Market Participants direct the investment type are attributable to those Market Participants and not borne by ERCOT, Inc., while all other investment losses are borne by ERCOT, Inc.
- (3) Losses incurred on all ERCOT investments (whether ERCOT, Inc.-related or Market Participant-related) are attributable to ERCOT, Inc. and are borne by ERCOT, Inc.

Again, all three options are viable and legally defensible; however, as with all contractual terms, there is always a risk of a party contesting the terms in a dispute or further litigation.

Lastly, ERCOT Legal communicated with several other Independent System Operators (ISOs) to determine how other ISOs would handle investment losses similar to the one experienced by ERCOT as a result of The Reserve issue. After several communications, there appears to be no firm consensus on how other ISOs handle risk of investment losses. In fact, only the California ISO (Cal ISO) has confirmed that its tariff assigns risk of loss on investments; Cal ISO assigns the risk of loss of financial security out to Market Participants. The Cal ISO tariff does not address investment of pre-payment Invoices or investment of TCR Auction revenues.

6. Review and Approval of Updated Investment Standard (Vote) – Summary of Key Changes – Cheryl Yager

- **Improve credit quality of investment**
 - Limit investment options to investments that are “obligations of or guaranteed by the US government”
 - Establish internal monthly review of instruments held in money market funds
 - Provide Board with a list of securities held in funds
- **Protect liquidity**
 - Require diversification to at least 2 fund families
 - Move toward limits of amounts held per fund
 - With most Treasury funds closed, cannot establish a hard cap yet
- **Define who bears risk of loss on investment for market funds**

6. Review and Approval of Updated Investment Standard (Vote) – Considerations When Determining Who Bears Risk of Loss

Considerations	Source of funds - Market			
	Cash collateral	TCR Revenues	Settlement Payments	Other Prepays/Funds
Can MPs control whether cash is held by ERCOT?	Yes, MPs may post other forms of collateral.	Not at this time.	Not at this time.	Not at this time.
Who (currently) receives interest income from investments?	MPs	ERCOT	ERCOT	ERCOT
Who (currently) determines the investment vehicle?	ERCOT	ERCOT	ERCOT	ERCOT
Options for treatment of loss	1. ERCOT, Inc. bears and funds the loss from SAF. 2. Directly assign loss to entity that sent collateral. 3. Define a method to uplift losses across MPs	1. ERCOT, Inc. bears and funds the loss from SAF. 2. Reduce the amount available for distribution to load. 3. Define a method to uplift losses across MPs	1. ERCOT, Inc. bears and funds the loss from SAF. 2. Directly assign loss to entity that sent payment. 3. Short pay the market and uplift losses.	1. ERCOT, Inc. bears and funds the loss from SAF. 2. Directly assign loss to entity that sent payment. 3. Short pay the market and uplift losses.

- Committee preference?

ERCOT CORPORATE STANDARD

Document Name:	Investment <u>Corporate</u> Standard
Document ID:	CS3.2
Effective Date:	Upon Approval
Owner:	Board of Directors, F&A Committee
Governs:	ERCOT Personnel
Approved:	

1. PURPOSE

The purpose of the ERCOT Investment Corporate Standard is to document the guidelines and related activities approved by the ERCOT Board of Directors for the investment and management of funds held by ERCOT, whether those funds arise from ERCOT operations or are held by ERCOT on behalf of the ERCOT market.

It is ERCOT's policy to invest its funds in a manner that provides reasonable investment returns with adequate security; meets while meeting daily cash flow demands; conforms and conforming to applicable laws, bylaws Bylaws, board resolutions and policies and debt covenants; and affords reasonable investment returns.

The corporate standard applies to activity involving ERCOT funds, except for the Electric Reliability Council of Texas, Inc. 401(k) Savings Plan, which is managed separately.

ERCOT funds specifically include proceeds held by ERCOT from:

- 1) ERCOT, Inc. from the ERCOT System Administration Fee and, Nodal Surcharge, NERC funding under a Delegation Agreement, and other fees collected from time to time,
- 2) ERCOT, Inc. from debt issues and other miscellaneous cash received
- 3) the ERCOT market for transmission congestion rights (TCR) auctions,
- 4) the ERCOT market for market settlement operations,
- 5) the ERCOT market for security deposits, and debt issues, and
- 6) other miscellaneous cash received from the ERCOT market.

2.0 STANDARDS

Standard of Care. ERCOT investments will be made with judgment and care, under circumstances then prevailing, that persons of prudence, discretion and intelligence

would exercise in the management of their own affairs, not for speculation but for investment, considering the probable safety of principal as well as the probable income to be derived.

The standard of prudence to be used by the Designated Investment Officers (defined below) shall be the “prudent person” and/or “prudent investor” standard and shall be applied in the context of managing an overall portfolio. The Designated Investment Officers of ERCOT, acting in accordance with this standard and any other written procedures pertaining to the administration and management of ERCOT’s portfolio and who exercise the proper due diligence, shall be relieved of personal responsibility for an individual security’s credit risk or market price changes.

Investment Objectives. The primary objectives, in priority order, of ERCOT’s investment activities shall be:

- 1) Safety – Safety of principal is the foremost objective of the investment program. Investment of ERCOT funds will be undertaken in a manner that seeks to ensure the preservation of capital in the overall portfolio. To attain this objective, ERCOT will restrict its investments to those allowed in Appendix C and diversify its investments ~~by investing funds among a variety of securities offering independent returns and among~~ a variety of independent financial institutions.
- 2) Liquidity – ERCOT’s investment portfolio will remain sufficiently liquid to enable ERCOT to meet all operating requirements which might be reasonably anticipated.
- 3) Return on investment – ERCOT’s investment portfolio will be designed with the objective of attaining a ~~benchmark~~ rate of return throughout budgetary and economic cycles, in line with ERCOT’s investment risk constraints and the cash flow characteristics of the portfolio.

Delegation of Authority. Responsibility for the investment program is hereby delegated to the Designated Investment Officers. The Chief Financial Officer and the Treasurer of ERCOT are the Designated Investment Officers of ERCOT and are authorized to enter into and are responsible for all investment transactions undertaken. They will establish a system of controls over the investment program.

The Designated Investment Officers will establish written investment procedures for the operation of the investment program consistent with this corporate standard. No person may engage in an investment transaction except as provided under the terms of this corporate standard and the procedures established by the Designated Investment Officers.

Any two of the following individuals, with at least one being a Designated Investment Officer shall have authority to open and close investment and / or depository accounts with Qualified Institutions (as defined below): Chief Executive Officer, Chief Operating Officer, Chief Financial Officer, General Counsel, Controller and Treasurer.

Qualified Institutions or Money Market Funds. A Designated Investment Officer will select banks and other financial institutions that are approved for investment and / or depository purposes (“Qualified Institutions”). Only firms meeting the requirements of the attached Appendix A will be eligible to serve as Qualified Institutions or Money Market Funds.

If an ERCOT Board member or member of his or her immediate family is an officer or director, is employed by, or owns or has a beneficial interest in more than 10 percent of the stock in a bank or other financial institution that would otherwise be a Qualified Institution, such Board member shall provide full disclosure of such stock holdings or relationship in documented form to be filed with permanent records of ERCOT. Any institutions so disclosed will be excluded from consideration as a Qualified Institution without 1) full disclosure to the Board of Directors of the relationship and 2) approval of the Board to establish the relationship.

Authorized Instruments. ERCOT shall invest only in those types of instruments authorized under this corporate standard and listed in Appendix C and subject to restrictions included in Appendix C.

Safekeeping of Investments. Security transactions, including collateral for repurchase agreements, will be conducted on a “delivery-versus-payment” (DVP) basis. Securities, other than shares in money market mutual funds, will be held for safekeeping, in the name of ERCOT, by a custodian (an independent state or federally-chartered bank) designated by the Treasurer and evidenced by safekeeping receipts. Institutions that offer money market mutual funds are responsible for safeguarding their underlying securities.

Internal Reviews. Credit - To manage credit risk arising from investments, at least monthly ERCOT will review underlying securities held as investments, including investments held through money market funds. Any credit related concerns not satisfactorily resolved with fund managers will result in movement of the investment to an alternative fund. ERCOT staff will not duplicate credit analysis performed by fund managers and are not expected to provide assurance that all holdings are creditworthy

Internal Control. The Treasurer shall ensure that the internal controls over investments are reviewed 1) periodically by ERCOT’s internal auditor, and 2) annually in conjunction with the fiscal audit by the external auditor. This review will test compliance with policies and procedures.

Reporting. A Designated Investment Officer will provide quarterly investment reports to the Board of Directors and Finance and Audit Committee which provide a clear picture of the status of the current investment portfolio.

Schedules in the quarterly report will, at a minimum, include the following:

- 1) A listing of individual securities held at the end of the reporting period by authorized investment category. If the investment category is money market, a list of securities held within each money market fund will be provided.

- 2) Average life and final maturity of all investments listed
- 3) Coupon, discount or earnings rate
- 4) Par value, amortized book value and market value
- 5) Percentage of the portfolio represented by each investment category
- 6) Statement of compliance with the Investment Corporate Standard

Investment Losses.

Option A All investment losses incurred on funds held by ERCOT on behalf of Market Participants are attributable to Market Participants and are not borne by ERCOT. Investment losses of ERCOT operating funds are borne by ERCOT.

Option B Investment losses incurred on funds held by ERCOT on behalf of Market Participants for collateral are attributable to Market Participants and are not borne by ERCOT. All other investment losses are borne by ERCOT.

ERCOT shall not have any fiduciary relationship with Market Participants and no implied covenants, functions, responsibilities, duties, obligations or liabilities shall be read into this corporate standard. Investment losses attributable to Market Participants shall be addressed in the ERCOT Protocols or by direction from ERCOT Board of Directors.

Investment Corporate Standard Adoption. ERCOT's investment corporate standard will be adopted by resolution of the Board of Directors. The corporate standard will be reviewed annually by the Finance & Audit Committee and any modifications made thereto must be approved by the Board of Directors.

APPENDIX A

Requirements of Qualified Institutions or Money Market Funds

Only entities meeting the following requirements will be eligible to serve as Qualified Institutions:

General Requirements

- 1) The entity has a senior debt rating which is at least the equivalent of A- by Standard & Poor's or A3 by Moody's Investor Service,
- 2) Has provided a current audited financial statement which is on file at ERCOT,
- 3) Has capital of not less than \$100 million, and
- 4) Has assets of not less than \$1 billion.

Additional Requirements for Depositories

- 1) The entity is a federal- or state-chartered bank, and
- 2) Deposits up to \$100,000 are insured by federal agencies

Additional Requirements for Security Dealers

- 1) The entity is a "primary" or regional dealer that qualifies under Securities and Exchange Commission Rule 15C3-1 (uniform net capital rule),
- 2) Is registered as a dealer under the Securities Exchange Act of 1934,
- 3) Is a member in good standing of the National Association of Securities Dealers (NASD),
- 4) The entity has been in business for at least five (5) years,
- 5) A representative of the entity has returned a signed certification (substantially in the form attached as Appendix B) that he/she has read and is familiar with ERCOT's Investment Corporate Standard, and
- 6) The entity has provided such other information as ERCOT requires from time to time.

Only entities meeting the following requirements will be eligible to serve as Qualified Money Market Funds:

- 1) The fund is a money market fund under SEC Rule 2a-7
- 2) Has provided and commits to provide at least monthly a list of holdings in the fund
- 3) Has assets under management in the fund of at least \$1 billion.

APPENDIX B

**Investment Corporate Standard for
Electric Reliability Council of Texas**

Qualified Institution Certification for Security Dealers

Dealer / Investment Firm: _____

I hereby certify that I have received and thoroughly reviewed the ERCOT Investment Corporate Standard, and the firm I represent

- 1) meets all of ERCOT's Requirements for Qualified Institutions; and
- 2) has implemented reasonable procedures and controls in an effort to preclude investment transactions between this firm and ERCOT that are not authorized by the ERCOT Investment Corporate Standard, except to the extent that this authorization is dependent on an analysis of the makeup of ERCOT's entire portfolio or requires an interpretation of subjective investment standards.

Qualified Representative

Name

Title

Date

APPENDIX C

Authorized Instruments

<u>Description</u>	<u>Quality Limitation</u>	<u>Maturity Limitation</u> (Note 1)	<u>Limitation per issuer</u>	<u>Category limitation</u>
1. Obligations of or guaranteed by the US government	n/a	5 yrs or less	none	none
2. Repurchase agreements in which the collateral is obligations Obligations of or guaranteed by the either US government. (Note 3) al entities (e.g. federal agencies, state or municipal, etc)	Note 2	7 days or less	\$5,000,000	33% of total
3. Certificates of deposit and share certificates	Note 2	1-yr or less	\$5,000,000	33% of total
4. Repurchase agreements in which the collateral is government or agency securities (1 or 2 above). (Note 3)	Note 2	7 days or less	\$5,000,000	33% of total
3. Money market mutual funds (MMMF) invested only in instruments allowed per 1 and 2 above 5. Commercial paper	Note 4 A1/P1 or better	Note 4 1-yr or less	Note 4 \$5,000,000	Note 4 33% of total
6. Banker's acceptances	Note 2	1-yr or less	\$5,000,000	33% of total
7. Money market mutual funds (MMMF)	Note 4	Note 4	Note 4	none

Note 1: To the extent possible, ERCOT will attempt to match its investments with anticipated cash flow requirements. ~~Some~~ A-base level of cash may remain uninvested to meet the ~~liquidity~~ operating needs of ERCOT, Inc. and the ERCOT market or to address unusual situations as they arise.

Note 2: Investments may be made with financial institutions with a corporate or senior debt credit rating of at least A- with S&P or A3 with Moody's. Investments in repurchase agreements must be subject to a Master Repurchase Agreement signed with the bank or dealer (e.g. a PSA Master Repurchase Agreement or equivalent).

Note 3: Collateral is required for all repurchase agreements. In order to anticipate market changes and provide a level of security for all funds, the collateralization level will be 102% of market value and accrued interest. Collateral may consist only of other instruments approved above. Collateral will always be held by an independent third party with whom ERCOT has a current custodial agreement. A clearly marked evidence of ownership (safekeeping receipt) must be supplied to and retained by ERCOT. The right of collateral substitution is granted.

Note 4: There is no credit rating required given 1) the MMMFs stated objective to preserve capital ~~and~~; 2) the restriction under this Standard on the kind of investments that may be held in the MMMFs ~~the credit quality restrictions placed on MMMFs by the SEC (may hold no more than 5% of middle-rated securities—A2/P2 or equivalent),~~ 3) ~~the SEC restriction that no more than 5% of assets in a MMMF may be invested in any one security (requires diversification) and~~ 4) ~~the restriction that~~

~~MMMFs can only invest in instruments with maturities of less than 13 months and that the average maturity of all holdings in a MMF cannot extend beyond 90 days. There is no maturity limitation or limitation per issuer for the reasons mentioned above.~~

Note 5: There is no limit on how much money may be placed with MMMFs in this category because of the requirements on those funds outlined in Note 4. However, ERCOT must diversify investments held in money market accounts across at least two different fund families. Based on availability of funds meeting the above investment criteria, ERCOT will seek to ensure that no more than \$100 million is maintained in any one fund.

