

**DRAFT MINUTES OF THE BOARD OF DIRECTORS OF
THE TEXAS REGIONAL ENTITY DIVISION OF
ELECTRIC RELIABILITY COUNCIL OF TEXAS, INC.**

Room 206, Met Center, 7620 Metro Center Drive, Austin, Texas 78744

June 15, 2009

Directors

Jan Newton, Chair		Unaffiliated
Michehl Gent, Vice Chair		Unaffiliated
Barry T. Smitherman	Chairman, Public Utility Commission of Texas (PUC)	
Mark Armentrout		Unaffiliated
Brad Cox	Tenaska	Ind. Power Marketer
Miguel Espinosa		Unaffiliated
Don Ballard	Office of Public Utility Counsel (OPUC)	Residential Small Consumer
Andrew Dalton ¹	Valero	Ind. Consumer
Bob Helton	International Power America	Independent Generator
Clifton Karnei	Brazos Electric Cooperative	Cooperative
Bob Kahn	Electric Reliability Council of Texas, Inc. (ERCOT ISO)	ERCOT ISO, CEO
A.D. Patton		Unaffiliated
Robert Thomas	Green Mountain Energy	Ind. Retail Electric Provider
Dan Wilkerson	Bryan Texas Utilities	Municipal

Other Attendees

Larry Grimm, Texas RE CEO & CCO
 Victor Barry, Texas RE Director, Compliance
 Susan Vincent, Texas RE Director, Legal Affairs
 Derrick Davis, Texas RE Corporate Counsel
 Mark Henry, Texas RE Manager, Compliance Audits
 Ryan Clay, Texas RE Senior Paralegal
 Chris Humphreys, Texas RE CIP Analyst
 Nancy Capezzuti, ERCOT ISO VP & CAO
 Eric Goff, Reliant Energy
 Bill Wullenjohn, ERCOT ISO
 Mark Dreyfus, Austin Energy
 Mark Bruce, MJB Energy Consulting

Call to Order

Pursuant to notice duly given, the meeting of the Texas Regional Entity (Texas RE) Board of Directors (Board) convened at approximately 12:33 p.m. on June 15, 2009. Jan Newton called the meeting to order, ascertained that a quorum was present, and immediately adjourned the meeting to executive session.

¹ Andrew Dalton served as a proxy for Nick Fehrenbach at this meeting.

Reconvene Open Session

The Board reconvened open session at approximately 1:00 p.m.

Vote on Matters from Executive Session

CEO Market Compensation Structure

Mark Armentrout moved for the Board to approve the revised compensation structure discussed in executive session (Option #8) for the Texas RE CEO, Larry Grimm; Michehl Gent seconded the motion. The motion was approved by voice vote with one abstention by Nick Fehrenbach (Andrew Dalton served as Mr. Fehrenbach's proxy).

Other Business

Don Ballard moved to instruct Texas RE staff to draft an urgent Protocol Revision Request (PRR) to address the need for all market participants in the ERCOT region to immediately disable network and physical access for all employees and consultants who are terminated and also promptly issue a market notice that recommends access removal "best practices" for the industry. Mr. Gent seconded the motion.

Brad Cox suggested that there should be clarity on what specific language should be included in the proposed PRR (i.e. systems, personnel, etc.). Chair Newton stated she believed that Texas RE staff would determine the appropriate measures to be included in the PRR, and Mr. Grimm confirmed that any draft PRR would be subject to the normal stakeholder process once it was filed.

The motion passed by unanimous voice vote.

