

**Date:** September 4, 2009  
**To:** Texas RE Board of Directors (Board)  
**From:** Larry Grimm, Texas RE CEO and CCO  
**Subject:** Approval of Texas RE Bylaws for Texas RE Separation

**Texas Regional Entity Board of Directors Meeting Date:** September 14, 2009

**Agenda Item No.:** 5b

**Issue:**

Approval of draft Bylaws for a legally separate Texas Regional Entity (Texas RE), to allow Texas RE staff to formally discuss the proposed Bylaws and a proposed Amended Delegation Agreement based upon such Bylaws with North American Electric Reliability Corporation (NERC) and the Federal Energy Regulatory Commission (FERC).

**Background/History:**

Over the past year, the Texas RE Advisory Committee (Committee) and Board have discussed possible changes to the governance of Texas RE, including possibly legally separating Texas RE from ERCOT. At the June 15, 2009 Board meeting the Board authorized Texas RE staff to pursue actions needed to implement the new separate legal entity by January 1, 2010 or as soon thereafter as reasonably practicable. Texas RE staff was authorized to immediately take such actions as were needed to create a new legal entity to perform the Texas RE duties, with the understanding that certain documents, including Certificate of Formation, Bylaws, Amended Delegation Agreement, and Supplemental Business Plan and Budget, must receive approval by the Board prior to being formally filed with the Public Utility Commission of Texas, NERC, or FERC.

Texas RE staff drafted proposed new Bylaws for a legally separate Texas RE and presented them to the Committee at the July 20, 2009 Committee meeting. During this meeting, Texas RE staff received input from the Committee members. Texas RE then compiled the comments and direction provided by the Committee members, prepared a revised version of the Bylaws, sent the revised draft to Texas RE and ERCOT registered entity and market participant email distribution lists, and posted the revised draft Bylaws on the Texas RE website for public comment. After receiving additional comments, Texas RE staff compiled the input from Directors, registered entities, market participants, and the public and presented a newly revised Bylaws draft (and all received comments) to the Committee and Board at their August 17, 2009 meetings. The Committee and the Board discussed the Bylaws in detail, and made certain tentative decisions about the governance and operating structure of the new entity, for the next version of the revised draft Bylaws, including the following:

- Include a Hybrid Board, with 4 voting Independent Directors, a voting Texas RE CEO, 2 voting Affiliated Directors (the chair and vice chair of the Member Representative Committee), and the PUC Chair and Public Counsel from the Office of Public Utility Counsel as non-voting ex officio Directors;
- Require a quorum including a majority of Independent Directors
- Remove language specifying that Texas RE would perform Protocol compliance; and

- Prohibit Texas RE Directors (except non-voting ex officio Directors) from serving on the ERCOT Board
- Add Sector(s) for non-opt-in Municipal or Cooperative Utilities

Texas RE revised the draft Bylaws as instructed during these meetings and again sent the revised Bylaws to registered entity and market participant email distribution lists and posted them on the Texas RE website for comment on August 21, 2009. The comment period ran through September 2, 2009. Texas RE staff has compiled all comments received and hereby presents them to the Board for discussion at the September 14, 2009 Board and Committee meetings.

Texas RE would like to obtain consent by the Board to Bylaws before it prepares a proposed Amended Delegation Agreement or has formal discussions with NERC and FERC about its acceptance of an Amended Delegation Agreement. Once the Board approves Bylaws, Texas RE will meet with NERC and FERC to discuss in detail the approval of an Amended Delegation Agreement, based upon the approved Bylaws. Texas RE will then begin the process of locating potential new Independent Directors and will have formal membership meetings with the entities that would be members of a new Texas RE corporation to finalize the terms of the Bylaws and Amended Delegation Agreement for formal filing with FERC.

Texas RE respectfully requests that the Board approve the Bylaws attached hereto as Exhibit A, or as otherwise modified by the Board during its September 14, 2009 meeting. Texas RE has attached a redlined version of these Bylaws, showing the input and comments received by Texas RE during and since the August 17, 2009 Board meeting, as Exhibit B. The written comments received by Texas RE since the August meeting are attached hereto as Exhibit C.

---

### **Key Factors Influencing Issue:**

- The Texas RE Directors have a difficult conflict of interest because all of them are also Directors on the ERCOT ISO Board
- FERC has questioned the independence of Texas RE from ERCOT ISO, an entity registered for seven NERC functions, due to the common Directors
- If Texas RE remains affiliated with ERCOT ISO, NERC or a different regional entity will conduct all ERCOT ISO-related compliance activities
- If Texas RE legally separates from ERCOT ISO, any penalties paid by ERCOT ISO would offset a future budget of Texas RE, instead of offsetting NERC's budget

### **Alternatives:**

- Approve the proposed draft Bylaws
- Modify and approve the proposed draft Bylaws

---

### **Conclusion/Recommendation:**

Texas RE respectfully requests the Board approve the proposed Bylaws for a separate Texas RE, either in the form attached hereto as Exhibit A or as otherwise determined by the Board during its September 14, 2009 meeting, so that Texas RE staff may have formal discussions with NERC and FERC regarding an Amended Delegation Agreement.

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

, 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 approve the Bylaws which are attached hereto as Exhibit A, for a legally separate Texas Regional Entity corporation; and

WHEREAS, the Board deems it desirable and in the best interest of Texas Regional Entity to permit Texas Regional Entity to prepare an Amended Delegation Agreement based on these Bylaws and begin formal discussions with North American Electric Reliability Corporation (NERC) and the Federal Energy Regulatory Commission (FERC) regarding approval of the Amended Delegation Agreement and Bylaws; and

THEREFORE be it RESOLVED, that the Board hereby approves the Bylaws attached hereto as Exhibit A for a separate Texas Regional Entity; and

Be it further RESOLVED that Texas Regional Entity staff is authorized to prepare an Amended Delegation Agreement based upon these Bylaws and to begin formal discussions with NERC and FERC regarding approval of a legally separate Texas Regional Entity as a Regional Entity under the Amended Delegation Agreement.

CORPORATE SECRETARY’S CERTIFICATE

I, Susan Vincent, Corporate Secretary of Texas Regional Entity, do hereby certify that, at the September 14, 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 \_\_\_\_\_.

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

\_\_\_\_\_  
Susan Vincent  
Corporate Secretary

# Exhibit A

**BYLAWS  
OF  
TEXAS REGIONAL ENTITY, INC.**

(A Texas Non-Profit Corporation)

Approved on \_\_\_\_\_, 2009

**Table of Contents**

	<b>Page</b>
Article I. Definitions .....	1
Article II. Purpose.....	3
Article III. Membership .....	4
Article IV. Board of Directors .....	7
Article V. Meetings of Members of the Corporation .....	10
Article VI. Meetings of the Board of Directors.....	11
Article VII. Officers .....	12
Article VIII. Reliability Standards Development Committee .....	13
Article IX. Member Representatives Committee .....	13
Article X. Other Committees and SubCommittees.....	17
Article XI. Budgets and Funding.....	17
Article XII. Amendments to the Bylaws.....	19
Article XIII. Indemnification; Procedure; Dissolution .....	19
Article XIV. Conflicts of Interest.....	20
Article XV. Books and Records; Audit; Fiscal Year.....	21

## ARTICLE I. DEFINITIONS

**Section 1. Definitions.** The capitalized terms used in these Bylaws of Texas Regional Entity, Inc. (the “Corporation” or “Texas RE”), shall have the meanings set forth below, or if not set forth below, shall have the meanings given them in the NERC Rules of Procedure.

(a) “Affiliate” means any entity controlling, controlled by or under common control with the entity under consideration, and includes any entity (i.e., any commercial enterprise) in any of the following relationships: (i) an entity that directly or indirectly owns or holds at least five percent of the voting securities of another entity, (ii) an entity in a chain of successive ownership of at least five percent of the voting securities of another entity, (iii) an entity which shares a common parent with or is under common influence or control with another entity or (iv) an entity that actually exercises substantial influence or control over the policies and actions of another entity. Evidence of influence or control shall include the possession, directly or indirectly, of the power to direct or cause the direction of the management and/or policies and procedures of another, whether that power is established through ownership or voting of at least five percent of the voting securities or by any other direct or indirect means. In cases where the level of control or influence is disputed, the Board shall have discretion to determine whether or not the entities are Affiliates of one another. Membership in Texas RE shall not create an affiliation with Texas RE.