16.2.5.2 QSE's Risk of Loss of Cash Security Held and Invested by ERCOT

- In accordance with ERCOT's Investment Corporate Standard, ERCOT may invest cash security deposited by the QSE under Section 16.2.5.1.2, Alternative Means of Satisfying ERCOT Creditworthiness Requirements, **in Treasury or Treasury-backed money market mutual funds[CVS1]**. The QSE that provides cash security held and invested by ERCOT on behalf of the QSE will bear all risks that such cash security will incur a loss of principal and/or interest as a result of ERCOT's investment of such cash security. Any investment losses will be borne by the QSE and will not relieve the QSE's obligation to continue to satisfy ERCOT creditworthiness requirements in this Section.
- **[CVS1]This represents Option 2b as presented at the Finance & Audit (F&A) Committee last month.**

16.8.1.5.4 TCR Account Holder's Risk of Loss of Cash Security Held and Invested by ERCOT

- In accordance with ERCOT's Investment Corporate Standard, ERCOT may invest cash security deposited by the TCR Account Holder under Section 16.8.1.5.3, Alternative Means of Satisfying ERCOT Creditworthiness Requirements, **in Treasury or Treasury-backed money market mutual funds[CVS1]**. The TCR Account Holder that provides cash security held and invested by ERCOT on behalf of the TCR Account Holder will bear all risks that such cash security will incur a loss of principal and/or interest as a result of ERCOT's investment of such cash security. Any investment losses will be borne by the TCR Account Holder and will not relieve the TCR Account Holder's obligation to continue to satisfy ERCOT creditworthiness requirements in this Section.
- **[CVS1]This represents Option 2b as presented at the Finance & Audit (F&A) Committee last month.**

Standard is attached as a separate document.

ERCOT CORPORATE STANDARD

Document Name: Market Credit Risk Standard

Document ID: _____

Effective Date: Upon Approval

Owner: Board of Directors, F&A Committee

Approved:

1.0 PURPOSE

This Market Credit Risk Standard provides a framework by which the ERCOT Board of Directors seeks to maintain the long-term financial integrity of the ERCOT market and to help ensure that overall market credit risk is maintained within acceptable limits.

Recognizing that a number of risk factors contribute to overall market credit risk and that it is beneficial to quantify and describe these risks, a model has been developed to help evaluate the combined impact of key market credit risk factors. The model objectives and parameters are outlined further in this Market Credit Risk Standard.

This Standard and the output of the potential credit risk model do not change collateral requirements or Market Participant obligations to comply with those collateral requirements under the ERCOT Protocols. Changes to collateral requirements require a change to ERCOT Protocols through Section 21, Process for Protocol Revision.

2.0 DEFINITIONS

Base Case – the Potential Credit Risk Model scenario that considers only forms and amounts of collateral required by the ERCOT Protocols.

BOD – Board of Directors

Current Case – the Potential Credit Risk Model scenario that considers forms and amounts of collateral held as of a specific point in time. This scenario may include collateral amounts above those required by the ERCOT Protocols and which may be unilaterally withdrawn at the Counter-Party's direction.

CWG – Credit Work Group

Expected Loss – the average – although not the most common – outcome across all model outcomes. It represents the loss the ERCOT market as a whole should expect to incur over time under given market conditions as a result of its portfolio credit risk.

Loss Distribution – a range of potential losses under a specific set of parameters with a given probability of occurrence

Potential Credit Risk (PCR) Model – the financial model that ERCOT uses to measure potential credit risk. It is constructed using a standard Potential Future Exposure framework that produces a portfolio Loss Distribution of potential losses.

Potential Credit Risk (PCR) Report – a report that summarizes the results from the PCR Model together with ERCOT’s analysis

Potential Future Exposure (PFE) – an estimate of potential credit risk resulting from existing counterparty relationships in light of possible future risk factors such as price volatility and volume escalation.

Probability of Default (PD) – a Counter-Party specific estimate of the likelihood that a specific Counter-Party will default over a specified time horizon

TAC – Technical Advisory Committee

3.0 STANDARD

Market Credit Risk Objective

In seeking to fulfill BOD objectives to provide for a reliable Texas electricity market, ERCOT stakeholders will

- directly consider the credit implications of operational or market decisions, and
- seek to maintain a balance of identified key credit risk factors such that the combined impact of these factors yields a market-wide credit risk profile consistent with an investment grade rating

Delegation of Authority

Responsibility for monitoring and reporting on credit risk for the market consistent with this Standard is hereby delegated to the Chief Executive Officer, the Chief Financial Officer and the Treasurer. These individuals will ensure the BOD is advised of credit risk as measured by the PCR Model.

This delegation does not mean that the results of any particular model analysis will be the final determination of credit risk in the ERCOT market. Such determination rests with the BOD.

Internal Control

The Treasurer will ensure that written procedures and internal controls are established over the portfolio credit risk analysis process to ensure that results are consistent with the approved process reflected in this Standard.

The Treasurer will ensure that these controls are reviewed periodically by ERCOT's Internal Audit staff to monitor compliance with control procedures. The results of Internal Audit reviews as well as underlying controls may be reviewed by the Finance and Audit Committee of the BOD upon request.

In addition, the Treasurer, in cooperation with the BOD, will seek an independent review of the PCR Model prior to incorporating the PCR Model into any determination of collateral requirements or within one year of Nodal market implementation and at least biennially thereafter.

Measurement

ERCOT will use a standard Potential Future Exposure framework for measuring credit risk. The PCR Model, which was built on this framework, will be maintained within this framework.

At a minimum, ERCOT's portfolio credit risk analysis will include the following risk factors:

- Probability of Default for each QSE (resulting from credit score or rating),
- Forward price analysis,
- Price volatility analysis,
- Volume escalation behavior analysis, and
- Simplified collateral calculations.

ERCOT will recommend updates of these and other risk factors if key risk factors change.

ERCOT will update model assumptions periodically with CWG input. The BOD will be informed of all model parameter changes.

ERCOT will run stress scenarios in addition to the Base Case and Current Case to quantify extreme credit risk (incorporating such things as market price events, high correlations of default, impacts of specific types of market activities and high concentration of exposures to Counter-Parties or types of Counter-Parties).

While recognizing that it is impractical to model all possible loss scenarios within the PCR Model, the PCR Model is a valuable tool to more effectively monitor credit risk within the ERCOT market. The model considers identified risk factors and provides an indication of potential losses; however, actual losses may be more or less than those indicated by the model.

Reporting

ERCOT will maintain and run the PCR Model and will prepare a summary analysis of results:

1. at least quarterly,
2. whenever ERCOT determines there have been significant changes in underlying credit risk factors which warrant a model run, and
3. upon request of TAC or CWG when contemplating market rule changes for which significant credit implications are being evaluated.

The PCR Report will, at a minimum, include:

1. the Base Case and Current Case scenarios,
2. Expected Loss, median loss and Loss Distribution at the 90, 95, 99, 99.9th percentile for required and ad hoc scenarios,
3. a listing of inputs used and assumptions made (specific, where possible; general when inputs are Counter-Party specific), and
4. ERCOT's summary analysis of the reasons for significant changes in the measurement of credit risk from the prior PCR Report.

A summary of the PCR Report will be provided to the Finance and Audit Committee of the BOD, TAC and the CWG at least quarterly.

Market Credit Risk Standard Adoption.

ERCOT's Market Credit Risk Standard will be adopted by resolution of the BOD. The standard will be reviewed at least annually by the Finance and Audit Committee and any modifications made thereto must be approved by the BOD.

7. Credit Update: Review Credit Statistics

Cheryl Yager

	as of 12/31/2008				as of 1/31/2009					
	# of QSEs*	Estimated Aggregate Liability (\$)	% of EAL	Total Unsec Credit Limit / Security Posted		# of QSEs*	Estimated Aggregate Liability (\$)	% of EAL	Total Unsec Credit Limit / Security Posted	
Exposure in the ERCOT Market (owed to ERCOT)										
<u><i>QSEs that meet ERCOT Creditworthiness Standards</i></u>										
Ratings over BBB-	10	22,167,284	6%	134,470,540	U	13	31,661,363	9%	179,802,684	U
<u><i>QSEs that do not meet ERCOT Creditworthiness Standards</i></u>										
Ratings below BBB- or not rated										
Cash & Letters of Credit	52	218,393,310	63%	403,647,251	S	53	192,216,509	54%	318,801,000	S
Guarantee Agreements	16	109,105,906	31%	410,308,482	S	20	130,874,251	37%	512,784,745	S
Total Exposure	78	349,666,500	100%			86	354,752,123	100%		
Other QSEs in the ERCOT Market (ERCOT owes)										
<u><i>QSEs that meet ERCOT Creditworthiness Standards</i></u>										
Ratings over BBB-	7	(2,163,637)	-3%	51,889,502	U	4	(5,892,480)	-8%	37,338,279	U
<u><i>QSEs that do not meet ERCOT Creditworthiness Standards</i></u>										
Ratings below BBB- or not rated										
Cash & Letters of Credit	60	(60,328,252)	-73%	93,973,607	S	56	(48,925,263)	-69%	51,471,405	S
Guarantee Agreements	7	(19,642,939)	-24%	174,700,000	S	7	(15,792,605)	-23%	101,502,000	S
Total	74	(82,134,828)	-100%			67	(70,610,348)	-100%		
Total	152					153				

U: Unsecured since these QSEs meet the creditworthiness standards
 S: Secured i.e. required to post collateral since these QSEs do not meet the creditworthiness standards

Review of Key ISO Credit Policies and Proposed Changes

Maximum Unsecured Credit

Minimum Credit Rating For Unsecured Credit

Minimum Bank Letter of Credit Rating

Bank Letter of Credit Concentration Limit per Market Participant

Other Proposed Credit Standards

Proposed ISO Credit Changes Already in Place at ERCOT

ERCOT Unsecured Credit Process – Summary

ERCOT Unsecured Credit Key Statistics

7. Credit Update: Review Unsecured Credit Process – Maximum Unsecured Credit – Cheryl Yager

ERCOT	NYISO	PJM	NEPOOL	MISO	CAISO
<p>Current:</p> <p>\$100 million</p>	<p>Current:</p> <p>Corporate 20% of market participant's highest total A/R balance over prior 12 month period</p> <p>Municipal Municipal electric systems receive a minimum of \$1 million of unsecured credit</p>	<p>Current:</p> <p>\$150 million</p>	<p>Current:</p> <p>\$75 million</p>	<p>Current:</p> <p>\$50 million</p>	<p>Current:</p> <p>Corporate \$250 million</p> <p>Municipal Local public utilities receive a minimum \$1 million of unsecured credit</p>
<p>Proposed:</p> <p>To be reviewed with CWG</p>	<p>Proposed:</p> <p>Corporate</p> <ul style="list-style-type: none"> • Eliminate all unsecured credit or • Eliminate unsecured credit in TCC and Virtual markets or • Fixed cap of \$200 million on unsecured credit <p>Municipal</p> <ul style="list-style-type: none"> • Increase minimum unsecured credit to \$2 million 	<p>Proposed:</p> <ul style="list-style-type: none"> • \$50 million per entity • \$150 million for affiliated groups • Eliminate unsecured credit for FTR market 	<p>Proposed:</p> <p>No unsecured credit for non-municipal market participants.</p>	<p>Proposed:</p> <p>No changes proposed</p>	<p>Proposed:</p> <ul style="list-style-type: none"> • \$150 million • Limit will eventually be lowered to \$50 million (shortened billing cycle)

7. Credit Update: Review Unsecured Credit Process – Minimum Credit Rating For Unsecured Credit – Cheryl Yager

ERCOT	NYISO	PJM	NEPOOL	MISO	CAISO
<p>Current:</p> <ul style="list-style-type: none"> • Senior Unsecured: BBB-/Baa3 • Issuer Rating: BBB-/Baa3 	<p>Current:</p> <ul style="list-style-type: none"> • Senior Unsecured: BBB-/Baa3 • Issuer Rating: BBB/Baa2 	<p>Current:</p> <p>BBB-</p>	<p>Current:</p> <ul style="list-style-type: none"> • Senior Unsecured: BBB-/Baa3 • Issuer Rating: BBB-/Baa3 • Senior Secured: BBB/Baa2 	<p>Current:</p> <p>Not applicable for quantitative credit limit calculation, but part of qualitative consideration.</p>	<p>Current:</p> <p>BBB-/Ba1</p>
<p>Proposed:</p> <p>To be reviewed with CWG</p>	<p>Proposed:</p> <ul style="list-style-type: none"> • Senior Unsecured: BBB+/Baa1 • Issuer Rating: A-/A3 	<p>Proposed:</p> <p>No changes proposed</p>	<p>Proposed:</p> <p>No unsecured credit for non-municipal market participants.</p>	<p>Proposed:</p> <p>No changes proposed</p>	<p>Proposed:</p> <p>Use lowest available agency credit rating instead of average rating when multiple ratings are available.</p>

7. Credit Update: Review Unsecured Credit Process – Minimum Bank Letter of Credit Rating – Cheryl Yager

ERCOT	NYISO	PJM	NEPOOL	MISO	CAISO
<p>Current:</p> <p>A-/A3</p>	<p>Current:</p> <p>US or Canadian bank with minimum A rating</p>	<p>Current:</p> <p>A/A2</p>	<p>Current:</p> <p>A-/A3</p>	<p>Current:</p> <p>A-/A3</p>	<p>Current:</p> <p>A-/A3</p>
<p>Proposed:</p> <p>To be reviewed with CWG</p>	<p>Proposed:</p> <ul style="list-style-type: none"> • AA- • Utilize the lowest available rating from any of the three rating agencies to determine the governing rating 	<p>Proposed:</p> <p>No changes proposed</p>	<p>Proposed:</p> <p>No changes proposed</p>	<p>Proposed:</p> <p>No changes proposed</p>	<p>Proposed:</p> <p>No changes proposed</p>

7. Credit Update: Review Unsecured Credit Process – Bank Letter of Credit Concentration Limit Per Market Participant

ERCOT	NYISO	PJM	NEPOOL	MISO	CAISO
Current: No limit	Current: No limit	Current: No limit	Current: No limit	Current: No limit	Current: No limit
Proposed: To be reviewed with CWG	Proposed: \$50 million	Proposed: Preliminary discussion to limit concentrations for banks providing letters of credit, but no explicit numbers yet.	Proposed: \$100 million	Proposed: No changes proposed	Proposed: No changes proposed

7. Credit Update: Review Unsecured Credit Process – Other Proposed Credit Standards – Cheryl Yager

NYISO	PJM	NEPOOL	MISO	CAISO
<p>Proposed:</p> <ul style="list-style-type: none"> • Two late payments in twelve months are grounds for immediate termination • Accelerate settlement to weekly schedule from monthly schedule • Require evidence of capitalization and liquidity for new market participants • An uncured default in another ISO/RTO market is grounds for immediate termination from the NYISO markets 	<p>Proposed:</p> <ul style="list-style-type: none"> • Reduce breach cure period to two business days from three business days • Accelerate settlement to weekly schedule from monthly schedule • Ability to terminate and liquidate defaulting members' FTRs • Allow early payments to reduce credit requirements • Ability to delay pending payment if a collateral call is outstanding or until a breach or default is cured 	<p>Proposed:</p> <p>None</p>	<p>Proposed:</p> <p>None</p>	<p>Proposed:</p> <ul style="list-style-type: none"> • If a guarantee is put in place for one affiliate, a guarantee must be put in place for any other affiliates also in the market. • If three late payments in rolling 12 month period, market participant will be required to post cash collateral equivalent to highest liability level over prior 12 months.