CEO Report

Mr. Grimm informed the Board of a meeting with the Federal Energy Regulatory Commission (FERC) staff on June 10, 2009 to discuss the possible separation of Texas RE from ERCOT ISO. In attendance were nine FERC staff members from the Office of Reliability, the Office of Enforcement, and the Office of General Counsel; David Cook (NERC General Counsel); Tom Hunter (PUC Legal); Jan Newton; Larry Grimm; and Susan Vincent. Mr. Grimm said that the meeting at FERC focused on Texas RE's governance and that he asked for feedback on the following issues relating to a possible separation of Texas RE:

- Proposed new Board structure of five (5) Independent Directors. There were no concerns from FERC.
- Continue receiving IT services from ERCOT ISO through the Amended Memorandum of Understanding after separation. FERC indicated concern about continuing IT services from ERCOT long-term (particularly after the CIP standards were enforceable for most entities), but was responsive to this for short-term interim basis.
- New Bylaws, revised Delegation Agreement with NERC, and a revised 2010 budget. FERC Staff offered having pre-filing meetings to review new and revised documents, and confirmed that Texas RE would keep NERC (David Cook) in the loop to review these documents before the pre-filing.

- Continued performance of non-statutory Protocol compliance. FERC expressed no concern with this and suggested that the Protocol compliance activities had synergy with the NERC standards compliance activities.

Chair Newton stated that NERC and FERC were very complimentary of Mr. Grimm and Texas RE staff, and she commended Mr. Grimm for maintaining good relations and initiating the meeting.

Bob Kahn asked Mr. Grimm if he knew of a timeline of when Texas RE might separate from ERCOT. Mr. Grimm replied that there is no definitive date in sight at this time, but said it would be helpful to accomplish a January 1, 2010 separation date.

Approval of Previous Minutes

Mr. Armentrout made a motion to approve the minutes of the May 19, 2009 Board meeting; Mr. Kahn seconded the motion. The motion passed by voice vote with abstentions from Mr. Cox and Miguel Espinosa.

Operating Reports

Chair Newton asked the Directors if they had any questions regarding any of the monthly Texas RE operating reports.

Compliance Report

A.D. Patton asked for Texas RE staff to comment on the two non-wind only QSEs that failed the April 2009 Resource Plan Performance Metrics. Victor Barry informed the Board that one QSE had recently changed its portfolio (i.e. they took on additional generators) and it was still in the process of fine tuning its performance.

Dr. Patton asked Mr. Barry to explain the May 2009 SCPS2 differences in the scores for wind only QSEs (page 6). Mr. Barry explained to the Board that a small wind QSE or a wind QSE that comes on-line and only reports a few intervals will most likely receive a higher score. Conversely, a large wind QSE that reports many intervals will achieve a lower SCPS2 score. Dr. Patton stated his concern that, by this reasoning, wind QSEs that have the biggest impact on the grid would have the lowest SCPS2 scores. Mr. Barry stated that the current SCPS2 scores for wind only QSEs was not a very useful indicator of performance. This metric was created to measure the performance of traditional generators, not wind generators.

Dr. Patton suggested that Texas RE staff draft a PRR to fix the metric. Bob Helton noted that the industry had considered this previously in PRR 525, and Chair Newton reminded the Board that the ERCOT Technical Advisory Committee (TAC) was currently working on developing a PRR to address this issue. Dr. Patton and Mr. Barry discussed the wind only metrics in detail.

Chair Newton asked Texas RE staff about the entity "HJ" score of zero on the April 2009 Resource Plan Performance Metrics for Wind Only QSEs (page 10), since it was not listed as a failure. Mr. Barry said that he would look into the issue and inform the Board at a later date. [Mr. Barry was able to confirm that the zero score was a typographical error and should have been a 100.]

Mr. Gent stated that he had noticed that NERC and FERC have scaled back their participation in Regional Entities' audits of registered entities.

Dr. Patton discussed the pending PRRs related to wind with Mr. Barry and Mr. Helton. Dr. Patton urged Texas RE staff to file PRR 811 comments promptly as stated in page 21 of the Compliance Report. Mr. Barry confirmed that Texas RE would not delay PRR 811.