(b) “Board” means the Board of Directors of the Corporation.

(c) “Bulk Power System” or “BPS” means facilities and control systems necessary for operating an interconnected electric energy transmission network (or any portion thereof) and facilities generating electric energy as needed to maintain transmission system reliability, but does not include facilities used in the local distribution of electricity.

(d) “Commission” or “FERC” means the Federal Energy Regulatory Commission.

(e) “Delegated Authority” means the authority delegated by NERC to the Corporation to propose and enforce NERC Reliability Standards and perform other reliability-related activities in the ERCOT Region under the Delegation Agreement executed by NERC and the Corporation and approved by FERC, pursuant to Section 215 of the Federal Power Act (16 U.S.C. §824n).

(f) Delegation Agreement means the agreement between the Corporation and NERC and approved by the Commission which describes the Delegated Authority and may be amended from time to time.

(g) “Electric Reliability Organization” or “ERO” means the organization that is certified by the Commission pursuant to Section 39.3 of its regulations, and has received recognition by appropriate regulatory authorities in Canada and Mexico, as applicable, to establish and enforce Reliability Standards for the Bulk Power Systems of the respective countries and that has entered into a delegation agreement with the Corporation pursuant to which the Electric Reliability Organization delegates enforcement authority for Reliability Standards for the Bulk Power System in the ERCOT Region. NERC was certified as the ERO on July 20, 2006.

(h) “ERCOT Region” means the geographic area and associated transmission and distribution facilities that are not synchronously interconnected with electric utilities operating outside the jurisdiction of the Public Utility Commission of Texas.

(i) “Independent Director” means a person who is not (a) an officer or employee of the Corporation; (b) a NERC Registered Entity or Member or an officer, director, or employee of a Member of the Corporation; or (c) an officer, director, or employee of any company or entity that would reasonably be perceived as having a direct financial interest in the outcome of Board decisions and who does not have a relationship that would interfere with the exercise of independent judgment in carrying out the responsibilities of a Director, as more specifically described in Article IV of these Bylaws.

(j) “Member” means a member of the Corporation pursuant to Article II of these Bylaws.

(k) “PUCT” means the Public Utility Commission of Texas.

(l) “NERC” means North American Electric Reliability Corporation, the entity certified by FERC as the ERO on July 20, 2006.

(m) “NERC Rules of Procedure” means the Rules of Procedure that are adopted by NERC and approved by the Commission.

(n) “Regional Entity” means an entity with a Delegation Agreement with NERC, as ERO, including the following organizations, in addition to Texas Regional Entity: Florida Reliability Coordinating Council (FRCC), Midwest Reliability Organization (MRO), Northeast Power Coordinating Council (NPCC), ReliabilityFirst Corporation (RFC), Southeastern Electric Reliability Council (SERC), Southwest Power Pool (SPP), and Western Electricity Coordinating Council (WECC).

(o) Regional Reliability Standard means a standard for the ERCOT Region that is proposed and approved in accordance with the Texas RE Standards Development Process, as set forth in Exhibit C to the Delegation Agreement, and either, (i) sets more stringent reliability requirements than a national Reliability Standard, or (ii) covers matters not covered by a national Reliability Standard.

(p) “Registered Entity” means an entity that is registered with NERC and listed on the NERC Compliance Registry (available at [www.nerc.com](http://www.nerc.com)).

(q) “Reliability Standard” means a requirement to provide for Reliable Operation of the Bulk-Power System, which is approved by NERC and the Commission, pursuant to Section 215 of the Federal Power Act and all amendments thereto. This term includes requirements for the operation of existing Bulk-Power System facilities, including cybersecurity protection, and the design of planned additions or modifications to such facilities to the extent necessary to provide for Reliable Operation of the Bulk-Power System.

(r) “Reliable Operation” means operating the elements of the Bulk Power System within equipment and electric system thermal, voltage, and stability limits so that instability, uncontrolled separation, or cascading failures of the Bulk Power System will not occur as a result of a sudden disturbance, including a cybersecurity incident, or unanticipated failure of system elements.

(s) "Sector" means a group of Members of the Corporation that are Bulk Power System owners, operators, or users, as defined in Article III, Section 4 of these Bylaws. Each Sector shall constitute a class of Members for purposes of Chapter 22 (Nonprofit Corporations) of the Texas Business Organizations Code.

## ARTICLE II. PURPOSE

**Section 1. General Purpose.** The purpose of the Corporation is to preserve and enhance reliability in the ERCOT Region. In furtherance of this goal, the Corporation will:

(a) Perform Reliability Standards development, compliance monitoring, compliance enforcement, and other related activities as a Regional Entity, pursuant to 16 U.S.C. §824n, in accordance with the Corporation's Delegation Agreement with NERC;

(b) Carry out other activities as set forth in the Delegation Agreement, the NERC Rules of Procedure, or as otherwise required or requested by NERC, in support of the Delegated Authority, including but not limited to organization registration and certification, reliability assessment and performance analysis, training and education, and situational awareness and infrastructure security; and

(c) Engage in any other lawful act or activity that is not in conflict with the Corporation's duties as a Regional Entity and for which non-profit corporations may be organized under the Texas Non-Profit Corporations Act.

**Section 2. Non-Profit Corporation.** The Corporation is a Texas non-profit corporation.

**Section 3. Geographic Area.** The Corporation will perform its operations primarily within the ERCOT Region. The ERCOT Region includes 200,000 square miles, 85% of Texas load, and 75% of Texas land area (does not include the Panhandle, El Paso area, and 2 areas of East Texas). The ERCOT Region includes the following Texas cities and towns: Dallas, Ft. Worth, Houston, San Antonio, Austin, Paris, Tyler, Nacogdoches, Lufkin, Bryan, College Station, Corpus Christi, Harlingen, Brownsville, Laredo, Brownwood, San Angelo, Abilene, Midland, Odessa, Fort Stockton, Monahans, Snyder, Vernon, Wichita Falls, Denton, Garland, Greenville, Waco, Temple, Killeen, Weatherford, and Graham, and does not interconnect synchronously across state lines to import or export power with neighboring reliability regions.



### ARTICLE III. MEMBERSHIP

**Section 1. Members.** The Corporation is a membership corporation. Membership in the Corporation is voluntary and is open to any entity that is a user, owner or operator of the ERCOT Region Bulk Power System, registers with the Corporation as a Member, maintains its registration in accordance with this Article III, and complies with the other conditions and obligations of membership specified in these Bylaws. All Members must qualify and be registered in one of the Sectors defined in Article III, Section 4. Membership in the Corporation is not a condition to participating in the development or consideration of proposed Regional Standards.

**Section 2. Registration as a Member.** Any entity that is eligible to be a Member of the Corporation in accordance with Article III, Section 1 may become a Member by completing and submitting to the secretary of the Corporation a membership registration on a form prescribed by the Corporation. The Member shall designate one representative and an alternative representative with authority to receive notices, cast votes, and execute waivers and consents on behalf of the Member. The secretary of the Corporation shall maintain a current roster of the Members of the Corporation including each Member's designated representative and alternative representative. From time to time, the Board shall establish a date by which Members shall submit their registration renewals. All Members shall be required to renew their registrations annually and within 30 calendar days of a request by an officer of the Corporation, using a registration renewal form prescribed by the Corporation. The secretary of the Corporation shall remove from the roster of Members of the Corporation any Member that has not submitted a registration renewal within 30 days following a date established by the Corporation. The secretary shall inform any Member that is removed from the roster of Members of such removal, by sending notice to such former Member's last known address on the records of the Corporation.

### **Section 3. Obligations and Conditions of Membership.**

(a) Members must agree to promote, support, and comply with Reliability Standards, comply with the ERCOT region market rules, and assist the Corporation in its compliance with the terms and provisions of the Corporation's Delegation Agreement with NERC. Each Member shall agree, in writing, to accept the responsibility to comply with policies of NERC and the Corporation as set forth in their respective certificates of formation, bylaws, rules of procedure, and Reliability Standards, as applicable, as from time to time adopted, approved, or amended.

(b) As an additional condition of membership in the Corporation, each Member shall be required to execute an agreement with the Corporation, in a form to be specified by the Corporation, that such entity will hold all Directors, officers, employees, and agents of the Corporation, as well as volunteers participating in good faith in the activities of the Corporation, harmless for any injury or damage caused by any act or omission of any director, officer, employee, agent, or volunteer in the course of performance of his or her duties on behalf of the Corporation, other than for willful acts of misconduct.