7. Credit Update: Review Unsecured Credit Process – Proposed ISO Credit Changes Already in Place at ERCOT – Cheryl Yager

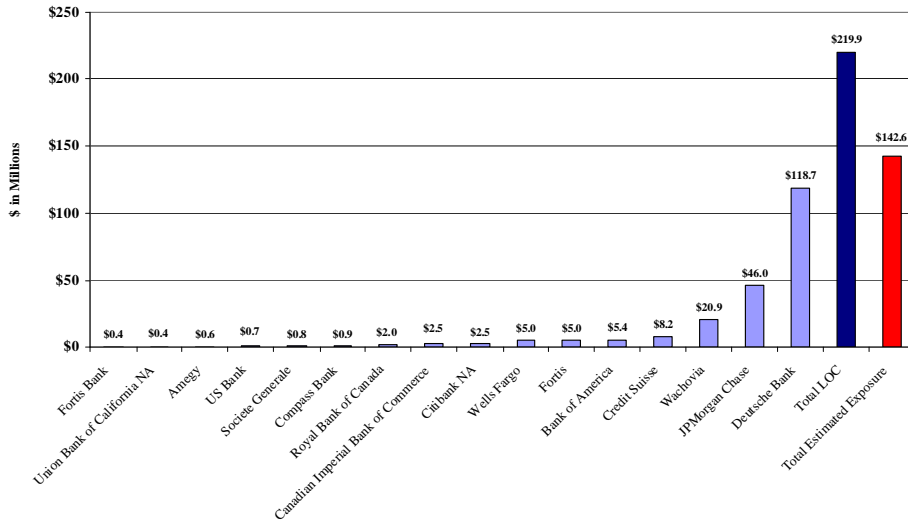
Proposed	ERCOT
<ol style="list-style-type: none"> 1. Reduce breach cure period to two business days from three business days 2. Accelerate settlement to weekly schedule from monthly schedule 3. Ability to terminate and liquidate defaulting members' FTRs 4. Allow early payments to reduce credit requirements 5. Ability to delay pending payment if a collateral call is outstanding or until a breach or default is cured 6. Two late payments in twelve months are grounds for immediate termination 7. Require evidence of capitalization and liquidity for new market participants 8. An uncured default in another ISO/RTO market is grounds for immediate termination from the NYISO markets 	<ol style="list-style-type: none"> 1. Breach cure period at two business days 2. Settlements are on a weekly basis 3. ERCOT has the ability to terminate and liquidate defaulting members' CRRs in the Nodal Market 4. Market participants may reduce their credit requirements through early payments 5. ERCOT may delay a pending payment to a market participant if a collateral call is outstanding or until a breach or default is cured

7. Credit Update: Review Unsecured Credit Process – ERCOT Unsecured Credit Process – Summary

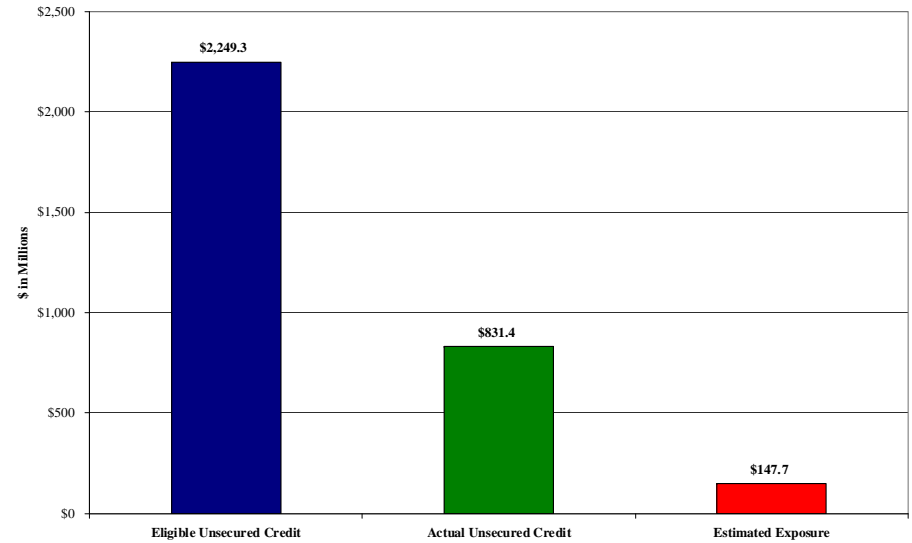
- I. ERCOT credit staff compares the market participant's or applicant's financial and/or credit rating information against ERCOT Creditworthiness Standards to determine eligible unsecured credit limits.
- II. Credit staff utilizes additional current information to further determine the market participant's strength.
 - i. Other financial performance metrics
 - ii. Recent stock price trends
 - iii. Company news
 - iv. Industry trends
- III. ERCOT evaluates the market participant's activity in the ERCOT market to determine a reasonable level of unsecured credit which is in line with the company's activity level and financial strength.
 - i. EAL activity
 - ii. NLRI activity
- IV. ERCOT establishes unsecured credit at a level that
 - i. Does not exceed the maximum allowed by the Creditworthiness Standards
 - ii. Takes into consideration recent news
 - iii. Takes into consideration the level of activity in the ERCOT market
- V. Credit staff continues to track company and industry news, credit rating actions, and other factors to ensure the company remains creditworthy and will increase or decrease credit limits as appropriate.

7. Credit Update: Review Unsecured Credit Process – ERCOT Unsecured Credit Key Statistics – Cheryl Yager

QSE Letters of Credit Concentrations



Unsecured QSE Credit Statistics



Note: Statistics include direct unsecured and unsecured credit granted to guarantors.

Note: No single QSE or affiliated group has been granted more than \$75 million.

Note: Chart figures as of 1-29-09.

7. Credit Update: Update on Financial Statement Requirement Enforcement – Cheryl Yager

- **ERCOT is in the process of preparing a filing for the PUCT to notify them of entities that are not in compliance with the Financial Statement requirement in the Protocols**
 - Filing to be made by the end of February
 - Filing address non-compliance at this point in time only
- **With the Committee's permission, ERCOT intends to waive prior non-compliance in 2008**
- **ERCOT will make a similar filing with the PUCT every quarter going forward**
 - Within 30 days of the due date for financial statements

7. Credit Update: Update on Uplifts in Process

Cheryl Yager

- **In June/July 2008, the market experienced short payments when 5 market participants defaulted on their Agreements with ERCOT.**
- **ERCOT is in the process of uplifting the amounts of unpaid invoices to QSE's on a Load Ratio Share basis. This process should be completed by the end of February 2008.**

National Power	1,801,826.20
Hwy 3	1,339,012.32
Sure	1,276,029.82
Pre-Buy	218,300.78
Leach	108,415.44
	<hr/>
	4,743,584.56
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At its January 20, 2009 meeting, the Finance & Audit (F&A) Committee instructed ERCOT Staff to revise the MP Guarantee Agreements to include the following items:

1. Waiver of Substantive Defenses
2. Two Business Day Receipt of Funds Provision After Written Demand by ERCOT

The MP Guarantee Agreements have been revised to include both items and are included as Attachments A and B.

8. Review and Approval Of The Standard Form Guarantee Agreements (Vote) – Chad Seely

Next Steps

- **Committee discussion and vote to recommend Board approval of revised standard form guarantee agreement.**
- **ERCOT Staff seeks F&A Committee guidance on implementation of new Board-approved MP Guarantee Agreements over existing versions.**

Attachment A



MARKET PARTICIPANT GUARANTEE AGREEMENT

This GUARANTEE (this “*Guarantee*”) is made by the undersigned entity (together with its permitted successors and assigns, the “*Guarantor*”) in favor of ELECTRIC RELIABILITY COUNCIL OF TEXAS, INC. (together with its successors and assigns, “*ERCOT*”).

Recitals

A. ERCOT has entered into a Standard Form Market Participant Agreement (as the same may be modified through the procedure for modifying ERCOT Protocols described in the ERCOT Protocols, “*Agreement*”) with the Market Participant identified on the signature page hereof (together with its permitted successors and permitted assigns, the “*Participant*”).

B. Pursuant to the Agreement and the related ERCOT Protocols (as such term is defined in the Agreement), ERCOT may extend credit to Participant from time to time.

C. It is expressly agreed and understood by and among Participant, ERCOT and Guarantor that: (1) the execution and delivery to ERCOT of this Guarantee is a condition precedent to ERCOT entering into the Agreement, the continuation of transactions with Participant pursuant to the Agreement and the extension of credit to Participant pursuant to the Agreement and the related ERCOT Protocols, (2) ERCOT has relied, and will continue to rely, upon this Guarantee in entering into transactions as contemplated by the Agreement and the related ERCOT Protocols, and (3) ERCOT would not enter into the Agreement, or otherwise enter into or continue transactions with Participant, without this Guarantee.

D. [ALTERNATIVE 1 FOR GENERAL USE] The value of the consideration and benefit received and to be received by Guarantor, directly or indirectly, as a result of ERCOT entering into the Agreement and Guarantor executing and delivering this Guarantee, is reasonably worth at least as much as the liability and obligation of Guarantor hereunder, and the extension of credit to Participant pursuant to the Agreement has or may reasonably be expected to benefit the Guarantor directly or indirectly.

D. [ALTERNATIVE 2 FOR USE WITH EXPRESS FINANCE DEPARTMENT APPROVAL AND INDEPENDENT THIRD-PARTY GUARANTOR] Pursuant to that certain [INSERT TITLE OF AGREEMENT] (“*Reimbursement Agreement*”), Guarantor has contracted with Participant for the express purpose of providing this Guarantee for the benefit of ERCOT.

E. In connection with the foregoing, Guarantor desires to guarantee to ERCOT the prompt and full payment of the Obligations (as defined below) upon the terms and conditions contained in this Guarantee.

Agreements

Section 1. In consideration of credit heretofore or hereafter granted by ERCOT to Participant pursuant to the Agreement or the related ERCOT Protocols, Guarantor hereby unconditionally, absolutely and, subject to the express provisions of Sections 9 and 20 hereof, irrevocably guarantees to ERCOT, as a primary obligor and not as a surety, the punctual payment when due (subject to any grace period applicable to the Obligations (as defined below)), whether on a scheduled date, by lapse of time, by acceleration of maturity, or otherwise any and all of the Obligations. As used in this Guarantee, the term “*Obligations*” means, collectively: (a) any and all indebtedness, liabilities and sums of money now or hereafter due or owing to ERCOT pursuant to, or arising under, the Agreement, the ERCOT Protocols or any of the ERCOT market and operating guides, including (without limitation) all scheduling, operating, planning, reliability and settlement policies, rules, guidelines and procedures

established from time to time in ERCOT; (b) any and all interest and out-of-pocket expenses (including reasonable attorneys' fees) contemplated to be paid by Participant pursuant to the Agreement, the ERCOT Protocols or any of the ERCOT market and operating guides, in each instance whether or not allowed under any Debtor Relief Law (including all post-petition interest accruing after the commencement of any bankruptcy or insolvency proceeding by or against Participant, whether or not allowed in such proceeding), and all other amounts that would be part of the Obligations but for the operation of Debtor Relief Laws; (c) all assessments and other amounts required to be paid by Participant to ERCOT in order to maintain the Agreement and the ability to conduct business with ERCOT notwithstanding the continuing right of Participant to dispute, contest or pursue rights of setoff of such assessments and other amounts pursuant to the alternative dispute resolution provisions of the ERCOT Protocols; and (d) all costs, expenses and fees, including, without limitation, court costs and attorneys' fees, arising in connection with the collection of any or all amounts, indebtedness, obligations and liabilities of Participant to ERCOT described in clauses (a) through (c) of this sentence. For purposes of this Guarantee, the term "**Debtor Relief Laws**" shall mean Title 11 of the United States Code, as now or hereafter in effect, or any other applicable law, domestic or foreign, as now or hereafter in effect, relating to bankruptcy, insolvency, liquidation, receivership, reorganization, arrangement or composition, extension or adjustment of debts, or other debtor relief, or similar laws affecting the rights of creditors.

Section 2. Notwithstanding the foregoing, the maximum amount of the Obligations for which Guarantor shall be liable personally hereunder shall not exceed the sum of the following from time to time: (a) the then-applicable Credit Support Amount (as defined below); plus (b) interest in respect of the Obligations (to the extent permitted by applicable state law, the Agreement, the ERCOT Protocols or any of the ERCOT market and operating guides) for periods after the date on which written demand is made for payment hereunder by ERCOT; plus (c) Expenses (as defined below). For purposes of this Guarantee, the term "**Credit Support Amount**" shall mean the amount designated as such on the signature page to this Guarantee as the same may be increased or decreased by written agreement between the Guarantor and ERCOT.

Section 3. Guarantor is liable for the full payment of the Obligations, subject to the express limitations provided in Section 2, as a primary obligor. This is a continuing guarantee for payment and not of collection. Guarantor acknowledges and agrees that Guarantor may be required to pay the Obligations in full without assistance or support from Participant or any other person. Guarantor agrees that if all or any part of the Obligations shall not be punctually paid when due ~~(subject to any grace period applicable to the Obligations)~~, whether on the scheduled payment date, by lapse of time, by acceleration of maturity or otherwise, Guarantor shall pay promptly, at or before 5:00 P.M. Central Prevailing Time on the second Business Day (as such term is defined in the ERCOT Protocols) immediately following the issuance of written demand by ERCOT to Guarantor, the amount due on the Obligations to ERCOT at its address as set forth on the signature page hereto in accordance with the terms hereof. ERCOT may, but shall have no obligation to, make asuch demand(s) at any time coincident with or after the time for payment of all or part of the Obligations, and such demand(s) may be made from time to time with respect to the same or different items of the Obligations. Such demand(s) may be made, given and received in accordance with the notice provisions hereof; provided, however, ~~that the failure of ERCOT to make a demand shall neither relieve nor~~ to make, give or receive any such demand (or any failure of any such demand to be made in accordance with the notice provisions hereof) shall not relieve, limit or discharge Guarantor in any respect of its obligations under this Guarantee the Guarantee to pay the Obligations promptly when due. If made, any demand shall be made, given and received in accordance with the notice provisions hereof. Guarantor hereby waives any condition or requirement with respect to any such demand under this Guarantee, and Guarantor agrees that Guarantor's obligations hereunder are absolute and immediate without requirement of any presentment, protest, notice of protest, notice of nonpayment, notice of intent to accelerate, notice of acceleration or any other notice whatsoever, ~~and~~ (all

requirements of notice which are hereby expressly waived), except as may expressly be required hereunder.

Section 4. If Guarantor is or becomes liable for any indebtedness or obligations owing by Participant to ERCOT other than through this Guarantee, the liability of Guarantor for such other indebtedness shall not in any manner be impaired or affected hereby or the limits contained herein, and the rights of ERCOT hereunder shall be cumulative of any and all other rights that ERCOT may have against Guarantor. If Participant is or becomes indebted to ERCOT for any indebtedness other than the Obligations, any payment received or recovery realized upon any such other indebtedness of Participant to ERCOT may be applied, in ERCOT's sole discretion, to indebtedness of Participant to ERCOT other than the Obligations, except to the extent paid by the Guarantor specifically in respect of the Obligations or as otherwise required by Law or written agreement of ERCOT to be applied to the Obligations. This Guarantee is independent of, and shall not be limited by, any other guaranty or collateral posted by or on behalf of Guarantor, in each instance whether now existing or hereafter given. Further, Guarantor's liability under this Guarantee is in addition to any and all other liability Guarantor may have in any other capacity, including, without limitation, its capacity as a general partner or managing member of Participant.