Mark Bruce (TAC Chair) commented on the SCPS2 metric chart. Mr. Bruce stated that TAC continues to bring appropriate metrics for wind QSEs and that TAC had the impression that they had finished identifying all metrics listed as "urgent." Mr. Bruce further suggested that ERCOT should report to Texas RE if a wind QSE is not performing. Mr. Bruce asked Chair Newton what the Board wanted from TAC to replace the SCPS2 score for wind only QSEs, because the most recent metrics developed in the stakeholder process were pass/fail only. Chair Newton asked Mr. Bruce to work with Texas RE and ERCOT staff to develop the appropriate metrics for renewable sources of energy. Mr. Bruce requested that this issue be listed as an agenda item at the August Texas RE Board of Directors meeting; the Directors agreed. Mr. Ballard asked Mr. Bruce for a timeline for the TAC report on SCPS2. Mr. Bruce stated staff recommended for the replacement of SCPS2 by the August meeting.

Texas RE Advisory Committee Report

2010 Business Plan and Budget Approval

Mr. Gent updated the Board regarding the changes to the Texas RE 2010 Business Plan and Budget, and explained that the Texas RE Advisory Committee recommended approval of the 2010 Business Plan and Budget. The Directors discussed the proposed Business Plan and Budget.

Chair Newton made a motion to approve the recommended Texas RE 2010 Business Plan and Budget, with no material changes; Mr. Armentrout seconded the motion. Mr. Kahn asked for clarification on the supplemental budget in the materials, if Texas RE separates from ERCOT ISO. Chair Newton responded that a proposed supplemental budget would not be considered at this meeting. **The motion passed by unanimous voice vote.**

Approval of Amended Memorandum of Understanding (MOU) with ERCOT

Mr. Gent made a motion to approve the recommended Amended Memorandum of Understanding with ERCOT, as presented in the materials, with no material changes; Mr. Ballard seconded the motion. Dr. Patton informed the Board that he had a few non-material wording changes to the MOU, which he provided to Texas RE staff. **The motion passed by voice vote with one abstention from Mr. Dalton.**

Separation Discussion

Mr. Gent made a motion to approve the legal separation of Texas RE from ERCOT, as recommended by the Texas RE Advisory Committee; Mr. Armentrout seconded the motion.

Chair Newton opened with a discussion on procedural matters and then opened the floor for discussion. Chair Newton explained the work and new legal documents (including Bylaws, Amended Delegation Agreement, and revised Business Plan and Budget) that would be required for an actual separation.

Mr. Gent stated that the 2010 supplemental budget was not being considered at this time by the

Advisory Committee or the Board because of the length of time that would be required to separate Texas RE from ERCOT and the details that remained to be decided. Mr. Gent then told Mr. Kahn that ERCOT has included the assumption that Texas RE will be separate from ERCOT in 2010, so ERCOT might need to consider changing that assumption.

In response to the Directors' questions about the approximate cost for the separated company, Ms. Vincent referred the Board to the supplemental budget materials, showing that the current estimated cost was approximately \$1.29 million on-going and approximately \$1.14 million for start-up costs.

Mr. Ballard stated that if Texas RE is to continue to monitor, assess, and report Protocol compliance, then the separation process might require statutory approval by the Texas Legislature, and he questioned how market participants would continue to interface with Texas RE absent a stakeholder Board. Mr. Ballard suggested that Texas RE keep Texas public officials on any new Texas RE board, in addition to independent directors.

Mr. Armentrout identified 10 Texas RE Evaluation next steps, which he shared with the Board as follows:

1. TRE Advisory Committee approval – by July
2. TRE Board approval – by August, if successful with #1
3. ERCOT ISO Board approval – September (if successful with #2)
4. PUC Review/Endorsement – Fall 2009 (pending above)
5. Bylaws Changes
6. Delegation Agreement Changes
7. TRE Budget & Operating Plan Changes
8. TRE Board Reconstitution Plan
9. Independent TRE Startup Plan
10. Startup date

In response to a question from Mr. Dalton asking if the issue of Texas RE continuing the duty of monitoring, assessing, and reporting upon non-statutory (Protocol) compliance, Chair Newton informed the Board that that issue was still under consideration by many parties, including the PUC, which would make the final decision.