(c) Consistent with applicable laws and regulations, Members must share nonproprietary information at the Corporation's request as necessary for the furtherance of the

Corporation's activities and consistent with NERC, PUCT, or any other applicable rules relating to confidentiality.

**Section 4. Membership Sectors.** Each Member shall elect to be assigned to one of the following membership Sectors:

(a) **System Coordination and Planning:** An entity that is registered with NERC as a Reliability Coordinator (RC), Balancing Authority (BA), Planning Authority (PA), Resource Planner (RP), or Interchange Authority (IA).

(b) **Transmission:** An entity that is registered with NERC as a Transmission Owner (TO), Transmission Planner (TP), Transmission Service Provider (TSP), and/or Transmission Operator (TOP).

(c) **Cooperative or River Authority Utility:** An entity that is (a) a corporation organized under Chapter 161 of the Texas Utilities Code or a predecessor statute to Chapter 161 and operating under that chapter; or (b) a corporation organized as an electric cooperative in a state other than Texas that has obtained a certificate of authority to conduct affairs in the State of Texas; or (c) a cooperative association organized under Tex. Rev. Civ. Stat. 1396-50.01 or a predecessor to that statute and operating under that statute; or (d) a River Authority as defined in Tex. Water Code §30.003 that is registered with NERC for at least one registered function. .

(d) **Municipal Utility:** An entity that owns or controls transmission or distribution facilities, owns or controls dispatchable generating facilities, or provides retail electric service and is a municipally owned utility as defined in PURA §11.003 and is registered with NERC for at least one registered function.

(e) **Generation:** An entity that is registered with NERC as a Generator Owner (GO) or Generator Operator (GOP).

(f) **Load-Serving and Marketing:** An entity that is registered with NERC as a Load Serving Entity (LSE), a Purchasing-Selling Entity, or any newly defined NERC Function for demand response.

**Section 5. Participation.**

(a) There is only one level of Membership, and no company or entity may simultaneously hold more than one Membership.

(b) Members must qualify in and join a Sector.

(c) A Member that is eligible for more than one Sector may join only one Sector and it must be the most appropriate Sector for its business. Any disputes regarding appropriateness of a Member's Sector will be decided by a majority vote by the Board.

(d) A company or entity that is an Affiliate of a Member may hold a separate membership in a different Sector, so long as the legal entities have different NERC Compliance Registry Numbers under which they are currently registered for the applicable NERC Function.

(e) A Member must continue to vote in the same Sector for a minimum of one year or until it is no longer eligible to remain in such Sector, and it must give notice to the Corporate secretary when it elects or is required to change Sectors.

(f) The Board may review the Sector qualification of any Member and may determine that a Member does not qualify for, and require them to change Sectors.

(g) A Member who is no longer eligible or not in good standing may not vote on any matters that require membership.

**Section 6. Membership Fees.** Members must pay an annual Membership Fee of \$250, to offset the expenses of membership qualification, coordination, and meetings, unless the Board waives the fee for any Member for good cause shown. The Board may agree to change the amount or frequency of the Membership Fee, from time to time, by majority vote.

**Section 7. Term of Membership.** Membership in the Corporation must be renewed on an annual basis and will only be retained as long as a Member meets its respective qualifications, obligations, and conditions of membership as set forth in these Bylaws. Membership is conditioned on the annual payment of Membership Fees, unless the Membership Fees are waived by the Board for good cause shown, as determined in the Board's sole discretion.

**Section 8. Removal.** No Member or Member representative may be sanctioned, expelled or suspended and no membership in the Corporation may be terminated or suspended except pursuant to a procedure that is fair and reasonable and is carried out in good faith. The Board may, by resolution, establish a procedure to terminate, expel, suspend, or sanction a Member following notice to the Member and exercise of appropriate due process procedures and a determination by the Board in its sole discretion that in its judgment the Member has violated its obligations and responsibilities to the Corporation. In the event that the Board does not adopt procedures, the following procedures shall apply:

(a) Written notice. Written notice of intent to terminate, expel, suspend or sanction a Member shall be delivered at least twenty (20) days in advance of the date when a hearing will be held to determine whether the Member shall be expelled, suspended, terminated or sanctioned. Such notice shall set forth the reasons therefore. Said notice must be given by facsimile (receipt confirmed), e-mail (receipt confirmed) or first class or certified mail sent to the last address of the Member to be expelled, suspended, terminated or sanctioned, as shown in the Corporation's records.

(b) Hearing. An opportunity shall be provided for the Member receiving such notice to be heard by the Board at the hearing, orally and in writing. The Member shall be entitled to have counsel present, and to participate in the hearing, at its own expense, and to present and cross-examine any witnesses.

(c) Liability. A Member which has been sanctioned, expelled, terminated or suspended shall remain liable to the Corporation for fees as a result of obligations incurred or commitments made prior to sanction, expulsion, termination or suspension.

(d) Challenges. Any proceeding challenging an expulsion, suspension, sanction or termination, including a proceeding in which defective notice is alleged, may be submitted to the Board in writing within one year after the effective date of the expulsion, suspension, sanction or termination. If the Board determines to hear such challenge, it shall notify the Member and such proceeding will be subject to the hearing requirements described in subsection (b) above of this Section 8.

**Section 9. Resignation.** Any other provision of these Bylaws notwithstanding, any Member may withdraw from participation in the activities of the Corporation at any time upon written notice to the chief executive officer or president, whereupon it shall cease to be a Member, and its representatives shall cease to be entitled or obligated to participate in the activities of the Board or any activities requiring membership.

**Section 10. Reinstatement.** A former Member may submit a written request for reinstatement of Membership. The Board will reinstate the Membership unless the entity does not meet the Membership qualifications set forth in these Bylaws.

#### ARTICLE IV. BOARD OF DIRECTORS

**Section 1. Board of Directors.** The business and affairs of the Corporation shall be managed by the Board. The Board shall consist of (i) four (4) Independent Directors who are nominated and elected in accordance with the requirements and procedures specified in this Article IV (the "Independent Directors"); (ii) the Chairman of the PUCT or another PUCT Commissioner designated by the Chairman, as an *ex officio* non-voting member; (iii) Texas Public Counsel, from the Office of Public Utility Counsel, as an *ex officio* non-voting member, representing the interests of residential and small commercial electricity consumers; (iv) the CEO of the Corporation as a voting member; (v) the chair of the Member Representatives Committee as a voting member; and (vi) the vice chair of the Member Representatives Committee as a voting member. The Directors who are the chair and vice chair of the Member Representatives Committee will be referred to herein as "Affiliated Directors." Each Director and Affiliated Director, excluding the non-voting members of the Board, shall have one (1) vote on any matter brought before the Board for a vote. All Directors are expected to serve the public interest and to represent the reliability concerns of the entire ERCOT Region Bulk Power System.

**Section 2. Independent Directors.** The Independent Directors shall be elected, shall have the qualifications specified, and shall serve in the manner provided in this Section.

(a) Qualifications:

(1) Experience in one or more of these fields: senior corporate leadership; professional disciplines of finance, accounting, engineering, bulk power systems, or law; regulation of utilities; and/or risk management.

(2) Independence of any NERC registered entity, ERCOT ISO, and any ERCOT Region Market Participant. Requirements of independence include but are not limited to the following:

(i) Independent Directors and the immediate family (any spouse, mother, father, sibling, or dependent, and any spouse of mother, father, or sibling and including any step and adoptive parents, siblings or children) and household members of Independent Directors and their spouses shall not have current or recent status (within the last two years) as a director, officer or

employee of an ERCOT Region NERC Registered Entity or ERCOT Region Market Participant.

(ii) Independent Directors and immediate family and household members of Independent Directors shall not have current status as a director, officer or employee of a non-ERCOT Region NERC Registered Entity.

(iii) Independent Directors and immediate family and household members of Independent Directors shall not have direct business relationships, other than retail customer relationships, with any NERC Registered Entity or Market Participant.

(iv) To the extent that an Independent Director or his or her spouse, dependent child, or any other household member owns stocks or bonds of NERC Registered Entities or Market Participants, these must be divested or placed in a blind trust prior to being seated on the Board.

(v) Independent Directors shall not have any relationship that would interfere with the exercise of independent judgment in carrying out the responsibilities of a Board member, including the Delegated Authority.