Section 5. Guarantor hereby expressly waives: (a) any right to revoke this Guarantee with respect to the Obligations except set forth in Section 9 below; (b) any right relating to the timing, manner or conduct of ERCOT's enforcement of rights against Participant's assets or any collateral from time to time pledged by, or on behalf of, Participant to secure the Obligations; (c) if Guarantor and Participant (or any other person) have each pledged assets to secure the Obligations, any right to require ERCOT to proceed first against collateral pledged by Participant (or any other person) before proceeding against the collateral pledged by Guarantor; (d) promptness, diligence, notice of any default, notice of nonpayment or nonperformance, notice of acceleration or intent to accelerate, acceptance or notice of acceptance of this Guarantee, presentment, protest, notice of protest, notice of dishonor, notice of the incurring by Participant of additional indebtedness, notice of any suit or other action by ERCOT against Participant or any other person, any notice to any person liable for the obligation which is the subject of the suit or action, and all other notices and demands with respect to the Obligations and this Guarantee; (e) any and all rights to which it may be entitled by virtue of the laws of the State of Texas governing suretyship and guarantees, including, without limitation, any rights under Rule 31, Texas Rules of Civil Procedure, Section 17.001 of the Texas Civil Practice and Remedies Code and Chapter 34 of the Texas Business and Commerce Code, as any or all of the same may be amended or construed from time to time, or the common law of the State of Texas at all relevant times; and (f) any defense due to the Guarantor's failure to review the activities of Participant or any changes in the Agreement, the ERCOT Protocols or the related ERCOT market and operating guides (it being acknowledged and agreed that Guarantor bears all responsibility for monitoring the activities of the Participant in the ERCOT markets). In furtherance of the foregoing, Guarantor agrees that (i) it is not necessary for ERCOT, in order to enforce Guarantor's payment hereunder, first to proceed against Participant or resort to any collateral, security or other guarantors or obligors, if any, or pursue any other remedy available to ERCOT with respect to the Obligations and (ii) any collateral, security or obligations of any other guarantors or obligors, if any, may be sold, released, surrendered, exchanged, settled, compromised, waived, subordinated or modified, in each case without consideration and on any terms or conditions, without notice to, or further assent from, Guarantor.

Section 6. The obligations of Guarantor hereunder are absolute and unconditional irrespective of: (a) the invalidity or unenforceability of the Agreement ~~due to the application of Debtor Relief Laws~~, (b) the bankruptcy or insolvency of, or the effect of application of any Debtor Relief Laws to, the Participant, (c) any claim for setoff or any defense which Participant could assert on the

Obligations, including, without limitation, force majeure, breach of warranty, and fraud, (d) any substitution, release or exchange of any other guaranty of, or security for, any of the Obligations, and (e) the existence or terms of any other agreements between Guarantor and any party, including Participant, and (f) to the fullest extent permitted by applicable law, irrespective of any other circumstances whatsoever that might otherwise constitute a legal or equitable discharge or defense of a guarantor, it being the intent of this Guarantee that the obligations of Guarantor hereunder shall be absolute and unconditional under any and all circumstances.

Section 7. All rights of Guarantor to proceed against Participant in respect of payment hereunder, by subrogation or otherwise (a) are hereby subordinated and deferred to and until the full and final payment and discharge of the Obligations and (b) Guarantor may not exercise any rights it may acquire by way of subrogation under this Guarantee, by payment made hereunder or otherwise, until all of the Obligations then due and payable have been fully and finally paid. Subject to the subordination herein provided, with respect to any payments made by Guarantor to ERCOT under this Guarantee, Guarantor may succeed to any rights of Participant under the Agreement and the ERCOT Protocols. Guarantor does not waive or release any rights of subrogation, reimbursement or contribution which Guarantor may have after full and final payment of the then due and unpaid Obligations.

Section 8. All remedies, rights, powers and privileges granted to ERCOT pursuant to this Guarantee are cumulative. The exercise of any or all such rights by ERCOT shall not reduce, limit, impair, discharge, terminate, or otherwise affect the liability of Guarantor. No failure or delay by ERCOT in exercising any remedy, right, power or privilege pursuant to this Guarantee shall operate as a waiver, and any such remedy, right, power or privilege may be exercised by ERCOT at any time. No partial exercise of any such rights shall preclude further exercise or the exercise of any other remedy, right, power or privilege. No notice or demand by ERCOT upon Guarantor or any other guarantor of the Obligations shall preclude ERCOT from taking further action without notice or demand.

Section 9. The term of this Guarantee shall be for a period of one (1) year, commencing on the date set forth below. Notwithstanding the foregoing, this Guarantee may be terminated by Guarantor at any time by a written notification of termination given by Guarantor to ERCOT at the address shown below. Such termination shall be effective thirty (30) days after the receipt by ERCOT of such notification of termination. Guarantor acknowledges that this Guarantee applies to all Obligations arising or committed to prior to the effective date of the termination of this Guarantee, whether by notification of termination, or by expiration of the term. Notwithstanding any other provision in this Guarantee, this Guarantee shall continue in effect or shall be reinstated if at any time payment, or any part thereof, made by Participant or Guarantor to ERCOT during the term of this Guarantee with respect to any of the Obligations is rescinded, or must otherwise be repaid by ERCOT as a result of application of any Debtor Relief Laws or otherwise.

Section 10. Guarantor hereby represents and warrants to ERCOT, which representations shall be deemed repeated continually during the term hereof that:

(a) this Guarantee is duly authorized and valid, and is binding upon and enforceable against Guarantor (subject, in each instance, to the effect of applicable Debtor Relief Laws);

(b) the execution and delivery of, and the performance by Guarantor of its obligations under this Guarantee do not contravene (i) any provision of the Guarantor's organizational, constituent or governing documents, or (ii) any law, regulation, decree, order, judgment, resolution or any contractual restriction binding on Guarantor or its assets that could affect, in a materially adverse manner, the ability of the Guarantor to perform any of its obligations hereunder;

ATTACHMENT A

(c) Guarantor (i) is duly organized, validly existing, and in good standing under the laws of the state of its organization and (ii) and has full power and authority to enter into, and to perform its obligations under, this Guarantee;

(d) there is no litigation pending or, to the knowledge of Guarantor, threatened, before or by any tribunal against or affecting Guarantor which seeks to limit, prevent, enjoin or delay the Guarantor's performance of its obligations under this Guarantee, except as may be disclosed in the Guarantor's filing with the Securities and Exchange Commission;

(e) no bankruptcy or insolvency proceedings are pending or contemplated by or against Guarantor under any Debtor Relief Laws;

(f) ***NEITHER ERCOT NOR ANY AFFILIATE OF ERCOT HAS MADE ANY REPRESENTATION, WARRANTY OR STATEMENT TO GUARANTOR IN ORDER TO INDUCE GUARANTOR TO EXECUTE THIS GUARANTEE, AND GUARANTOR HEREBY EXPRESSLY WAIVES ANY CLAIM OF FRAUDULENT INDUCEMENT TO EXECUTE THIS GUARANTEE AND FURTHER DISCLAIMS ANY RELIANCE ON STATEMENTS OR REPRESENTATIONS OF ERCOT OR ANY AFFILIATE OF ERCOT IN WAIVING SUCH A CLAIM;*** and

(g) Guarantor has, independently and without reliance upon ERCOT, and based upon such documents and information as Guarantor has deemed appropriate, made its own analysis and decision to enter into this Guarantee.

Section 11. Guarantor hereby further covenants and agrees to ERCOT that:

(a) Guarantor will keep itself fully apprised of Participant's financial and business condition, and Guarantor shall be responsible, to the extent deemed necessary or advisable by Guarantor, for obtaining for itself information regarding Participant, the Agreement, the ERCOT Protocols and the ERCOT market and operating guides, and Guarantor acknowledges and agrees that ERCOT shall have no duty at any time to notify Guarantor of any information which ERCOT may have or acquire concerning Participant or to investigate or inform Guarantor of the financial or business condition or affairs of Participant or any change therein; and

(b) Guarantor's representations, warranties, covenants, waivers and agreements set forth in this Guarantee are a material inducement to ERCOT to enter into the Agreement and extend credit to Participant and shall survive the execution hereof and any bankruptcy, foreclosure, transfer of security or other event affecting Participant, Guarantor, any other person, or any security for all or any part of the Obligations.

Section 12. This Guarantee is executed and delivered as an incident to transaction negotiated and consummated in Travis County, Texas, and shall be governed by and construed in accordance with the Laws of the State of Texas, other than the conflicts of laws principles thereof. Guarantor, for itself and its successors and assigns, hereby irrevocably (i) submits to the non-exclusive jurisdiction of the state and federal courts in the State of Texas, (ii) waives, to the fullest extent permitted by Law, any objection that may now or in the future have as to the venue of any action, proceeding or litigation arising out of or in connection with this Guarantee brought in the District Court of Travis County, Texas, or in the United States District Court for the Western District of Texas, Austin Division, and (iii) agrees that any legal action or proceeding against Guarantor arising out of or in connection with this Guarantee may be brought in any one of the foregoing courts. Guarantor hereby agrees that service of process upon Guarantor may be made

by certified or registered mail, return receipt requested, at its address specified herein. Nothing herein shall affect the right of ERCOT to serve process in any other manner permitted by law or shall limit the right of ERCOT to bring any action or proceeding against Guarantor or with respect to any of Guarantor's property in courts in other jurisdictions. Any action or proceeding by Guarantor against ERCOT shall be brought only in a court located in Travis County, Texas. The scope of each of the foregoing waivers is intended to be all encompassing of any and all disputes that may be filed in any court and that relate to the subject matter of this transaction, including, without limitation, contract claims, tort claims, breach of duty claims, and all other common law and statutory claims. Guarantor acknowledges that these waivers are a material inducement to ERCOT's agreement to enter into the Agreement, that ERCOT has already relied on these waivers and will continue to rely on each of these waivers in related future dealings. The waivers in Section 12 are irrevocable on the part of both ERCOT and Guarantor and may not be modified without the agreement of both ERCOT and Guarantor in writing as required pursuant to Section 23 below; these waivers apply to any future renewals, extensions, amendments, modifications, replacements or renewals of this Guarantee.

Section 13. If any provision of this Guarantee or the application thereof to any person or circumstance shall, for any reason and to any extent, be judicially declared to be invalid or unenforceable, then neither the remaining provisions of this Guarantee nor the application of such provision to any other person or circumstance shall be affected thereby, and the remaining provisions of this Guarantee, or the applicability of such provision to other persons or circumstances, as the case may be, rather shall remain in effect and be enforceable to the maximum extent permitted by applicable law.

Section 14. From time to time, at the reasonable request of ERCOT, Guarantor will (a) promptly correct any ministerial or administrative defect, error or omission which may be discovered in the contents of this Guarantee; (b) execute, acknowledge and deliver (or cause to be executed, acknowledged and delivered) such further documents and instruments and perform such further acts and provide such further assurances as may be necessary, desirable, or proper, in ERCOT's opinion, (i) to carry out more effectively the purposes of this Guarantee and the transactions contemplated hereunder, or (ii) to confirm the continuation of the rights created under this Guarantee for the benefit of ERCOT, including reaffirmation of the obligations hereunder from time to time upon the renewal hereof and the applicability of any changes in the Credit Support Amount.

Section 15. Time is of the essence in this Guarantee with respect to all of Guarantor's obligations hereunder.

Section 16. The recitals and introductory paragraphs hereof are a part hereof, form a basis for this Guarantee and shall be considered *prima facie* evidence of the facts and documents referred to therein.

Section 17. The Article, Section and Subsection entitlements hereof are inserted for convenience of reference only and shall in no way alter, modify, define, limit, amplify or be used in construing the text, scope or intent of such Articles, Sections or Subsections or any provisions hereof.

Section 18. All sums payable under this Guarantee shall be by wire transfer of immediately available funds, without offset, in lawful money of the United States of America, which shall at the time of payment be legal tender for the payment of public and private debts. All payments shall be remitted to ERCOT's bank account as designated by written notice to Guarantor, whether through demand for payment or otherwise.

ATTACHMENT A

Section 19. EACH OF GUARANTOR AND ERCOT, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, HEREBY KNOWINGLY, INTENTIONALLY, IRREVOCABLY, UNCONDITIONALLY AND VOLUNTARILY, WITH, AND UPON THE ADVICE OF COMPETENT COUNSEL, WAIVES, RELINQUISHES AND FOREVER FORGOES ALL RIGHT TO A TRIAL BY JURY IN ANY ACTION, SUIT, PROCEEDING, OR COUNTERCLAIM BASED UPON, ARISING OUT OF, OR IN ANY WAY RELATING TO THIS GUARANTEE OR ANY CONDUCT, ACT, FAILURE TO ACT OR OMISSION OF OR BY ERCOT OR GUARANTOR, OR ANY OF THEIR RESPECTIVE DIRECTORS, OFFICERS, PARTNERS, MEMBERS, EMPLOYEES, AGENTS OR ATTORNEYS, OR ANY OTHER PERSONS AFFILIATED WITH ERCOT OR GUARANTOR, IN EACH OF THE FOREGOING CASES, WHETHER SOUNDING IN CONTRACT, TORT OR OTHERWISE, OR IN THE ENFORCEMENT OF ANY OF THE TERMS OR PROVISIONS OF THIS GUARANTEE. IT IS AGREED AND UNDERSTOOD BY EACH OF GUARANTOR AND ERCOT THAT THIS WAIVER CONSTITUTES A WAIVER OF TRIAL BY JURY OF ALL CLAIMS AGAINST ALL PARTIES TO SUCH ACTIONS OR PROCEEDINGS, INCLUDING CLAIMS AGAINST PARTIES WHO ARE NOT PARTIES TO THIS GUARANTEE. THIS WAIVER IS KNOWINGLY, WILLINGLY AND VOLUNTARILY MADE BY GUARANTOR AND ERCOT, AND EACH OF GUARANTOR AND ERCOT HEREBY REPRESENTS THAT NO REPRESENTATIONS OF FACT OR OPINION HAVE BEEN MADE BY ANY INDIVIDUAL TO INDUCE THIS WAIVER OF TRIAL BY JURY OR TO IN ANY WAY MODIFY OR NULLIFY ITS EFFECT. EACH OF GUARANTOR AND ERCOT FURTHER REPRESENTS AND WARRANTS THAT IT HAS BEEN REPRESENTED IN THE SIGNING OF THIS GUARANTEE AND IN THE MAKING OF THIS WAIVER BY INDEPENDENT LEGAL COUNSEL, OR HAS HAD THE OPPORTUNITY TO BE REPRESENTED BY INDEPENDENT LEGAL COUNSEL SELECTED OF ITS OWN FREE WILL, AND THAT IT HAS HAD THE OPPORTUNITY TO DISCUSS THIS WAIVER WITH COUNSEL.

Section 20. Guarantor agrees to pay to ERCOT, upon demand, all out-of-pocket costs and expenses, including reasonable third-party attorneys' fees, that may be incurred by ERCOT in attempting to cause satisfaction of Guarantor's liability under this Guarantee ("*Expenses*").

Section 21. For purposes of giving any notices hereunder, the addresses, telephone numbers, and facsimile numbers of the parties are set forth on the signature page of this Guarantee.

Section 22. This Guarantee shall bind the successors and assigns of Guarantor and shall inure to the benefit of ERCOT, its successors and assigns pursuant to the terms of the Agreement. The Guarantor may not assign its rights nor delegate its obligations under this Guarantee, in whole or in part, without the prior written consent of ERCOT, and any purported assignment or delegation absent such consent is void, except for an assignment and delegation of all of the Guarantor's rights and obligations hereunder in whatever form the Guarantor determines may be appropriate to a partnership, corporation, trust or other organization in whatever form that succeeds to all or substantially all of the Guarantor's assets and business and that assumes such obligations by contract, operation of law or otherwise to the satisfaction of ERCOT in its sole discretion. Upon written acknowledgment of said assumption in accordance with the foregoing to the satisfaction of ERCOT, the Guarantor shall be relieved of and fully discharged from all obligations hereunder, whether such obligations arose before or after such delegation and assumption.

Section 23. No modification of this Guarantee or waiver shall be valid unless in writing and signed by ERCOT and Guarantor and then only to the extent specifically set forth in such writing.

Section 24. This Guarantee supersedes and terminates any prior guarantee to ERCOT by Guarantor on behalf of Participant.

ATTACHMENT A

Participant: _____
[Name of Participant]
a _____
[Type of entity/jurisdiction of organization]

Effective Date of Standard Form Market Participant Agreement: _____, 200__.