Mr. Cox stated that there were additional details needed regarding the separation of Texas RE from ERCOT ISO before there should be a vote to separate Texas RE from ERCOT ISO. Clifton Karnei stated that the proposed resolution in the materials for the separation of Texas RE from ERCOT ISO uses stronger language than he was comfortable with for an approved endorsement to proceed to separate. Chair Newton said that she was in favor of the language, because the Directors needed to vote on this issue today to allow Texas RE staff to start the many steps and approvals that they must accomplish. Chair Newton emphasized that because of the Directors' conflict of interest she does not know if the Board will be effective if there were to be a violation by ERCOT ISO.

Mr. Helton stated that he agreed with the idea of separating Texas RE from ERCOT ISO, but said he did not feel comfortable letting Texas RE to continue monitoring, assessing and reporting Protocol compliance since they will then be an entity of just the federal government and not ERCOT.

Mr. Karnei commented that he supported the separation but requested that the resolution be less specific about separation at this point. Ms. Vincent confirmed that the individual components of the separation process (i.e. the Bylaws, Delegation Agreement, etc.) would be brought to the Advisory Committee and the Board for consideration and approval, prior to any separation.

Mr. Dalton stated that he too was concerned about Texas RE continuing to monitor, assess and report Protocol compliance since they will then be an entity of the federal government, not ERCOT.

Chair Newton suggested clarifying the language in the resolution.

Mr. Gent stated that he revised his motion to move that the Board approve, in concept, the legal separation of Texas RE from ERCOT ISO, to allow Texas RE staff to begin to take the actions needed to allow the separation of Texas RE from ERCOT ISO; provided, however, that Texas RE must return to the Board for the formal approvals needed for separation, such as Bylaws and an Amended Delegation Agreement. Mr. Armentrout seconded the amended motion, and the motion passed by voice vote with one vote against by Mr. Dalton.

Other Business

Dr. Patton had a question about language on page 16 of the BP&B and requested a change in language. In addition, Dr. Patton discussed Situational Awareness referenced on page 32. The Board had a brief discussion over this issue.

Adjournment

Chair Newton adjourned the Texas RE Board of Directors meeting at approximately 2:20 p.m.

Susan Vincent
Corporate Secretary

RESOLUTION OF THE BOARD OF DIRECTORS OF
TEXAS REGIONAL ENTITY, A DIVISION OF
ELECTRIC RELIABILITY COUNCIL OF TEXAS, INC.

June 15, 2009

WHEREAS, the Board of Directors (“Board”) of Texas Regional Entity, a division of the Electric Reliability Council of Texas, Inc. (ERCOT), a Texas non-profit corporation, has determined it to be desirable and in the best interest of Texas Regional Entity to take actions to pursue legal separation from ERCOT; and

WHEREAS, the Board did not consider in its vote whether or not Texas Regional Entity should or would continue to perform its current Non-statutory Protocol Compliance activities for the ERCOT region; and

WHEREAS, the Board has determined it to be desirable for Texas Regional Entity staff to promptly pursue actions needed to implement the new separate legal entity by January 1, 2010 or as soon thereafter as reasonably practicable; and

THEREFORE be it RESOLVED, that the Board hereby approves, in concept, the legal separation of Texas Regional Entity from ERCOT; and

BE it FURTHER RESOLVED that Texas Regional Entity staff is hereby authorized to immediately take such actions as are needed to create a new legal entity to perform the Texas Regional Entity duties, with the understanding that the following documents must receive approval by the Board prior to being formally filed with the Public Utility Commission of Texas, North American Electric Reliability Corporation (NERC), or the Federal Energy Regulatory Commission:

- (1) Certificate of Formation and Bylaws;
- (2) Amended Delegation Agreement with NERC; and
- (3) Any required supplemental Business Plan(s) and Budget(s).

CORPORATE SECRETARY’S CERTIFICATE

I, Susan Vincent, Corporate Secretary of Texas Regional Entity, do hereby certify that, at the June 15, 2009 Texas Regional Entity Board of Directors Meeting, the Board of Directors of Texas Regional Entity approved the above referenced resolution. The motion passed by a vote of fourteen in favor and Andrew Dalton voting against.

IN WITNESS WHEREOF, I have hereunto set my hand this 17th day of June, 2009.

Susan Vincent
Corporate Secretary