(vi) Other criteria as approved by the Board.

(b) Term. Except for the Initial and originally elected Directors, the term for Independent Directors shall be staggered three year terms. An Independent Director may be elected for up to three consecutive terms. Notwithstanding the foregoing, the Initial Directors, who are the Directors seated for formation of the Corporation, will serve only until the first membership meeting of the Corporation, which term shall not exceed six (6) months. If an Initial Director is qualified to be an Independent Director and elected by the membership, such Director's initial term shall not be counted for purposes of term limits. For the originally elected Directors, two positions will have three year terms and two positions will have two year terms. The term for the Affiliated Directors who are chair and vice chair of the Member Representatives Committee shall be one year, and the terms of the *ex officio* Directors will not expire.

(c) Selection.

(1) Except as described below for the selection of the Independent Directors to serve as Initial Directors, the Board shall appoint, on an annual basis, or more frequently if needed in the event of a special election pursuant to this subsection, a nominating committee (the "Nominating Committee") to recommend candidates (i) to succeed the Independent Directors whose terms expire during the current year and (ii) to serve the remainder of the term of any Independent Director who ceased to serve as a Director subsequent to the last annual election of Directors. The Nominating Committee shall consist of all Directors whose terms do not expire during the current year and such number of other persons with such qualifications as the Board shall specify, provided that the Independent Directors plus the Management Director shall constitute a majority of the voting members of the Nominating Committee. For the selection of Independent Directors to be seated as Initial Directors, the Nominating Committee shall consist of the Management Director, the *ex officio* Directors, two Unaffiliated Directors from the ERCOT Board of Directors, and two registered entity representatives who are selected by the ERCOT Board of Directors.

(2) The Nominating Committee may retain an executive search firm to locate and present candidates with the required qualifications, as set forth in Article IV, Section 2(a).

(3) The Nominating Committee shall interview the qualified candidates and select and nominate, by at least a two-thirds majority, qualified candidate(s) consistent with the objectives that the Board as an entirety shall reflect expertise in the areas of technical electric operations and reliability, legal, senior corporate leadership, financial, risk management, and regulatory matters, and familiarity with regional system operation issues in the ERCOT Region to present to the Membership for its approval. For the selection of the Independent Directors to serve as Initial Directors, the Nominating Committee will, following the interview process, select the Independent Directors that will serve as the initial Directors.

(4) Except for the selection of Independent Directors to serve as the Initial Directors, the Membership shall vote by Sector as described in Article V in favor or against the proposed Independent Director(s). A proposed Independent Director who is approved by a majority of the Sectors shall become an Independent Director.

(d) Director Voting Weights. All voting Directors shall have a single vote each.

(e) Alternates and Proxies. Independent Directors may designate another Independent Director as a proxy if unable to attend a Board meeting. Ex officio Directors may designate a selected proxy or an alternate representative who may attend meetings in the absence of such Director. The chair and vice chair of the Member Representatives Committee may designate each other or may designate an Independent Director as their proxy if unable to attend a Board meeting.

**Section 3. Appointment of Management Director.** The president and chief executive officer (CEO) of the Corporation shall serve as the Management Director of the Corporation, effective as of the date of his or her appointment by the Board as CEO of the Corporation in accordance with these Bylaws, to serve until such time that he or she ceases to hold the position of CEO. No action of the Members of the Corporation shall be required in connection with the appointment of the CEO as the Management Director of the Corporation.

**Section 4. Chair and Vice Chair.** Annually, the Board shall elect from the Board's membership, by resolution of the Board, a Chair and a Vice Chair. The Chair and Vice Chair shall each be one of the Independent Directors.

**Section 5. Vacancies and Removal.** Should any vacancy on the Board arise from the death, resignation, retirement, disqualification, or removal from office of any Director, or from any other cause, such vacancy shall be filled by electing a Director at the next annual election of Directors to fill the remainder, if any, of the term of the departed Director. Provided, that the Board by resolution may in its discretion call a special election to fill any such vacancy for the remainder, if any, of the term of the departed Director. A Director may be removed with or without cause at any time by whomever had the right to appoint such Director (for ex officio Directors), or for the elected Independent Directors, by an affirmative vote of sixty percent (60%) of the Members. In addition, the Board may remove a Director for cause, upon at least seventy-five percent (75%) affirmative

votes of the eligible, remaining voting Directors. The right to elect Directors may not be assigned, sold, pledged or transferred in any manner.

**Section 6. Committees of the Board.** The Board shall by resolution create and appoint all committees of the Board as the Board deems necessary to perform its responsibilities. All committees of the Board shall have such duties as are prescribed and delegated by the Board. Committees to which any of the authority of the Board to manage the Corporation is delegated must have at least two members, and a majority of the members of the committee must be Directors.

## **ARTICLE V. MEETINGS OF MEMBERS OF THE CORPORATION**

### **Section 1. Annual and Other Meetings of Members.**

(a) An annual meeting of the Members for the election of Directors and to conduct such other business as may come before the meeting shall be held on or about December 1 of each year or as soon thereafter as is reasonably practicable.

(b) Meetings of Members of the Corporation may be called for any purpose or purposes by resolution of the Board, by the chair of the Board, the CEO or the secretary of the Corporation, or by a number of Members constituting at least ten (10) percent of all Members on the roster of Members maintained by the secretary of the Corporation, which number shall include Members in at least three of the Sectors. Meetings of Members shall be held at the principal office of the Corporation or at such other place fixed by the Board as shall be specified in the notice of meeting. Meetings shall be called upon written notice of the time, date, place, and purposes of the meeting given to all Members on the roster of Members maintained by the secretary of the Corporation not less than ten (10) nor more than sixty (60) days prior to the date of the meeting. Only Members in good standing with the Corporation, as determined by the Board, have the right to vote at any meeting of the Members. Further, if at any point a Member no longer meets the qualifications for the Sector of which it is a member, the Entity may immediately elect to become a member in any Sector for which it does qualify.

**Section 2. Quorum and Voting Requirements for Meetings of Members.** At any meeting of the Members of the Corporation, attendance in person or by proxy by a majority of the Members in each of at least two-thirds of the Sectors on the roster of Members maintained by the secretary of the Corporation shall constitute a quorum.

(a) Members shall vote by Sector and each Sector shall have one vote.

(b) Except as otherwise expressly provided in the Corporation's Certificate of Formation, these Bylaws or applicable law, actions by the Members of the Corporation shall be approved upon receipt of the affirmative vote of a majority of the Sectors of the Corporation at a meeting at which a quorum is present, in person or by proxy. Each Sector's vote shall be determined by the affirmative vote of a majority of the members of the Sector voting at the meeting.

**Section 3. Waivers of Notice of Meetings of Members and Member Meeting Adjournments.** Notice of a meeting of Members need not be given to any Member who signs a waiver of notice, in person or by proxy, whether before or after the meeting. The attendance of any Member at a meeting, in person

or by proxy, without protesting prior to the conclusion of the meeting the lack of proper notice of such meeting, shall constitute a waiver of notice of the meeting by such Member. When any meeting of Members is adjourned to another time or place, it shall not be necessary to give notice of the adjourned meeting if the time and place to which the meeting is adjourned are announced at the meeting at which the adjournment is taken, and if at the adjourned meeting only such business is transacted as might have been transacted at the original meeting.

**Section 4. Action Without a Meeting of Members.** Any action, required or permitted to be taken at a meeting of Members, may be taken without a meeting if the proposed action is posted to all Members (via email to an email distribution list to which Members may subscribe and by posting on the Corporation website) and consented to in writing by the minimum number of Members that would be required to approve the action at a meeting of the Members at which all Members were present. The voting in such a circumstance shall be performed in writing, including via email or other electronic means. The Members shall receive written notice of the results within ten (10) days of the action vote, and all written responses of the Members shall be filed with the Corporate records. The results of such voting will be posted on the Corporation's website.

**Section 5. Meetings of the Members to be Open.** Notice to the public of the dates, places, and times of meetings of the Members, and all non-confidential material provided to the Members, shall be posted on the Corporation's website at approximately the same time that notice is given to the Members. Meetings of the Members shall be open to the public, subject to reasonable limitations due to the availability and size of meeting facilities; provided, that the meeting may be held in or adjourned to closed session to discuss matters of a confidential nature, including but not limited to compliance and enforcement matters, personnel matters, litigation, or commercially sensitive or critical infrastructure information of the Corporation or any other entity. The results of any action taken without a meeting, as described above, will be posted on the Corporation's website.