CREDIT SUPPORT AMOUNT: \$ _____

EXECUTED by GUARANTOR this ____ day of _____, 200__:

[Name of Guarantor]
a _____
[Type of entity/jurisdiction of organization]

Address: _____

Telephone: _____
Facsimile: _____

By: _____
Name: _____
Title: _____

ACCEPTED by ERCOT this ____ day of _____, 200__:

ELECTRIC RELIABILITY COUNCIL OF TEXAS, INC.

Address: 7620 Metro Center Drive
Austin, Texas 78744
[For notice and payment]

By: _____
Name: _____
Title: _____

Telephone: _____
Facsimile: 512.225.7020

Attachment B



FOREIGN MARKET PARTICIPANT GUARANTEE AGREEMENT

This GUARANTEE (this “*Guarantee*”) is made by the undersigned entity (together with its permitted successors and assigns, the “*Guarantor*”) in favor of ELECTRIC RELIABILITY COUNCIL OF TEXAS, INC. (together with its successors and assigns, “*ERCOT*”).

Recitals

A. ERCOT has entered into a Standard Form Market Participant Agreement (as the same may be modified through the procedure for modifying ERCOT Protocols described in the ERCOT Protocols, “*Agreement*”) with the Market Participant identified on the signature page hereof (together with its permitted successors and permitted assigns, the “*Participant*”).

B. Pursuant to the Agreement and the related ERCOT Protocols (as such term is defined in the Agreement), ERCOT may extend credit to Participant from time to time.

C. It is expressly agreed and understood by and among Participant, ERCOT and Guarantor that: (1) the execution and delivery to ERCOT of this Guarantee is a condition precedent to ERCOT entering into the Agreement, the continuation of transactions with Participant pursuant to the Agreement and the extension of credit to Participant pursuant to the Agreement and the related ERCOT Protocols, (2) ERCOT has relied, and will continue to rely, upon this Guarantee in entering into transactions as contemplated by the Agreement and the related ERCOT Protocols, and (3) ERCOT would not enter into the Agreement, or otherwise enter into or continue transactions with Participant, without this Guarantee.

D. [ALTERNATIVE 1 FOR GENERAL USE] The value of the consideration and benefit received and to be received by Guarantor, directly or indirectly, as a result of ERCOT entering into the Agreement and Guarantor executing and delivering this Guarantee, is reasonably worth at least as much as the liability and obligation of Guarantor hereunder, and the extension of credit to Participant pursuant to the Agreement has or may reasonably be expected to benefit the Guarantor directly or indirectly.

D. [ALTERNATIVE 2 FOR USE WITH EXPRESS FINANCE DEPARTMENT APPROVAL AND INDEPENDENT THIRD-PARTY GUARANTOR] Pursuant to that certain [INSERT TITLE OF AGREEMENT] (“*Reimbursement Agreement*”), Guarantor has contracted with Participant for the express purpose of providing this Guarantee for the benefit of ERCOT.

E. In connection with the foregoing, Guarantor desires to guarantee to ERCOT the prompt and full payment of the Obligations (as defined below) upon the terms and conditions contained in this Guarantee.

Agreements

Section 1. In consideration of credit heretofore or hereafter granted by ERCOT to Participant pursuant to the Agreement or the related ERCOT Protocols, Guarantor hereby unconditionally, absolutely and, subject to the express provisions of Sections 9 and 20 hereof, irrevocably guarantees to ERCOT, as a primary obligor and not as a surety, the punctual payment when due (subject to any grace period applicable to the Obligations (as defined below)), whether on a scheduled date, by lapse of time, by acceleration of maturity, or otherwise any and all of the Obligations. As used in this Guarantee, the term “*Obligations*” means, collectively: (a) any and all indebtedness, liabilities and sums of money now or hereafter due or owing to ERCOT pursuant to, or arising under, the Agreement, the ERCOT Protocols or any of the ERCOT market and operating guides, including (without limitation) all scheduling, operating, planning, reliability and settlement policies, rules, guidelines and procedures

established from time to time in ERCOT; (b) any and all interest and out-of-pocket expenses (including reasonable attorneys' fees) contemplated to be paid by Participant pursuant to the Agreement, the ERCOT Protocols or any of the ERCOT market and operating guides, in each instance whether or not allowed under any Debtor Relief Law (including all post-petition interest accruing after the commencement of any bankruptcy or insolvency proceeding by or against Participant, whether or not allowed in such proceeding), and all other amounts that would be part of the Obligations but for the operation of Debtor Relief Laws; (c) all assessments and other amounts required to be paid by Participant to ERCOT in order to maintain the Agreement and the ability to conduct business with ERCOT notwithstanding the continuing right of Participant to dispute, contest or pursue rights of setoff of such assessments and other amounts pursuant to the alternative dispute resolution provisions of the ERCOT Protocols; and (d) all costs, expenses and fees, including, without limitation, court costs and attorneys' fees, arising in connection with the collection of any or all amounts, indebtedness, obligations and liabilities of Participant to ERCOT described in clauses (a) through (c) of this sentence. For purposes of this Guarantee, the term "**Debtor Relief Laws**" shall mean Title 11 of the United States Code, as now or hereafter in effect, or any other applicable law, domestic or foreign, as now or hereafter in effect, relating to bankruptcy, insolvency, liquidation, receivership, reorganization, arrangement or composition, extension or adjustment of debts, or other debtor relief, or similar laws affecting the rights of creditors.

Section 2. Notwithstanding the foregoing, the maximum amount of the Obligations for which Guarantor shall be liable personally hereunder shall not exceed the sum of the following from time to time: (a) the then-applicable Credit Support Amount (as defined below); plus (b) interest in respect of the Obligations (to the extent permitted by applicable state law, the Agreement, the ERCOT Protocols or any of the ERCOT market and operating guides) for periods after the date on which written demand is made for payment hereunder by ERCOT; plus (c) Expenses (as defined below). For purposes of this Guarantee, the term "**Credit Support Amount**" shall mean the amount designated as such on the signature page to this Guarantee as the same may be increased or decreased by written agreement between the Guarantor and ERCOT.

Section 3. Guarantor is liable for the full payment of the Obligations, subject to the express limitations provided in Section 2, as a primary obligor. This is a continuing guarantee for payment and not of collection. Guarantor acknowledges and agrees that Guarantor may be required to pay the Obligations in full without assistance or support from Participant or any other person. Guarantor agrees that if all or any part of the Obligations shall not be punctually paid when due ~~(subject to any grace period applicable to the Obligations)~~, whether on the scheduled payment date, by lapse of time, by acceleration of maturity or otherwise, Guarantor shall pay promptly, at or before 5:00 P.M. Central Prevailing Time on the second Business Day (as such term is defined in the ERCOT Protocols) immediately following the issuance of written demand by ERCOT to Guarantor, the amount due on the Obligations to ERCOT-at its address as set forth on the signature page hereto in accordance with the terms hereof. ERCOT may, but shall have no obligation to, make asuch demand(s) at any time coincident with or after the time for payment of all or part of the Obligations, and such demand(s) may be made from time to time with respect to the same or different items of the Obligations. Such demand(s) may be made, given and received in accordance with the notice provisions hereof; provided, however, ~~that the failure of ERCOT to make a demand shall neither relieve nor to make, give or receive any such demand (or any failure of any such demand to be made in accordance with the notice provisions hereof) shall not relieve, limit or discharge Guarantor in any respect of its obligations under this Guarantee.~~ the Guarantee to pay the Obligations promptly when due. If made, any demand shall be made, given and received in accordance with the notice provisions hereof. Guarantor hereby waives any condition or requirement with respect to any such demand under this Guarantee, and Guarantor agrees that Guarantor's obligations hereunder are absolute and immediate without requirement of any presentment, protest, notice of protest, notice of nonpayment, notice of intent to accelerate, notice of acceleration or any other notice whatsoever, ~~and~~ (all

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requirements of notice—which are hereby expressly waived), except as may expressly be required hereunder.

Section 4. If Guarantor is or becomes liable for any indebtedness or obligations owing by Participant to ERCOT other than through this Guarantee, the liability of Guarantor for such other indebtedness shall not in any manner be impaired or affected hereby or the limits contained herein, and the rights of ERCOT hereunder shall be cumulative of any and all other rights that ERCOT may have against Guarantor. If Participant is or becomes indebted to ERCOT for any indebtedness other than the Obligations, any payment received or recovery realized upon any such other indebtedness of Participant to ERCOT may be applied, in ERCOT's sole discretion, to indebtedness of Participant to ERCOT other than the Obligations, except to the extent paid by the Guarantor specifically in respect of the Obligations or as otherwise required by Law or written agreement of ERCOT to be applied to the Obligations. This Guarantee is independent of, and shall not be limited by, any other guaranty or collateral posted by or on behalf of Guarantor, in each instance whether now existing or hereafter given. Further, Guarantor's liability under this Guarantee is in addition to any and all other liability Guarantor may have in any other capacity, including, without limitation, its capacity as a general partner or managing member of Participant.

Section 5. Guarantor hereby expressly waives: (a) any right to revoke this Guarantee with respect to the Obligations except set forth in Section 9 below; (b) any right relating to the timing, manner or conduct of ERCOT's enforcement of rights against Participant's assets or any collateral from time to time pledged by, or on behalf of, Participant to secure the Obligations; (c) if Guarantor and Participant (or any other person) have each pledged assets to secure the Obligations, any right to require ERCOT to proceed first against collateral pledged by Participant (or any other person) before proceeding against the collateral pledged by Guarantor; (d) promptness, diligence, notice of any default, notice of nonpayment or nonperformance, notice of acceleration or intent to accelerate, acceptance or notice of acceptance of this Guarantee, presentment, protest, notice of protest, notice of dishonor, notice of the incurring by Participant of additional indebtedness, notice of any suit or other action by ERCOT against Participant or any other person, any notice to any person liable for the obligation which is the subject of the suit or action, and all other notices and demands with respect to the Obligations and this Guarantee; (e) any and all rights to which it may be entitled by virtue of the laws of the State of Texas governing suretyship and guarantees, including, without limitation, any rights under Rule 31, Texas Rules of Civil Procedure, Section 17.001 of the Texas Civil Practice and Remedies Code and Chapter 34 of the Texas Business and Commerce Code, as any or all of the same may be amended or construed from time to time, or the common law of the State of Texas at all relevant times; and (f) any defense due to the Guarantor's failure to review the activities of Participant or any changes in the Agreement, the ERCOT Protocols or the related ERCOT market and operating guides (it being acknowledged and agreed that Guarantor bears all responsibility for monitoring the activities of the Participant in the ERCOT markets). In furtherance of the foregoing, Guarantor agrees that (i) it is not necessary for ERCOT, in order to enforce Guarantor's payment hereunder, first to proceed against Participant or resort to any collateral, security or other guarantors or obligors, if any, or pursue any other remedy available to ERCOT with respect to the Obligations and (ii) any collateral, security or obligations of any other guarantors or obligors, if any, may be sold, released, surrendered, exchanged, settled, compromised, waived, subordinated or modified, in each case without consideration and on any terms or conditions, without notice to, or further assent from, Guarantor.

Section 6. The obligations of Guarantor hereunder are absolute and unconditional irrespective of: (a) the invalidity or unenforceability of the Agreement ~~due to the application of Debtor Relief Laws~~, (b) the bankruptcy or insolvency of, or the effect of application of any Debtor Relief Laws to, the Participant, (c) any claim for setoff or any defense which Participant could assert on the

Obligations, including, without limitation, force majeure, breach of warranty, and fraud, (d) any substitution, release or exchange of any other guaranty of, or security for, any of the Obligations, ~~and~~ (e) the existence or terms of any other agreements between Guarantor and any party, including Participant, and (f) to the fullest extent permitted by applicable law, irrespective of any other circumstances whatsoever that might otherwise constitute a legal or equitable discharge or defense of a guarantor, it being the intent of this Guarantee that the obligations of Guarantor hereunder shall be absolute and unconditional under any and all circumstances.

Section 7. All rights of Guarantor to proceed against Participant in respect of payment hereunder, by subrogation or otherwise (a) are hereby subordinated and deferred to and until the full and final payment and discharge of the Obligations and (b) Guarantor may not exercise any rights it may acquire by way of subrogation under this Guarantee, by payment made hereunder or otherwise, until all of the Obligations then due and payable have been fully and finally paid. Subject to the subordination herein provided, with respect to any payments made by Guarantor to ERCOT under this Guarantee, Guarantor may succeed to any rights of Participant under the Agreement and the ERCOT Protocols. Guarantor does not waive or release any rights of subrogation, reimbursement or contribution which Guarantor may have after full and final payment of the then due and unpaid Obligations.

Section 8. All remedies, rights, powers and privileges granted to ERCOT pursuant to this Guarantee are cumulative. The exercise of any or all such rights by ERCOT shall not reduce, limit, impair, discharge, terminate, or otherwise affect the liability of Guarantor. No failure or delay by ERCOT in exercising any remedy, right, power or privilege pursuant to this Guarantee shall operate as a waiver, and any such remedy, right, power or privilege may be exercised by ERCOT at any time. No partial exercise of any such rights shall preclude further exercise or the exercise of any other remedy, right, power or privilege. No notice or demand by ERCOT upon Guarantor or any other guarantor of the Obligations shall preclude ERCOT from taking further action without notice or demand.

Section 9. The term of this Guarantee shall be for a period of one (1) year, commencing on the date set forth below. Notwithstanding the foregoing, this Guarantee may be terminated by Guarantor at any time by a written notification of termination given by Guarantor to ERCOT at the address shown below. Such termination shall be effective thirty (30) days after the receipt by ERCOT of such notification of termination. Guarantor acknowledges that this Guarantee applies to all Obligations arising or committed to prior to the effective date of the termination of this Guarantee, whether by notification of termination, or by expiration of the term. Notwithstanding any other provision in this Guarantee, this Guarantee shall continue in effect or shall be reinstated if at any time payment, or any part thereof, made by Participant or Guarantor to ERCOT during the term of this Guarantee with respect to any of the Obligations is rescinded, or must otherwise be repaid by ERCOT as a result of application of any Debtor Relief Laws or otherwise.

Section 10. Guarantor hereby represents and warrants to ERCOT, which representations shall be deemed repeated continually during the term hereof that:

(a) this Guarantee is duly authorized and valid, and is binding upon and enforceable against Guarantor (subject, in each instance, to the effect of applicable Debtor Relief Laws);

(b) the execution and delivery of, and the performance by Guarantor of its obligations under this Guarantee do not contravene (i) any provision of the Guarantor's organizational, constituent or governing documents, or (ii) any law, regulation, decree, order, judgment, resolution or any contractual restriction binding on Guarantor or its assets that could affect, in a materially adverse manner, the ability of the Guarantor to perform any of its obligations hereunder;

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(c) Guarantor (i) is duly organized, validly existing, and in good standing under the laws of the state of its organization and (ii) and has full power and authority to enter into, and to perform its obligations under, this Guarantee;

(d) there is no litigation pending or, to the knowledge of Guarantor, threatened, before or by any tribunal against or affecting Guarantor which seeks to limit, prevent, enjoin or delay the Guarantor's performance of its obligations under this Guarantee, except as may be disclosed in the Guarantor's filing with the Securities and Exchange Commission;

(e) no bankruptcy or insolvency proceedings are pending or contemplated by or against Guarantor under any Debtor Relief Laws;

(f) ***NEITHER ERCOT NOR ANY AFFILIATE OF ERCOT HAS MADE ANY REPRESENTATION, WARRANTY OR STATEMENT TO GUARANTOR IN ORDER TO INDUCE GUARANTOR TO EXECUTE THIS GUARANTEE, AND GUARANTOR HEREBY EXPRESSLY WAIVES ANY CLAIM OF FRAUDULENT INDUCEMENT TO EXECUTE THIS GUARANTEE AND FURTHER DISCLAIMS ANY RELIANCE ON STATEMENTS OR REPRESENTATIONS OF ERCOT OR ANY AFFILIATE OF ERCOT IN WAIVING SUCH A CLAIM;*** and

(g) Guarantor has, independently and without reliance upon ERCOT, and based upon such documents and information as Guarantor has deemed appropriate, made its own analysis and decision to enter into this Guarantee.