## ARTICLE VI. MEETINGS OF THE BOARD OF DIRECTORS

**Section 1. Regular Meetings of the Board.** Regular meetings of the Board shall be held at least quarterly. By resolution adopted at any meeting of the Board, the Board may provide for additional regular meetings that may be held as needed.

**Section 2. Special Meetings of the Board.** Special meetings of the Board for any purpose or purposes may be called at any time by the chair or by any two Directors. Such meetings may be held upon notice given to all Directors not less than three (3) days prior to the date of the meeting. Such notice shall specify the time, date, place, and purpose or purposes of the meeting and may be given by telephone, email or other electronic media, or by express delivery.

**Section 3. Quorum and Voting Requirements for Meetings of the Board.** Unless otherwise expressly provided in the Corporation's Certificate of Formation, these Bylaws or applicable law, (i) the quorum necessary for the transaction of business at meetings of the Board shall be a majority of the Directors



in person or by proxy and at least three Independent Directors, and (ii) actions by the Board shall be approved upon receipt of the affirmative vote of a majority of the Directors present and voting in person or by proxy at a meeting at which a quorum is present.

**Section 4. Meetings of the Board to be Open.** Notice to the public of the dates, places, and times of meetings of the Board, and all non-confidential material provided to the Board, shall be posted on the Corporation's website at approximately the same time that notice or such material is given to the Directors. Meetings of the Board shall be open to the public, subject to reasonable limitations due to the availability and size of meeting facilities; provided, that the Board may meet in or adjourn to closed session to discuss matters of a confidential nature, including but not limited to compliance and enforcement matters, personnel matters, litigation, or commercially sensitive or critical infrastructure information of the Corporation or any other entity. Any or all of the Directors or members of a Board committee, may participate in a meeting of the Board, or a meeting of a committee, in person or by proxy, by means of any communications system by which all persons participating in the meeting are able to hear each other.

**Section 5. Waivers of Notice of Board Meetings and Board Meeting Adjournments.** Notice of a board meeting need not be given to any Director who signs or sends email confirming a waiver of notice, in person or by proxy, whether before or after the meeting, or who attends the meeting without protesting, prior to the conclusion of the meeting, the lack of notice of such meeting. Notice of an adjourned board meeting need not be given if the time and place to which the meeting is adjourned are announced at the meeting at which the adjournment is taken and if the period of adjournment does not exceed ten (10) days.

**Section 6. Action Without a Meeting.** Any action required or permitted to be taken at a meeting of the Board, or of any committee thereof, may be taken by the Board or by the committee without a meeting if the action is consented to in writing by the number of Directors or members of the committee, as the case may be, entitled to vote on the action that would be required to approve the action at a meeting of the Board or committee with all members of the Board or committee present. The call for action without a meeting of the Board may be initiated by the chair or by any two Directors. Notice of the proposed call for action without a meeting, and all non-confidential material provided to the Board in connection with the call for action without a meeting, shall be posted on the Corporation's website and sent via email to an email distribution list to which Corporate Members and the public may subscribe at approximately the same time notice of the call for action without a meeting or such material is provided to the Board. The call for action without a meeting of a committee of the Board may be initiated by the chair of the committee or by any two members of the committee. The Directors or members of the committee shall receive written notice of the results of such action within seven (7) days of the action vote. All written responses of the Directors shall be filed with the minutes of the Corporation, and all written responses of members of a committee shall be filed with the minutes of such committee.

## ARTICLE VII. OFFICERS

**Section 1. Selection of Officers.** At a regular meeting held in accordance with Article V, Section 1 of these Bylaws, the Board shall elect a CEO and shall approve a corporate secretary and such other officers of the Corporation (collectively, the "Officers") as it shall deem necessary. The CEO shall be nominated and elected by the Board. All of the other Officers shall be selected by the CEO and approved by the Board, and the removal of all Officers shall be confirmed by the Board. The Management Director shall not participate in votes electing, approving, or removing Officers. The duties and authority of the Officers shall be determined from time to time by the Board. Subject to any such determination, the Officers shall have the following duties and authority:

**Section 2. Chief Executive Officer.** The CEO shall be the chief executive officer of the Corporation. He or she shall be responsible for the day-to-day ongoing activities of the Corporation and shall have such other duties as may be delegated or assigned to him or her by the chair. The CEO may enter into and execute in the name of the Corporation contracts or other instruments not in the regular course of business that are authorized, either generally or specifically, by the Board.

**Section 3. Corporate Secretary.** The secretary shall maintain the roster of Members of the Corporation, shall cause notices of all meetings to be served as prescribed in these Bylaws, shall keep or cause to be kept the minutes of all meetings of the Members and the Board, and shall have charge of the seal of the Corporation. The secretary shall perform such other duties and possess such other powers as are incident to his or her office or as shall be assigned to him or her by the CEO

**Section 4. Chief Financial Officer.** If hired and approved, a chief financial officer shall have custody of the funds and securities of the Corporation, shall keep or cause to be kept regular books of account for the Corporation and shall have the duties normally assigned to a treasurer of a corporation. The chief financial officer shall perform such other duties and possess such other powers as are incident to his or her office or as shall be assigned to him or her by the CEO.

## **ARTICLE VIII. RELIABILITY STANDARDS COMMITTEE**

**Section 1. Requirement.** The Corporation shall have a Reliability Standards Committee, which shall operate in accordance with the Standards Development Process as set forth in Exhibit C to the Delegation Agreement with NERC and approved by FERC. The chair and vice chair of the Standards Committee must be accepted or approved by the Board, in accordance with said Exhibit C.

## **ARTICLE IX. MEMBER REPRESENTATIVES COMMITTEE**

**Section 1. Purpose of Member Representatives Committee.** The Corporation shall have a Member Representatives Committee that shall provide advice and recommendations to the Board with respect to annual budgets, business plans and funding mechanisms of the Corporation; other matters relevant to reliability of the ERCOT Bulk Power System; and other matters pertinent to the

purpose and operations of the Corporation. The Member Representatives Committee shall provide its advice and recommendation to the Board through its chair and the vice chair, who also serve as the Affiliated Directors on the Board. The Members Representatives Committee may create subcommittees, task forces, or working groups ("subcommittees") as it deems appropriate to study or discuss selected technical or compliance matters to make recommendations to the board as requested or required by the Board or as deemed appropriate to its purpose by the Members Representatives Committee. Because it is elected by the Members of the Corporation and not appointed by the Board, the Member Representatives Committee shall not be a standing committee of the Board of Directors of the Corporation, but is authorized to provide advice and recommendations directly to the Board, through its elected chair and vice chair.

**Section 2. Composition of the Member Representatives Committee.** The Member Representatives Committee shall consist of two representatives from each Sector to serve annually and will annually select a chair and vice chair for the Member Representatives Committee. The representatives of each Sector shall be officers, employees, or directors of Members in that Sector; provided however, except for a Sector that has only one Member, only one officer, employee, or director of a Member in a Sector may be a representative from that Sector. No member of the Board shall be a member of the Member Representatives Committee. The Board may by resolution create additional non-voting positions on the Member Representatives Committee on its own initiative or at the written request of any group of Members of the Corporation that believes its interests are not adequately represented on the Member Representatives Committee. There shall be no limit on the number of terms that an officer, employee, or director of a Member, may serve on the Member Representatives Committee.

**Section 3. Election of Representatives of the Member Representatives Committee.** Unless a Sector adopts an alternative election procedure, the annual election of representatives from each Sector to the Member Representatives Committee, and any election to fill a vacancy, shall be conducted in accordance with the following process, which shall be administered by the officers of the Corporation.

(a) During the period beginning no more than ninety (90) days and ending no less than fifteen (15) days prior to an annual meeting, or beginning no more than forty-five (45) days and ending no less than fifteen (15) days prior to a special meeting called in whole or in part to hold an election to fill a vacancy, nominations may be submitted for candidates for election to the Member Representatives Committee. A nominee for election as a Sector representative must be an officer, employee, or director of a Member in that Sector. No more than one nominee who is an officer, employee, or director of a Member may stand for election in any single Sector; if more than one officer, employee, or director of a Member is nominated for election from a Sector, the Member shall designate which such nominee shall stand for election. The election of representatives shall be conducted over a period of ten (10) days using an electronic process approved by the secretary of the Corporation.

(b) Each Member in a Sector shall have one vote for each Representative to be elected from the Sector in that election and may cast no more than one vote for any nominee. The nominee receiving the highest number of votes in each Sector shall be elected to one Representative position to be filled from that Sector and the nominee receiving the second

highest number of votes shall be elected as the second Representative position for that Sector. To be elected on the first ballot, a nominee must receive a number of votes equal to a simple majority of the Members in the Sector casting votes in the election. If no nominee in a Sector receives a simple majority of votes cast in the first ballot, a second ballot shall be conducted which shall be limited to the number of candidates receiving the three (3) highest vote totals on the first ballot. The nominees receiving the two highest totals of votes on the second ballot shall be elected to the Representative positions for the Sector.

(c) A Sector may adopt an alternative procedure to the foregoing to nominate and elect its Representatives to the Member Representatives Committee if the alternative procedure is approved by vote of at least two-thirds of the Members in the Sector, provided, however that any alternative procedure may be reviewed and disapproved by the Board.

(d) A Sector may elect an Alternate to serve in place and at the convenience of the Sector's Member Representatives Committee Representative(s) in the event a Member Representatives Committee Representative cannot attend a Member Representatives Committee meeting.

**Section 4. Chair and Vice Chair of the Member Representatives Committee.** After the annual selection of its Representatives, the Member Representatives Committee shall select a chair and vice chair from among its voting Representatives by majority vote to serve during the upcoming year and be the Affiliated Directors on the Board. The selected chair and vice chair may not be representatives of the same Sector or NERC function and may not concurrently serve on the Board of ERCOT ISO or any other registered entity in the ERCOT Region. The Board shall be notified of the selection of the chair and vice chair, but the selection will not be subject to approval of the Board. The chair is responsible for ensuring that minutes of the meetings are properly maintained and made available to the public, but the chair may delegate this responsibility to the vice chair or to another Representative of the Member Representatives Committee who is designated as secretary of the Member Representatives Committee.

**Section 5. Vacancies on the Member Representatives Committee.** In the event that any Representative of the Member Representatives Committee ceases to serve as a Representative of the Member Representatives Committee as a result of his or her death, resignation, retirement, disqualification, or removal or other cause, the Members in the Sector of which such Representative was a representative shall elect, as soon thereafter as reasonably practicable, and in accordance with the procedures in this Article IX, a new Representative to replace the Representative of the Member Representatives Committee who ceased to serve. For those Sectors that have elected an Alternate, the Alternate will fill a vacancy left by the Sector's Member Representative and a new Alternate will be elected by the Sector.

**Section 6. Meetings of the Member Representatives Committee.** The Member Representatives Committee will annually plan and hold quarterly meetings, at a time and place determined by the Member Representatives Committee and posted on the Corporation's website. Except for closed session meetings specifically allowed by this Section, all meetings shall be open to the public. The Members Representatives Committee shall adopt such procedural rules as are needed to operate in accordance with its purpose and will include

procedures for coordinating with employees of the Corporation who provide administrative support, as set forth in subsection 6(c), below.

(a) Notice to the public of the dates, places, and times of meetings of the Member Representatives Committee and any subcommittees thereof, and all non-confidential material provided to the Member Representatives Committee or any subcommittees thereof, shall be posted on the Corporation's website at approximately the same time that notice or such material is given to the Member Representatives Committee, which will normally be at least one week prior to any meeting. Meetings of the Member Representatives Committee shall be open to the public, subject to reasonable limitations due to the availability and size of meeting facilities; provided, that the Member Representatives Committee may meet in or adjourn to closed session to discuss matters of a confidential nature, including but not limited to confidential planning information, critical infrastructure information, or commercially sensitive information of the corporation or any other entity. Any or all Representatives of, and any other participants in, the Member Representatives Committee may participate in a meeting of the Member Representatives Committee by means of a communications system by which all persons participating in the meeting are able to hear each other.

(b) Special meetings may be called for any purpose or purposes by the chair of the Member Representatives Committee or by any three (3) Representatives of the Member Representatives Committee, which number shall include representatives from at least three Sectors, and require notice given to all Representatives of the Member Representatives Committee not less than seven (7) days prior to the date of the meeting. Such notice shall specify the time, date, place, and purpose or purposes of the meeting and may be given by telephone, facsimile, or other electronic media, or by express delivery.

(c) The Member Representatives Committee shall effectively coordinate with the employees of the Corporation and adopt procedural rules for the voting for Representatives, scheduling of meetings, and public posting of required meeting information and minutes. The chair or vice chair of the Member Representatives Committee shall provide all meeting agendas, material, minutes and other information required or desired to be posted on the Corporation's website to appropriate Corporation employees at least one business day prior to the time such information should be posted.

**Section 7. Waivers of Notice of Meetings of the Member Representative Committee and Meeting Adjournments.** Notice of a meeting of the Member Representatives Committee need not be given to any member of the Member Representatives Committee who signs a waiver of notice, in person or by proxy, whether before or after the meeting, or who attends the meeting without protesting, prior to the conclusion of the meeting, the lack of notice of such meeting. Notice of an adjourned meeting of the Member Representatives Committee need not be given if the time and place to which the meeting is adjourned are announced at the meeting at which the adjournment is taken and if the period of adjournment does not exceed ten (10) days.

**Section 8. Quorums and Voting for Meetings of the Member Representatives Committee.** The quorum necessary for the transaction of business at meetings of the Member Representatives Committee shall be two-thirds of the voting members of the Member Representatives Committee attending the meeting in person or by proxy. A member of the Member Representatives Committee may give a proxy only to a person who is an officer, employee, or director of a Member, registered in the same Sector. Each voting member of the

Member Representatives Committee shall have one (1) vote on any matter coming before the Member Representatives Committee that requires a vote. Except as otherwise expressly provided in the Corporation's Certificate of Formation, these Bylaws or applicable law, actions by members of the Member Representatives Committee shall be approved upon receipt of the affirmative vote of a majority of the voting members of the Member Representatives Committee present and voting at any meeting at which a quorum is present.

**Section 9.** Alternates and Proxies. Member Representatives may designate another Member Representative or the Sector Alternate as a proxy if unable to attend a Members Representative Committee meeting,

**Section 10. Other Procedures of the Member Representatives Committee.** The chair of the Board, shall preside at the initial meeting of the Member Representatives Committee, until a chair is selected in accordance with Article IX, Section 4. Except as to any matter as to which the procedure to be followed by the Member Representatives Committee is expressly set forth in these Bylaws, the Member Representatives Committee may adopt such additional procedures, not inconsistent with these Bylaws, as it deems appropriate, subject to review and disapproval by the Board.

#### **ARTICLE X. OTHER COMMITTEES AND SUBCOMMITTEES**

**Section 1. Committees of the Corporation.** In addition to those committees specified by these Bylaws, to which the Board shall appoint members in accordance with the requirements of these Bylaws, the Board may by resolution create standing committees of the Corporation; and may in addition by resolution appoint such committees, subcommittees, task forces and Sector-specific forums as the Board deems necessary or desirable to carry out the purposes of the Corporation. The Board shall appoint standing committees and other committees of the Corporation that are representative of Members, other interested parties, and the public, that provide for balanced decision-making and that include persons with outstanding technical knowledge and experience. All committees, subcommittees, task forces and Sector-specific forums shall have such scope and duties, not inconsistent with law, as are specified in these Bylaws and the Rules of Procedure of the Corporation or otherwise determined by the Board.

#### **ARTICLE XI. BUDGETS AND FUNDING**

**Section 1. Compensation of the Board and Member Representatives Committee.** The Board shall have the right to fix from time to time, by resolution adopted by a majority of the Directors and a majority of the Independent Directors then serving as Directors, the amount of the annual retainer fee or other compensation to be paid to the Independent Directors for their services to the Corporation, including any fees to be paid for each meeting of the Board or any Board committee attended by an Independent Director. The Board will evaluate the fee or other compensation at least every three years, to ensure that Director compensation is appropriate. No compensation shall be paid to any Management Director, Affiliated Director, or *ex officio* Director for his or her

services on the Board, other than the compensation paid to the Management Director for services as CEO of the Corporation. No compensation shall be paid by the Corporation to any member of the Member Representatives Committee for his or her services on the Member Representatives Committee. Independent Directors shall be entitled to be reimbursed their reasonable out-of-pocket expenditures for attending meetings and conducting the business of the Corporation.