Section 11. Guarantor hereby further covenants and agrees to ERCOT that:

(a) Guarantor will keep itself fully apprised of Participant's financial and business condition, and Guarantor shall be responsible, to the extent deemed necessary or advisable by Guarantor, for obtaining for itself information regarding Participant, the Agreement, the ERCOT Protocols and the ERCOT market and operating guides, and Guarantor acknowledges and agrees that ERCOT shall have no duty at any time to notify Guarantor of any information which ERCOT may have or acquire concerning Participant or to investigate or inform Guarantor of the financial or business condition or affairs of Participant or any change therein; and

(b) Guarantor's representations, warranties, covenants, waivers and agreements set forth in this Guarantee are a material inducement to ERCOT to enter into the Agreement and extend credit to Participant and shall survive the execution hereof and any bankruptcy, foreclosure, transfer of security or other event affecting Participant, Guarantor, any other person, or any security for all or any part of the Obligations.

Section 12. This Guarantee is executed and delivered as an incident to transaction negotiated and consummated in Travis County, Texas, and shall be governed by and construed in accordance with the Laws of the State of Texas, other than the conflicts of laws principles thereof.

Guarantor, for itself and its successors and assigns, hereby irrevocably agrees:

(a) (i) to submit to the non-exclusive jurisdiction of the state and federal courts in the State of Texas, (ii) to waive, to the fullest extent permitted by Law, any objection that may now or in the future have as to the venue of any action, proceeding or litigation arising out of or in connection with this Guarantee brought in the District Court of Travis County, Texas, or in the United States District Court for the Western District of Texas, Austin Division, and (iii) that any legal action or

proceeding against Guarantor arising out of or in connection with this Guarantee may be brought in any one of the foregoing courts. Guarantor hereby agrees that service of process upon Guarantor may be made by certified or registered mail, return receipt requested, at its address specified herein, or at the address of its Process Agent (as defined in Section 25 hereof). Nothing herein shall affect the right of ERCOT to serve process in any other manner permitted by law or shall limit the right of ERCOT to bring any action or proceeding against Guarantor or with respect to any of Guarantor's property in courts in other jurisdictions. Any action or proceeding by Guarantor against ERCOT shall be brought only in a court located in Travis County, Texas. The scope of each of the foregoing waivers is intended to be all encompassing of any and all disputes that may be filed in any court and that relate to the subject matter of this transaction, including, without limitation, contract claims, tort claims, breach of duty claims, and all other common law and statutory claims. Guarantor acknowledges that these waivers are a material inducement to ERCOT's agreement to enter into the Agreement, that ERCOT has already relied on these waivers and will continue to rely on each of these waivers in related future dealings. The waivers in Section 12 are irrevocable on the part of both ERCOT and Guarantor and may not be modified without the agreement of both ERCOT and Guarantor in writing as required pursuant to Section 23 below; these waivers apply to any future renewals, extensions, amendments, modifications, replacements or renewals of this Guarantee; or, alternatively,

(b) to resolve any dispute relating in any manner to this Guarantee through binding arbitration. Arbitration proceedings shall be conducted pursuant to the International Arbitration Rules of the American Arbitration Association (AAA) in effect at the time the dispute first arises, by one (1) or three (3) arbitrator(s) appointed in accordance with such Rules within ten (10) calendar days of submission of the dispute. The number of arbitrators forming the arbitral panel shall be mutually agreed upon by the parties, but if they cannot agree, then the AAA shall determine same. The arbitration shall be held in such city as is agreed upon by the parties, but if they cannot agree, then such arbitration shall be held in Austin, State of Texas, United States of America. The arbitration shall be conducted simultaneously in English and in the primary language of Guarantor. The English version of this Guarantee shall be the controlling document in the arbitration proceeding. The procedural laws of the civil district courts of the State of Texas, U.S.A. shall govern the arbitral proceeding regardless of the situs of the arbitration. The arbitral panel shall set a limited time period and establish procedures designed to reduce the cost and time for discovery, while allowing the parties an adequate opportunity, in the discretion of the arbitral panel, to discover relevant information from opposing parties about the subject matter of the dispute. The arbitral panel shall award actual damages to the prevailing party, but may not award any special, indirect, punitive or consequential damages nor reasonable attorneys' fees and arbitration costs to either party. The arbitral award shall fully and finally settle the dispute. Recognition and enforcement of the arbitral award shall be governed by the 1958 New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards. Judgment upon the award may be entered in any court in any country, or application may be made to such court for a judicial acceptance of the award and an order of enforcement, as the law of such jurisdiction may require or allow. Each party shall bear its own costs and fees, including, but not limited to its share of any arbitration fees, unless otherwise ordered by the arbitrator(s).

BY AGREEING TO BINDING ARBITRATION, EACH OF THE PARTIES IRREVOCABLY AND VOLUNTARILY WAIVES ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY CLAIM. FURTHERMORE, WITHOUT INTENDING IN ANY WAY TO LIMIT THIS AGREEMENT TO ARBITRATE, TO THE EXTENT ANY CLAIM IS NOT ARBITRATED, EACH OF THE PARTIES IRREVOCABLY AND VOLUNTARILY WAIVE ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF SUCH CLAIM.

THIS PROVISION IS A MATERIAL INDUCEMENT FOR THE PARTIES ENTERING INTO THIS GUARANTEE.

Section 13. If any provision of this Guarantee or the application thereof to any person or circumstance shall, for any reason and to any extent, be judicially declared to be invalid or unenforceable, then neither the remaining provisions of this Guarantee nor the application of such provision to any other person or circumstance shall be affected thereby, and the remaining provisions of this Guarantee, or the applicability of such provision to other persons or circumstances, as the case may be, rather shall remain in effect and be enforceable to the maximum extent permitted by applicable law.

Section 14. From time to time, at the reasonable request of ERCOT, Guarantor will (a) promptly correct any ministerial or administrative defect, error or omission which may be discovered in the contents of this Guarantee; (b) execute, acknowledge and deliver (or cause to be executed, acknowledged and delivered) such further documents and instruments and perform such further acts and provide such further assurances as may be necessary, desirable, or proper, in ERCOT's opinion, (i) to carry out more effectively the purposes of this Guarantee and the transactions contemplated hereunder, or (ii) to confirm the continuation of the rights created under this Guarantee for the benefit of ERCOT, including reaffirmation of the obligations hereunder from time to time upon the renewal hereof and the applicability of any changes in the Credit Support Amount.

Section 15. Time is of the essence in this Guarantee with respect to all of Guarantor's obligations hereunder.

Section 16. The recitals and introductory paragraphs hereof are a part hereof, form a basis for this Guarantee and shall be considered *prima facie* evidence of the facts and documents referred to therein.

Section 17. The Article, Section and Subsection entitlements hereof are inserted for convenience of reference only and shall in no way alter, modify, define, limit, amplify or be used in construing the text, scope or intent of such Articles, Sections or Subsections or any provisions hereof.

Section 18. Each of Guarantor and ERCOT hereby agrees that:

(a) All sums payable under this Guarantee shall be by wire transfer of immediately available funds, without offset, in lawful money of the United States of America, which shall at the time of payment be legal tender for the payment of public and private debts. All payments shall be remitted to ERCOT's bank account as designated by written notice to Guarantor, whether through demand for payment or otherwise.

(b) All references in this Guarantee to sums denominated in dollars or with the symbol "\$" refer to the lawful currency of the United States of America. If, for the purposes of obtaining or enforcing judgment against Guarantor in any court in any jurisdiction in connection with this Guarantee, it becomes necessary to convert into any other currency (such other currency being referred to as the "**Judgment Currency**") an amount due in any currency ("**Obligation Currency**") other than the Judgment Currency under this Guarantee, the conversion shall be made at the rate of exchange prevailing on the Business Day immediately preceding the date of actual payment of the amount due, in the case of any proceeding in the courts of the State of Texas or in the courts of any other jurisdiction that would give effect to such conversion being made on such date, or, the date on which the judgment is given, in the case of any proceeding in the courts of any other jurisdiction (the applicable date as of which such conversion is made pursuant to this paragraph being hereinafter referred to as the "**Judgment Conversion Date**"). If, in the

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case of any proceeding in the court of any jurisdiction referred to in the preceding sentence, there is a change in the rate of exchange prevailing between the Judgment Conversion Date and the date of actual receipt for value of the amount due, Guarantor shall pay such additional amount (if any and in any event not a lesser amount) as may be necessary to ensure that the amount actually received in the Judgment Currency, when converted at the rate of exchange prevailing on the date of payment, will produce the amount of the Obligation Currency which could have been purchased with the amount of the Judgment Currency stipulated in the judgment or judicial order at the rate of exchange prevailing on the Judgment Conversion Date. The term "rate of exchange" in this paragraph means the spot rate of exchange at which ERCOT would, on the relevant date at or about 12:00 noon, be prepared to sell the Obligation Currency against the Judgment Currency.

Section 19. EACH OF GUARANTOR AND ERCOT, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, HEREBY KNOWINGLY, INTENTIONALLY, IRREVOCABLY, UNCONDITIONALLY AND VOLUNTARILY, WITH, AND UPON THE ADVICE OF COMPETENT COUNSEL, WAIVES, RELINQUISHES AND FOREVER FORGOES ALL RIGHT TO A TRIAL BY JURY IN ANY ACTION, SUIT, PROCEEDING, OR COUNTERCLAIM BASED UPON, ARISING OUT OF, OR IN ANY WAY RELATING TO THIS GUARANTEE OR ANY CONDUCT, ACT, FAILURE TO ACT OR OMISSION OF OR BY ERCOT OR GUARANTOR, OR ANY OF THEIR RESPECTIVE DIRECTORS, OFFICERS, PARTNERS, MEMBERS, EMPLOYEES, AGENTS OR ATTORNEYS, OR ANY OTHER PERSONS AFFILIATED WITH ERCOT OR GUARANTOR, IN EACH OF THE FOREGOING CASES, WHETHER SOUNDING IN CONTRACT, TORT OR OTHERWISE, OR IN THE ENFORCEMENT OF ANY OF THE TERMS OR PROVISIONS OF THIS GUARANTEE. IT IS AGREED AND UNDERSTOOD BY EACH OF GUARANTOR AND ERCOT THAT THIS WAIVER CONSTITUTES A WAIVER OF TRIAL BY JURY OF ALL CLAIMS AGAINST ALL PARTIES TO SUCH ACTIONS OR PROCEEDINGS, INCLUDING CLAIMS AGAINST PARTIES WHO ARE NOT PARTIES TO THIS GUARANTEE. THIS WAIVER IS KNOWINGLY, WILLINGLY AND VOLUNTARILY MADE BY GUARANTOR AND ERCOT, AND EACH OF GUARANTOR AND ERCOT HEREBY REPRESENTS THAT NO REPRESENTATIONS OF FACT OR OPINION HAVE BEEN MADE BY ANY INDIVIDUAL TO INDUCE THIS WAIVER OF TRIAL BY JURY OR TO IN ANY WAY MODIFY OR NULLIFY ITS EFFECT. EACH OF GUARANTOR AND ERCOT FURTHER REPRESENTS AND WARRANTS THAT IT HAS BEEN REPRESENTED IN THE SIGNING OF THIS GUARANTEE AND IN THE MAKING OF THIS WAIVER BY INDEPENDENT LEGAL COUNSEL, OR HAS HAD THE OPPORTUNITY TO BE REPRESENTED BY INDEPENDENT LEGAL COUNSEL SELECTED OF ITS OWN FREE WILL, AND THAT IT HAS HAD THE OPPORTUNITY TO DISCUSS THIS WAIVER WITH COUNSEL.

Section 20. Guarantor agrees to pay to ERCOT, upon demand, all out-of-pocket costs and expenses, including reasonable third-party attorneys' fees, that may be incurred by ERCOT in attempting to cause satisfaction of Guarantor's liability under this Guarantee ("*Expenses*").

Section 21. For purposes of giving any notices hereunder, the addresses, telephone numbers, and facsimile numbers of the parties and the Guarantor's email address are set forth on the signature page of this Guarantee. Such information regarding a party may be changed by such party by written notice to the other party. In addition, Guarantor shall maintain, at all times, a registered agent in Texas (the "Process Agent"). Guarantor hereby irrevocably appoints its Process Agent as its true and lawful agent and attorney-in-fact in its name, place and stead to accept such service of any and all writs, processes and summonses. Guarantor further agrees that the failure of its Process Agent to give any notice of any such service of process to Guarantor shall not impair or affect the validity of such service or of any judgment based thereon. Guarantor consents and agrees that such service shall constitute in every respect, valid and effective service. Guarantor's Process Agent in Texas is set forth on the signature page of this Guarantee,

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and Guarantor shall provide ERCOT with written notification of any change of its Process Agent or the address thereof.

Section 22. This Guarantee shall bind the successors and assigns of Guarantor and shall inure to the benefit of ERCOT, its successors and assigns pursuant to the terms of the Agreement. The Guarantor may not assign its rights nor delegate its obligations under this Guarantee, in whole or in part, without the prior written consent of ERCOT, and any purported assignment or delegation absent such consent is void, except for an assignment and delegation of all of the Guarantor's rights and obligations hereunder in whatever form the Guarantor determines may be appropriate to a partnership, corporation, trust or other organization in whatever form that succeeds to all or substantially all of the Guarantor's assets and business and that assumes such obligations by contract, operation of law or otherwise to the satisfaction of ERCOT in its sole discretion. Upon written acknowledgment of said assumption in accordance with the foregoing to the satisfaction of ERCOT, the Guarantor shall be relieved of and fully discharged from all obligations hereunder, whether such obligations arose before or after such delegation and assumption.

Section 23. No modification of this Guarantee or waiver shall be valid unless in writing and signed by ERCOT and Guarantor and then only to the extent specifically set forth in such writing.

Section 24. This Guarantee supersedes and terminates any prior guarantee to ERCOT by Guarantor on behalf of Participant.

Participant: _____
[Name of Participant]
a _____
[Type of entity/jurisdiction of organization]

Effective Date of Standard Form Market Participant Agreement: _____, 200__.

CREDIT SUPPORT AMOUNT: \$ _____

EXECUTED by GUARANTOR this ____ day of _____, 200__:

[Name of Guarantor]
a _____
[Type of entity/jurisdiction of organization]

Address: _____

Telephone: _____

By: _____

Facsimile: _____
Email _____ Address: _____

Name: _____
Title: _____

Guarantor's Process Agent in Texas:

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By: _____

Name: _____

Title: _____

Address: _____

ACCEPTED by ERCOT this ____ day of _____, 200__:

ELECTRIC RELIABILITY COUNCIL OF TEXAS, INC.