**Section 2. Preparation and Adoption of Annual Budget, Business Plan, and Funding Mechanism.** The Board shall require the CEO to prepare for Board approval an annual business plan and budget for the administrative and other expenses of the Corporation, including the expenditures for the fiscal year for any material special projects undertaken by the Corporation and reasonable and proper reserves and provisions for contingencies, in accordance with all NERC and Commission requirements. The annual business plan, budget and funding mechanism of the Corporation shall be for a fiscal year commencing on January 1 and ending on December 31. Each annual business plan, budget, and funding mechanism shall be approved by the Board at a regular meeting or a special meeting of the Board duly called for that purpose. The Board shall use reasonable efforts to approve each annual business plan, budget, and funding mechanism at a time that allows for timely submittal of the approved annual business plan, budget, and funding mechanism to the applicable regulatory authorities.

**Section 3. Comments During Preparation of Annual Business Plan and Budget.** In preparing the annual business plan and budget, the Board shall require that the CEO post a draft business plan and budget for review and comment by the Members of the Corporation and the Member Representatives Committee and the standing committees of the Corporation for at least ten (10) days prior to the date of the meeting of the Board at which the annual business plan and budget is to be adopted.

**Section 4. Modified or Supplemental Budgets.** During the course of a fiscal year, the Board may modify any approved budget or develop and approve a supplemental budget if determined by the Board to be necessary due to such factors as a shortfall in revenues of the Corporation from projected levels, incurred or anticipated expenditures, duties, or new projects not provided for in the annual budget, or such other factors as in the judgment of the Board warrant modification of the budget for the fiscal year or development of a supplemental budget. In preparing a modified or supplemental budget, the Board shall follow the provisions of this Article XI, Section 4 to the extent practicable in the judgment of the Board in light of the urgency of the circumstances necessitating preparation and approval of the modified or supplemental budget. Each modified or supplemental budget shall be approved by the Board at a regular meeting or a special meeting of the Board duly called for that purpose.

**Section 5. Submission of Annual Business Plans and Budgets to the Regulatory Authorities.** Each annual budget, annual business plan, and annual, modified, or supplemental budget approved by the Board shall be submitted by the Corporation to the ERO and any applicable regulatory authorities for approval in accordance with its regulations, and shall not be effective until approved by the applicable regulatory authorities. If ordered to modify or remand an annual budget, business plan, or annual, modified, or supplemental funding

mechanism, the Board shall promptly following such order adopt such modifications to the business plan, budget , or funding mechanism as are required or directed by the order of the ERO and any applicable regulatory authority.

## **ARTICLE XII. AMENDMENTS TO THE BYLAWS**

**Section 1. Amendments to the Bylaws.** These Bylaws may be altered, amended, or repealed by a majority vote of both the Board and the Membership at respective meetings of the Board and the Members at which a quorum is present. Written notice of the subject matter of the proposed changes to the Bylaws shall be provided to the Directors and to the Members not less than ten (10) nor more than sixty (60) days prior to the date of the meeting of the Board or the Members at which the vote is to be taken. Notwithstanding the provisions of this Article XIV, the Members of the Corporation voting by Sector shall have the right to alter, amend, or repeal Bylaws adopted by the Board and to adopt new Bylaws, provided that any such alteration, amendment, or repeal or the adoption of new Bylaws is approved by vote of two-thirds of the Sectors at a meeting of Members called for that purpose, or by written consent of two-thirds of the Sectors, where the number of votes for and against the proposed alteration, amendment, repeal or adoption of Bylaws shall be determined in accordance with Article IV, Section 2. Any alteration, amendment, repeal or adoption of Bylaws shall be subject to any applicable requirements for filing with or approval by the ERO or any other applicable regulatory authority.

## **ARTICLE XIII. INDEMNIFICATION; PROCEDURE; DISSOLUTION**

**Section 1. Indemnification.** The Corporation shall indemnify each person who at any time shall serve, or shall have served, as an officer, Director, employee, or other corporate agent of the Corporation, is or was serving at its request as a director, officer, partner, venturer, proprietor, employee, agent or similar functionary of another foreign or domestic corporation, partnership, joint venture, sole proprietorship, trust, employee benefit plan or other enterprise ("Indemnified Parties"), to the full extent from time to time permitted by the Texas Business Organizations Code and other applicable law. Such right of indemnification shall inure to the benefit of the legal representative of any such Indemnified Party. The foregoing indemnification shall be in addition to, and not in restriction or limitation of, any privilege or power that the Corporation may have with respect to the indemnification or reimbursement of its Indemnified Parties. The Corporation shall also pay or advance reasonable expenses incurred by an Indemnified Party in connection with a proceeding in advance of the final disposition of the proceeding upon receipt of a written affirmation by the Indemnified Party of a good faith belief that the standard of conduct necessary for indemnification under this Article XIII and the Texas Business Organizations Code has been met and a written undertaking by or on behalf of the officer, Director, or other corporate agent to repay the amount if it shall be ultimately determined that the Indemnified Party was not entitled to be indemnified by the Corporation.

**Section 2. Parliamentary Rules.** In the absence of and to the extent not inconsistent with specific provisions in these Bylaws, meetings or other actions



pursuant to these Bylaws shall be governed by procedures that the Board may, from time to time, establish by resolution.

**Section 3. Dissolution.** Upon dissolution of the Corporation, in accordance with the Certificate of Formation, the remaining assets of the Corporation after payment of debts shall be distributed in the manner determined by the Board, provided that, (i) no part of the assets shall be distributed to any Director of the Corporation, and (ii) the distribution of assets shall be consistent with the requirements of Section 501(c)(3) of the United States Internal Revenue Code of 1954.

#### **ARTICLE XIV. CONFLICTS OF INTEREST**

##### **Section 1. Conflicts of Interest.**

(a) Each Director shall have an affirmative duty to disclose to the Board or committee (as the case may be) any actual or potential conflicts of interest of the Director that arise during his or her tenure as a Director where, and to the extent that, such conflicts or potential conflicts directly or indirectly affect any matter that comes before the Board. A Director with a direct or potentially conflicting interest in a matter shall recuse himself from deliberations and actions on the matter in which the conflict arises and shall abstain on any vote on the matter and not otherwise participate in a decision on the matter. Any disclosure of a potential conflict of interest by a Director shall be noted in the minutes of the Board meeting at which the direct interest is disclosed. Mere attendance at the meeting, without participating in discussion of the issue raising the potential conflict, shall not constitute participation.

(b) The Corporation may not make any loan to a Director, committee member or officer of the Corporation. A Member, Director, officer, or committee member of the Corporation may not lend money to, or otherwise transact business with, the Corporation except as otherwise provided by these Bylaws, the Certificate of Formation, and applicable law. A related party transacting business with the Corporation has the same rights and obligations relating to those matters as other persons transacting business with the Corporation, provided the related party nature of the transaction is known to the Board. The Corporation may not borrow money from, or otherwise transact business with, a Member, Director, officer, or committee member of the Corporation unless the transaction is described fully in a legally binding instrument and is in the Corporation's best interests. The Corporation may not borrow money from, or otherwise transact business with, a Member, Director, officer, or committee member of the Corporation without full disclosure of all relevant facts and without the Board's approval, not including the vote of any person having a personal interest in the transaction.

**Section 2. Prohibited Acts.** No Member, Director, officer, or committee member of the Corporation may do any of the below-listed prohibited acts. Performance of these prohibited acts may lead to sanction, suspension, expulsion or termination after a hearing as described in these Bylaws. The prohibited acts include the following:

- (a) Do any act in violation of these Bylaws.
- (b) Do any act in violation of a binding obligation of the Corporation except with the Board's prior approval.

- (c) Do any act with the intention of harming the Corporation or any of its operations.
- (d) Receive an improper personal benefit from the operation of the Corporation.
- (e) Use the Corporation's assets, directly or indirectly, for any purpose other than carrying on the Corporation's business.
- (f) Wrongfully transfer or dispose of Corporation property, including intangible property such as goodwill.
- (g) Use the Corporation's name (or any substantially similar name) or any trademark or trade name adopted by the Corporation, except on behalf of Corporation in the ordinary course of its business or as a reference to the Corporation or its region.
- (h) Disclose any of Corporation's or Members' business practices, trade secrets, or any other confidential or proprietary information not generally known to the business community to any person not authorized to receive it.