Address: 7620 Metro Center Drive
Austin, Texas 78744
[For notice and payment]

By: _____

Name: _____

Title: _____

Telephone: _____

Facsimile: 512.225.7020

Q&A only

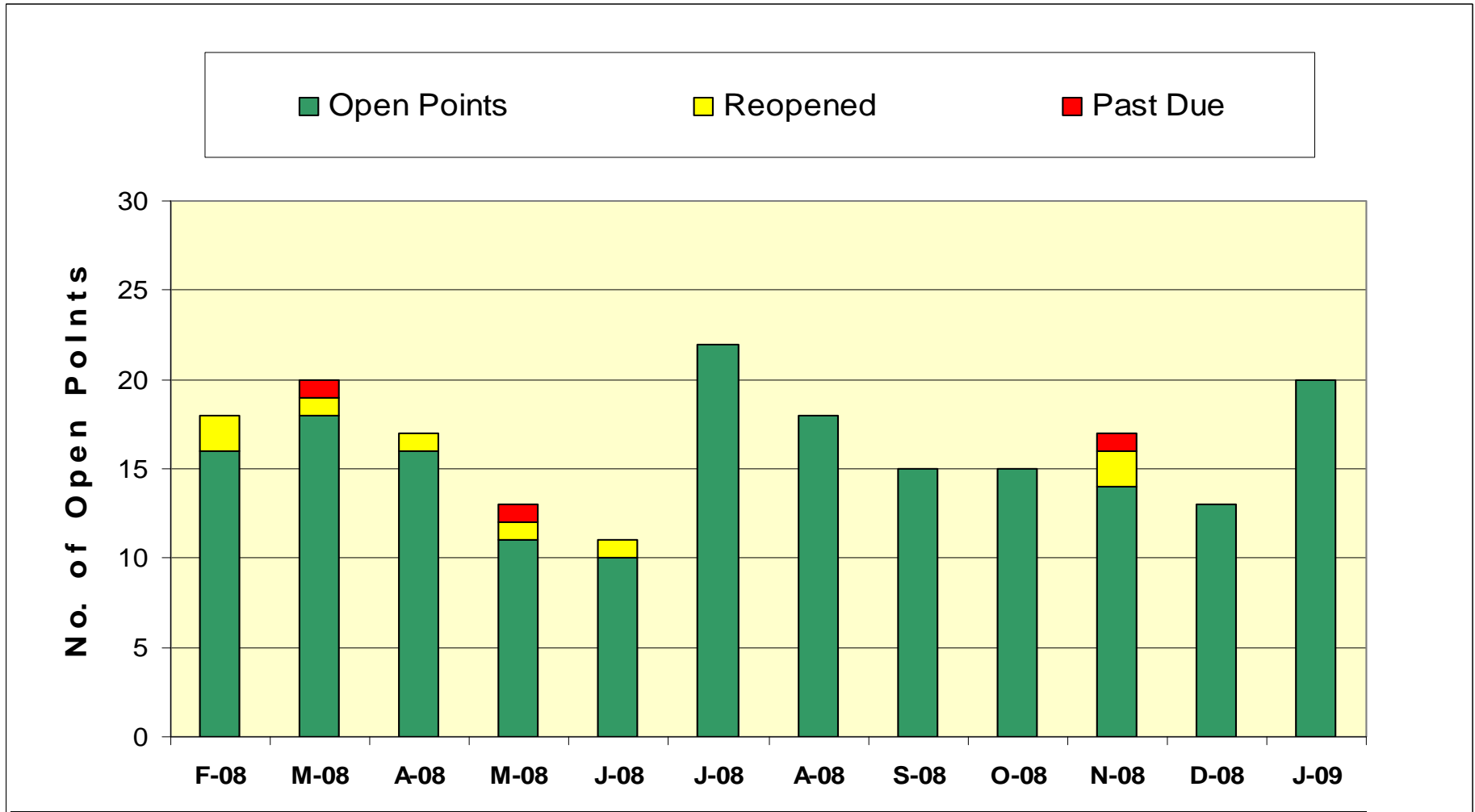
ERCOT Market Credit Status

as of 12/31/2008					as of 1/31/2009					
	# of QSEs*	Estimated Aggregate Liability (\$)	% of EAL	Total Unsec Credit Limit / Security Posted		# of QSEs*	Estimated Aggregate Liability (\$)	% of EAL	Total Unsec Credit Limit / Security Posted	
Exposure in the ERCOT Market (owed to ERCOT)										
<u><i>QSEs that meet ERCOT Creditworthiness Standards</i></u>										
Ratings over BBB-	10	22,167,284	6%	134,470,540	U	13	31,661,363	9%	179,802,684	U
<u><i>QSEs that do not meet ERCOT Creditworthiness Standards</i></u>										
Ratings below BBB- or not rated										
Cash & Letters of Credit	52	218,393,310	63%	403,647,251	S	53	192,216,509	54%	318,801,000	S
Guarantee Agreements	16	109,105,906	31%	410,308,482	S	20	130,874,251	37%	512,784,745	S
Total Exposure	78	349,666,500	100%			86	354,752,123	100%		
Other QSEs in the ERCOT Market (ERCOT owes)										
<u><i>QSEs that meet ERCOT Creditworthiness Standards</i></u>										
Ratings over BBB-	7	(2,163,637)	-3%	51,889,502	U	4	(5,892,480)	-8%	37,338,279	U
<u><i>QSEs that do not meet ERCOT Creditworthiness Standards</i></u>										
Ratings below BBB- or not rated										
Cash & Letters of Credit	60	(60,328,252)	-73%	93,973,607	S	56	(48,925,263)	-69%	51,471,405	S
Guarantee Agreements	7	(19,642,939)	-24%	174,700,000	S	7	(15,792,605)	-23%	101,502,000	S
Total	74	(82,134,828)	-100%			67	(70,610,348)	-100%		
Total	152					153				

U: Unsecured since these QSEs meet the creditworthiness standards
S: Secured i.e. required to post collateral since these QSEs do not meet the creditworthiness standards

9. Committee Brief: ICMP – Status of Open Audit Points

Cheryl Moseley



Audits Completed	2	3	3	3	3	3	2	4	1	3	5	1
Points Added	5	11	3	0	6	11	2	0	0	4	11	12
Points Completed	7	9	6	4	8	0	6	3	0	2	15	5

Audits Completed

(last 3 months)

Internal Audits

- Cash & Investments
- Q3 2008 Fraud Auditing Program
- Operational Procedure Compliance
- Protocol 1.4 Ethics Compliance
- Vendor-Performed Background Checks & Drug Screens for Contractors
- Annual Employee Ethics Compliance Audit
- PC Remediation Plan (Special Request-Part 2 of 2)

External Audits*

- 2008 SAS70 Audit (PricewaterhouseCoopers)
- Nodal Program Review of New Schedule/Budget (Report #8; Utilicast, LLC)

Open Audits

Internal Audits

- NERC CIP Standards – Auditable Compliance (Special request – Part 2 of 2)
- 2008 Year End Accruals Review
- FY2008 Fraud Auditing Program
- Nodal “Budget to Actual” Mgmt. Review (Special Request)
- Credit Process

External Audits*

- 2008 Financial Audit (PricewaterhouseCoopers)
- Nodal Program Review – Integration (Report #9; Utilicast, LLC)

Planned Audits

(next 3 months)

Internal Audits

- Q1 2009 Fraud Auditing
- ERCOT’s Long-Term Technology Strategy
- Protocol 1.4 Confidentiality Compliance
- Change Control/Release Management
- Business Continuity and Disaster Recovery Plan

External Audits*

- 2009 SAS70 Audit (PricewaterhouseCoopers)

**Consultation/
Analysis Reports
Completed**
(last 3 months)

External Assessments
1 security assessment

**Open Consultation/
Analysis Reviews**

External Assessments

**Planned Consultation/
Analysis Reviews**
(next 3 months)

External Assessments
1 security assessment
planned

ELECTRIC RELIABILITY COUNCIL OF TEXAS, INC. RISK MANAGEMENT EVENT PROFILE MATRIX (as of February 1st, 2009)					
Strategic	Operational Excellence	Market Facilitation	Grid Reliability	Reporting	Legal and Regulatory Compliance
<p>Strategy Development</p> <p>Corporate objective setting adequately incorporates informed stakeholder input, market realities and management expertise.</p>	<p>Performance Monitoring</p> <p>Clearly defined and actively monitored performance metrics linked to mission and goals. Performance status communicated and corrective action taken.</p>	<p>Customer Choice</p> <p>Market design promotes efficient choice by customers of energy providers with effective mechanisms to change incumbent market participants as desired.</p>	<p>Grid Operations</p> <p>Information required to operate the grid is efficiently gathered. Appropriate tools are prudently configured to efficiently operate the system.</p>	<p>Review Practices</p> <p>Prudent measures are taken to insure that company disclosures are properly vetted and not misleading.</p>	<p>Legal & Legislative</p> <p>Operations are conducted in compliance with all laws and regulations. Impacts of current and proposed legislation are understood and communicated.</p>
<p>Mission and Goals</p> <p>Corporate objectives and performance standards are understood and followed.</p>	<p>Business Practices ↓</p> <p>Business planning, processes and management standards are effective and efficient.</p>	<p>Nodal Implementation Project</p> <p>Nodal Implementation on budget on schedule, and within defined scope.</p>	<p>Planning</p> <p>Long-range planning methods enable efficient responses to system changes that are necessary to maintain reliability standards.</p>	<p>Disclosure</p> <p>Reporting and other disclosures to intended parties is timely, accurate and effective.</p>	<p>Internal Control Compliance</p> <p>Internal Control Compliance, processes and management standards are effective and efficient.</p>
<p>New Strategic Plan needs to be integrated into the latest business planning cycle.</p>	<p>Annual review, training & testing for 2009 began in January. PUC Emergency Operations plan attestation to be issued by May 1st, 2009.</p>	<p>Program "RED" based on the old schedule & budget. Preliminary new budget & schedule have been released and schedule discussions with TPTF are complete. TAC and BOD will review in February. Program preparing action plans to respond to Utilcast review # 8. No critical path milestones have been missed since the new schedule was base-lined in October 2008.</p> <p>Software integration and integration testing is a critical risk area of the program. The program is currently reorganizing teams to better support this area and leadership is working on risk mitigation plans. Data center capacity to support Nodal systems and the build out of integration testing (iTest) and EDS environments has been identified as another key risk. The program recently assigned project managers to these infrastructure projects and conducted project kick-off meetings. Project schedules expected in two weeks.</p>	<p>The Long Term System Assessment (LTSA) was completed and filed with the PUCT on schedule. System Planning department staffing has reorganized/improved and a plan is in place to meet stakeholder desire for more "study horsepower".</p>		<p>ERCOT is developing a process to ensure changes to policies/procedures are periodically communicated to all ERCOT staff and contract workers.</p>
<p>Reputation ↑</p> <p>Positive perceptions by stakeholders lead to less cost and greater flexibility resulting in enhanced enterprise value.</p>	<p>Workforce ↓</p> <p>Organization design, managerial and technical skills, bench strength and reward systems aligned with corporate goals.</p>	<p>Counterparty Credit</p> <p>Maintain credit risk exposure for overall market within acceptable limits.</p>	<p>Bulk System Resources</p> <p>Market Participants construct and make available adequate bulk electric grid resources.</p>	<p>Communication</p> <p>Internal & external communications are timely and effective.</p>	<p>Industry Standards</p> <p>Business practices provide stakeholders with required assurances of quality.</p>
<p>Increased publicity associated with the delay of the Nodal market and the potential for associated cost increases, anticipated new fee filings for the nodal surcharge and System Administration fee, high congestion, high price volatility and credit defaults during 2008 have the potential to negatively impact ERCOT's reputation.</p>	<p>Turnover rate has continued to improve and for year-end 2008 we were at 8.8%. Contractor agreements have been modified for key individuals to continue work through February. The lack of back up personnel for the nodal contractors continues to keep this risk factor from substantial improvement. ERCOT readiness continues to be an on-going issue with the delay in Nodal. Training is being reviewed to meet the needs of the Nodal market and procedures are currently being updated for ERCOT readiness. As of January 23, 2009 ERCOT has approximately 36 open positions. This number will increase as the approved 2009 budget opens new positions.</p>	<p>A draft Credit Risk standard has been circulated and is being reviewed with stakeholders. A proposal is expected to be submitted to F&A in March.</p>			<p>Although current decentralized compliance activities are adequate, ERCOT is in the process of centralizing the compliance function to provide more focus on these issues. The Chief Compliance Officer will report on Feb 1.</p>
<p>Fiscal Management</p> <p>ISO design requires competent, prudent and cost effective provision of services.</p>	<p>Technology Infrastructure</p> <p>Information systems, supporting facilities and data are effectively managed and are reliable.</p>	<p>Administration, Settlement & Billing</p> <p>Market rules fairly applied to all participants. Accounting is timely and accurately reflects electricity production and delivery.</p>	<p>Operational Responsibility</p> <p>Market participant conduct their operations in a manner which facilitates consistent grid reliability.</p>	<p>Adequacy and Integrity</p> <p>Robust processes exist to support management assertions embodied within financial reports.</p>	<p>Regulatory Filings</p> <p>Evidence, testimony and other supporting materials are compelling and successful.</p>
<p>ERCOT is reviewing collateral management practices and the company's Investment Policy. We continue to actively monitor the liquidation process closely.</p>	<p>Systems remain stable in all areas. Normal operation growth patterns are increasing the demands on data center capacity and options to add capacity are limited until new facilities are built. New data center expansions are planned with additional capacity to begin coming on line in late 2009. A project manager has been assigned to determine viable options and to determine if additional capacity is required prior to Nodal start-up.</p>		<p>Response of generators and LaRs to grid operation events has been improving. Enhanced enforcement of NERC standards and ERCOT Protocols and Operating Guides will exist through the ERO / TRE and IMM which will provide additional incentive for improved performance. Increased wind generation will present additional operational challenges that a study indicated can be met. A joint ERCOT Staff and Market Participant Wind Operations Task Force is addressing several operational issues regarding wind generation and is making recommendations on changes to more reliably integrate wind generation.</p>		

9. Committee Brief: PMO David Troxtell

Year to Date Project Activity by Division

	Phase	Not Started	Initiation	Planning	Execution	Closing	Closed	Totals Excluding Non-Active	Cancelled	On Hold	Deferred	Totals by CART	Go-Live* (To Date)	Current Projected Go-Live (by Y.E.)	Original Projected Go-Live (by Y.E.)
CART	Corporate Operations	4	1	6	11	1	0	23	0	0	0	23	3	10	10
	IT Operations	2	2	0	4	0	0	8	0	0	0	8	0	6	6
	Market/Retail Operations	6	1	2	4	1	1	15	0	0	0	15	1	5	5
	System Operations	2	0	1	2	0	0	5	0	0	0	5	0	4	4
	Totals by Phase	14	4	9	21	2	1	51	0	0	0	51	4	25	25
	Total Non-Active								0						

* Note: Some projects in Closing and Closed Status went live in 2008

*** Projects Gone Live in December 2008**

(IO) PR-80021_01 WAN Equipment Refresh

*** Projects Gone Live in January 2009**

(MORO) PR-70007_01 MarkeTrak Enhancements

(CO) PR-80003_01 Employee Performance Management

(CO) PR-80038_01 ACL Audit Exchange











(CO) PR-80036_01 ERCOT / TRE Accounting Structure

9. Committee Brief: PMO David Troxtell

Year to Date Project Priority List (PPL) Status

PPL Iterations	Origination	Project Phases								Deferred Projects	Subtotal	Grand Total
		Not Started	Initiation	Planning	Execution	Closing	Closed	On Hold	Cancelled			
Original 2009 (October) PPL											45	
	PUCT			1	1						2	
	Market										0	
	ERCOT	14	4	8	14	2	1				43	
Unexpected Carry Over From 2008											6	
	PUCT										0	
	Market										0	
	ERCOT				6						6	
New Projects Added (Since PPL Approval in October 2008)											0	
	PUCT										0	
	Market										0	
	ERCOT										0	
2009 PPL Totals to Date											51	
	PUCT	0	0	1	1	0	0	0	0	0	2	
	Market	0	0	0	0	0	0	0	0	0	0	
	ERCOT	14	4	8	20	2	1	0	0	0	49	
Totals by Project Phase		14	4	9	21	2	1	0	0	0	51	

Year to Date Projects Over \$1 Million

(CART) Project Number and Description	Total Budget	Total Committed	Metrics	
(Duration) Phase (Sponsor)	Scheduled Completion		Schedule	Budget
(CO) PR-60075_01: Identity Access Management <i>Schedule stoplight red due to time taken to re-schedule around Nodal 168 hour test.</i>	\$2.46M	\$2.44M		
<i>(2006-2009) Currently in Execution (B. Kahn)</i>	<i>Expected Completion 1st Qtr 2009</i>			
(CO) PR-80001_01: (2 sub-projects, PR-80001_02 & PR-80001_03) MET Center Facility Analysis Deployment Phase 2	\$70M	\$1.3M		
<i>(2008 - 2011) PR-80001_01, PR-80001_02 & PR-80001_03 currently in Planning (B. Kahn)</i>	<i>Expected Completion 4th Qtr 2011</i>			
(MO/RO) PR-70007_01: MarkeTrak Enhancements Budget stoplight is yellow as the project balance reconciliation is not yet complete	\$1.62M	\$1.64M		
<i>(2007-2009) Currently in Execution (T. Doggett)</i>	<i>Expected Completion 1st Qtr 2009</i>			
(IO) PR-70054_01: (1 sub-project, PR-70054_02) Blade Refresh Deployment Phase 2 <i>Total committed is reduced because not all the equipment was installed due to power constraints at the MET.</i>	\$2.50M	\$2.24M		
<i>(2007-2008) PR-70054_01 Currently in Closed & PR-70054_02 Currently in Closed , (R. Hinsley)</i>	<i>Expected Completion 4th Qtr 2008</i>			
(CO) PR-80047_01 TCC1 Data Center Expansion	\$6.75M	\$2.0K		
<i>(2009-2009) Currently in Initiation (B. Kahn)</i>	<i>Expected Completion 4th Qtr 2009</i>			

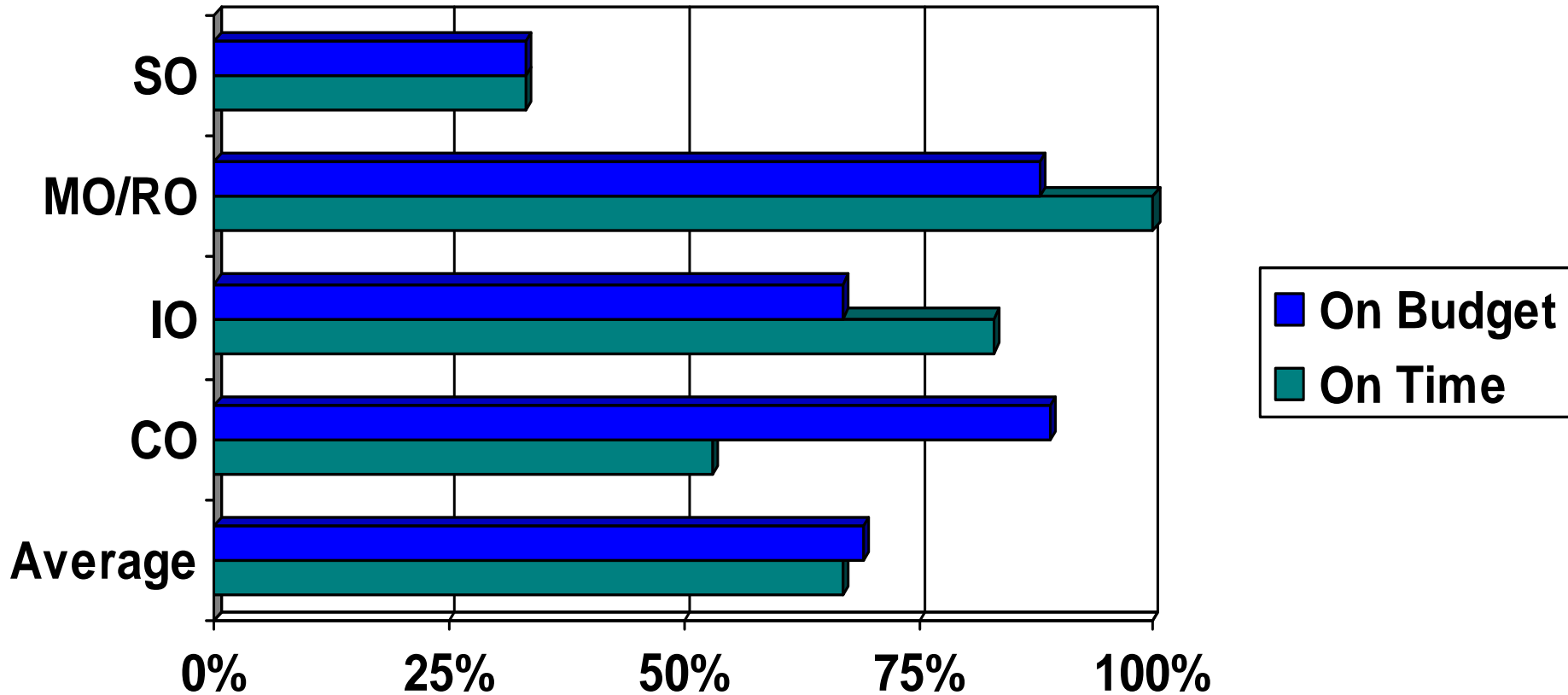
Baseline Budget vs. Actuals for Projects Closed in Lawson for 2009

Project	Description	Year Implemented	Baseline Budget	Actuals	\$ Variance Fav/(Unfav)	% Variance Fav/(Unfav)	Explanation
40066_04	Lodestar 4.7 Upgrade	2008	\$ 410,500	\$ 638,305	\$ (227,804.64)	(55)%	<ul style="list-style-type: none"> • iTest schedule was extended due to system instability (CR#5) • Additional scope added (CR#6) • No rebaselines for the above change requests
50070_02	Unit Testing Automation and Electronic Submittal via Web	2008	\$ 48,100	43,037	\$ 5,063.39	11%	Less internal development and testing labor required than projected.
60020_02	Lawson 9.0 Upgrade Phase II	2008	\$ 663,700	580,418	\$ 83,282.33	13%	Based on multiple failed attempts of upgrading the application in the test environment, the project team planned and budgeted for a failed migration to the production environment; fortunately, the migration was successful on the first attempt.
70054_02	Blade Refresh Phase II	2008	\$ 275,200	257,438	\$ 17,761.70	6%	
		Count = 4	\$ 1,397,500	\$ 1,519,197	\$ (121,697)	(9)%	

NOTES:

1. Baseline budget does not include change controls that were approved without granting a new baseline budget.
2. List and totals include projects delivered and reported in previous years Project Management reports but closed in Lawson in 2008.
3. Favorable is when a project is delivered under budget. (UnFav)orable is when a project is delivered over budget.
4. Explanations are not required for variance + or - 10%

2009 Active Projects Performance



Note: Includes projects started in previous years.
Projects that change to inactive states will impact results.

Go Live Projects for December 2008

- **PR-80021_01 WAN Equipment Refresh**

Scope: Replace aging WAN routers and switches with newer technology.

- ERCOT standardized on a consolidated router and switching platform that reduces the ERCOT footprint by 50%.
- The upgrade moved older WAN routers and switches to the new platform.
- The new platform reduces maintenance, management costs and overhead.

Deliverables: WAN Upgrade for ERCOT Headquarters (Taylor and Austin)

Timeline: May 2008 – December 2008

Go Live Projects for January 2009

- **PR-70007_01 MarkeTrak Enhancements**

Scope: The MarkeTrak tool (Serena TeamTrack) was implemented in 2006 to support the growth and demands for issue tracking resolution within the Retail Market. Since initial implementation, several enhancements have been requested from Market Participants (thru SCR 749) and ERCOT Retail Customer Choice.

Deliverables:

- Forty-seven separate requirements were identified by ERCOT and the Market Participants and delivered.
- Increased usability of GUI and API.
- Improved workflow of MarkeTrak examples: Inadvertent Gain Workflow (IAG-Gaining and IAG-Losing)
- Increased reporting functionality allowing background running of larger volume reports by Market Participants while continuing to use the MarkeTrak GUI.

Timeline: May 2006 – January 2009

Go Live Projects for January 2009

- **PR-80003_01 Employee Performance Management**

Scope: Secure, design and implement an ERCOT Performance Management Tool by the end of 2008, in time for 2009 evaluation cycle completion.

Deliverables: Project deliverables include SuccessFactors application configured and running in the ERCOT SuccessFactors production environment as well as fully configured 2008 Performance Management Form, 2009 Performance Management form, 2009 Project Scorecard and 2009 Compensation form.

Timeline: March 2008 – January 2009

Go Live Projects for January 2009

- **PR-80038_01 ACL Audit Exchange**

Scope: Provide a software product that will provide the ability to automate the current manual process of auditing Lawson data, while maintaining employee data confidentiality.

Deliverables: Includes the purchase and deployment of the ACL Audit Exchange software (server and client), providing a connection to the Lawson data, creating data retrieval scripts, and creating a sampling of data analysis scripts. Also included was the formal training for an Internal Audit person to attend script writing training.

Timeline: August 2008 – January 2009

Go Live Projects for January 2009

- **PR-80036_01 ERCOT / TRE Accounting Structure**

Scope: The Texas RE accounting structure should be established so that if it is determined by the ERCOT board of directors to structurally separate the Texas RE from ERCOT the separation can be efficiently accomplished.

Deliverables:

- Define new configuration in each Lawson system code as needed
- Define new security setup
- Define new financial reporting structure
- Define new chart of accounts and map

Timeline: August 2008 – January 2009

Large Project Update

- **PR-60075_01 Identity and Access Management**

Scope: Implementation of requirements for an identity and access management solution

Deliverables: This change will include the delivery of the following, key components to ERCOT Identity Management (IdM):

- Integrate General Support Systems (GSS)
- Integrate ERCOT SAS70 Systems

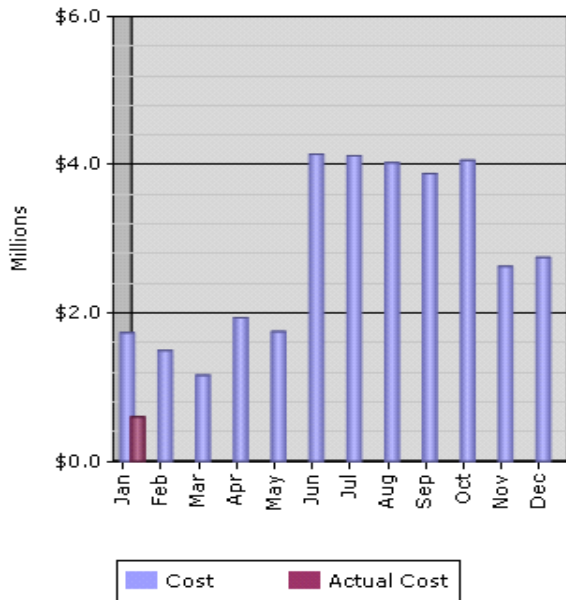
Timeline: September 2006 – November 2009

Board Request: To approve increase in budget authority.

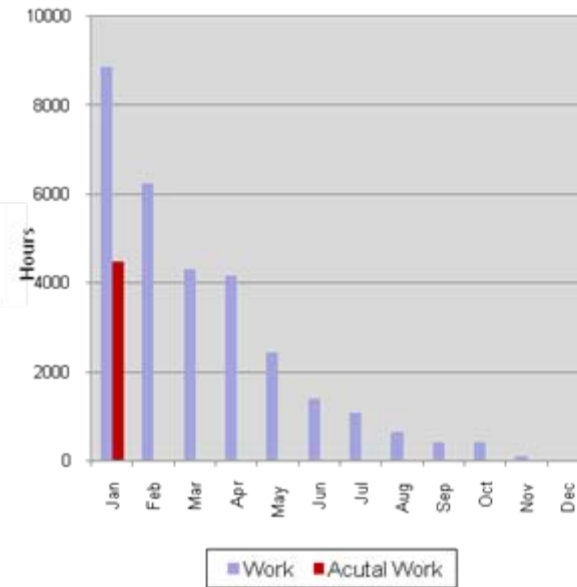
ERCOT Enterprise Projects Summary Report

ERCOT	Overall Projects Report					Reporting Period:	1/31/2009	
	Projects in Ercot's Portfolio					Portfolio Performance		
	On Hold	Initiation	Planning	Execution	Closing	Schedule	Budget	
	-	4	8	21	2			
	Closed	1	Total Active		36			
	Cancelled	-	Projects Not Started		14	**Current Year Funded Budget:		\$37,852,000

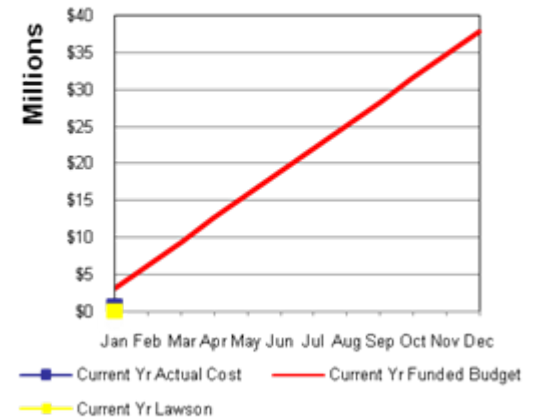
ERCOT Projects
Current Year - Cost



ERCOT Projects
Current Year - Work



ERCOT Projects
Current Year to Date Financials



** The Current Year Funded Budget \$37,852,000 includes \$20.0M budget for the MET Center Disposition project and \$6.75M budget for the TCC1 Taylor Data Center Expansion project, the Capital project budget for 2009 is \$11.02M.

Future Agenda Items – March 2009

- **Standing Internal Audit agenda items**
- **Market Credit Risk Standard**
- **Financial audit update**
- **Update on Nodal filing**
- **Third party audit planning**
- **Committee briefs**
- **Future agenda items**

F&A 2009 Yearly Schedule

Quarter 1

- √ •Elect officers and confirm financial qualifications
- Review of external auditor quality control procedures and independence
- Review scope of annual financial audit
- √ •Vote on CWG Chair/Vice Chair

Quarter 2

- Report results of annual independent audit to the Board
- Review the procedures for handling Reporting violations
- Review results of annual audit, together with significant accounting policies (including required communications)
- Review ERCOT Annual Report
- Review operating plan and budget assumptions
- Review and approve Internal Audit Department Charter
- Conduct annual review of insurance coverage(s)
- Review the Company's dealings with any financial institutions that are also market participants

Quarter 3

- Appoint the independent auditors for upcoming year
- Approval of independent auditor fees for upcoming year
- Review of committee charter
- Approve the Guidelines for Engagements of External auditors for Other Services (pre-approval policy)
- Assessment of compliance, the internal control environment and systems of internal controls
- Review and approval of annual operating budget
- Report by CWG Chair on ERCOT credit policy
- Review updated year-end forecast

Quarter 4

- Approve audit committee meeting planner for the upcoming year, confirm mutual expectations with management and the auditors
- Review and approval of Financial & Investment policies
- Approve scope of internal auditing plan for upcoming year
- Assessment of the adequacy and effectiveness of the Internal Audit staff
- Perform Finance & Audit committee Self Assessment
- Review requirements for membership in CWG
- Review and approve CWG charter
- Review updated year-end forecast
- Review the Company's dealings with any financial institutions that are also market participants

Recurring Items

- Review minutes of previous meeting
- Report monthly matters to the Board (chair)
- Review EthicsPoint activity
- Review significant audit findings and status relative to annual audit plan
- Review investment results quarterly