**Section 3. Loans and Guarantees.** Neither participation in the activities of the Corporation nor any provision of these Bylaws or of the Certificate of Formation shall be deemed to constitute a pledge or loan of the credit of any Member for the benefit of the Corporation or a guarantee by any Member of any obligation of the Corporation.

#### **ARTICLE XV. BOOKS AND RECORDS; AUDIT; FISCAL YEAR**

**Section 1. Access to Books and Records.** All Members of the Corporation will have access to the books and records of the Corporation, including financial statements and budgets; however, the Board shall establish procedures by which a Member, upon written demand stating the purpose of the demand may examine and copy the books and records of the Corporation. If necessary to protect the confidential information of the Corporation, a Member requesting examination of any of the Corporation's non-public books and records will be required to sign a confidentiality and non-disclosure agreement before viewing such information. The procedures shall include policies that provide reasonable protection against the unnecessary disclosure of information related to individual employees, including their compensation.

**Section 2. Audit.** At least annually, an audit of the financial statements of the Corporation shall be performed by the Auditor approved by the Board. The Auditor's opinion and the audited financial statements will be made available to all Members as described in Article XV, Section 1.

**Section 3. Fiscal Year.** The fiscal year of the Corporation shall be from January 1 through the following December 31, unless otherwise established by resolution of the Board.

# Exhibit B

# Texas Regional Entity Bylaws Draft On September 4, 2009

Showing Comments received during August 17, 2009 Board meeting and submitted by from Market Participants and Registered Entities from August 20, 2009 to September 4, 2009

**BYLAWS  
OF  
TEXAS REGIONAL ENTITY, INC.**

(A Texas Non-Profit Corporation)

Approved on \_\_\_\_\_, 2009

**Table of Contents**

	<b>Page</b>
Article I. Definitions .....	1
Article II. Purpose.....	3
Article III. Membership .....	4
Article IV. Board of Directors .....	7
Article V. Meetings of Members of the Corporation .....	10
Article VI. Meetings of the Board of Directors .....	12
Article VII. Officers .....	13
Article VIII. Reliability Standards Development Committee .....	14
Article IX. Member Representatives Committee .....	14
Article X. Other Committees and SubCommittees .....	17
Article XI. Budgets and Funding .....	18
Article XII. Amendments to the Bylaws .....	19
Article XIII. Indemnification; Procedure; Dissolution .....	20
Article XIV. Conflicts of Interest.....	20
Article XV. Books and Records; Audit; Fiscal Year.....	22

## ARTICLE I. DEFINITIONS

**Section 1. Definitions.** The capitalized terms used in these Bylaws of Texas Regional Entity, Inc. (the “Corporation” or “Texas RE”), shall have the meanings set forth below, or if not set forth below, shall have the meanings given them in the NERC Rules of Procedure.

(a) “Affiliate” means any companyentity controlling, controlled by or under common control with the entity under consideration, and includes any companyentity (i.e., any commercial enterprise) in any of the following relationships: (i) an companyentity that directly or indirectly owns or holds at least five percent of the voting securities of another companyentity, (ii) an companyentity in a chain of successive ownership of at least five percent of the voting securities of another companyentity, (iii) an companyentity which shares a common parent with or is under common influence or control with another companyentity or (iv) an companyentity that actually exercises substantial influence or control over the policies and actions of another companyentity. Evidence of influence or control shall include the possession, directly or indirectly, of the power to direct or cause the direction of the management and/or policies and procedures of another, whether that power is established through ownership or voting of at least five percent of the voting securities or by any other direct or indirect means. In cases where the level of control or influence is disputed, the Board shall have discretion to determine whether or not the entities are Affiliates of one another. Membership in Texas RE shall not create an affiliation with Texas RE.

Formatted: Highlight

(b) “Board” means the Board of Directors of the Corporation.

(c) “Bulk Power System” or “BPS” means facilities and control systems necessary for operating an interconnected electric energy transmission network (or any portion thereof) and facilities generating electric energy as needed to maintain transmission system reliability, but does not include facilities used in the local distribution of electricity.

(d) “Commission” or “FERC” means the Federal Energy Regulatory Commission.

(e) “Delegated Authority” means the authority delegated by NERC to the Corporation to propose and enforce NERC Reliability Standards and perform other reliability-related activities in the ERCOT Region under the Delegation Agreement executed by NERC and the Corporation and approved by FERC, pursuant to Section 215 of the Federal Power Act (16 U.S.C. §824n).

(f) Delegation Agreement means the agreement between the Corporation and NERC and approved by the Commission which describes the Delegated Authority and may be amended from time to time.

(g) “Electric Reliability Organization” or “ERO” means the organization that is certified by the Commission pursuant to Section 39.3 of its regulations, and has received recognition by appropriate regulatory authorities in Canada and Mexico, as applicable, to establish and enforce Reliability Standards for the Bulk Power Systems of the respective countries and that has entered into a delegation agreement with the Corporation pursuant to which the Electric Reliability Organization delegates enforcement authority for Reliability

Standards for the Bulk Power System in the ERCOT Region. NERC was certified as the ERO on July 20, 2006.

(h) "ERCOT Region" means the geographic area and associated transmission and distribution facilities that are not synchronously interconnected with electric utilities operating outside the jurisdiction of the Public Utility Commission of Texas.

(i) "Independent Director" means a person who is not (a) an officer or employee of the Corporation; (b) a NERC Registered Entity or Member or an officer, director, or employee of a Member of the Corporation; or (c) an officer, director, or employee of any company or entity that would reasonably be perceived as having a direct financial interest in the outcome of Board decisions and who does not have a relationship that would interfere with the exercise of independent judgment in carrying out the responsibilities of a Director, as more specifically described in Article IV of these Bylaws.

(j) "Member" means a member of the Corporation pursuant to Article II of these Bylaws.

(k) "PUCT" means the Public Utility Commission of Texas.

(l) "NERC" means North American Electric Reliability Corporation, the entity certified by FERC as the ERO on July 20, 2006.

(m) "NERC Rules of Procedure" means the Rules of Procedure that are adopted by NERC and approved by the Commission.

(n) "Regional Entity" means an entity with a Delegation Agreement with NERC, as ERO, including the following organizations, in addition to Texas Regional Entity: Florida Reliability Coordinating Council (FRCC), Midwest Reliability Organization (MRO), Northeast Power Coordinating Council (NPCC), ReliabilityFirst Corporation (RFC), Southeastern Electric Reliability Council (SERC), Southwest Power Pool (SPP), and Western Electricity Coordinating Council (WECC).

(o) Regional Reliability Standard means a standard for the ERCOT Region that is proposed and approved in accordance with the Texas RE Standards Development Process, as set forth in Exhibit C to the Delegation Agreement, and either, (i) sets more stringent reliability requirements than a national Reliability Standard, or (ii) covers matters not covered by a national Reliability Standard.

~~(e)~~(p) "Registered Entity" means an entity that is registered with NERC and listed on the NERC Compliance Registry (available at www.nerc.com).

~~(p)~~(q) "Reliability Standard" means a requirement to provide for Reliable Operation of the Bulk-Power System, which is approved by NERC and the Commission, pursuant to Section 215 of the Federal Power Act and all amendments thereto. This term includes requirements for the operation of existing Bulk-Power System facilities, including cybersecurity protection, and the design of planned additions or modifications to such facilities to the extent necessary to provide for Reliable Operation of the Bulk-Power System.

~~(q)~~(r) "Reliable Operation" means operating the elements of the Bulk Power System within equipment and electric system thermal, voltage, and stability limits so that instability, uncontrolled separation, or cascading failures of the Bulk Power System will not

occur as a result of a sudden disturbance, including a cybersecurity incident, or unanticipated failure of system elements.

(f)(s) "Sector" means a group of Members of the Corporation that are Bulk Power System owners, operators, or users, as defined in Article III, Section 4 of these Bylaws. Each Sector shall constitute a class of Members for purposes of Chapter 22 (Nonprofit Corporations) of the Texas Business Organizations Code.

## ARTICLE II. PURPOSE

**Section 1. General Purpose.** The purpose of the Corporation is to preserve and enhance reliability in the ERCOT Region. In furtherance of this goal, the Corporation will:

(a) Perform Reliability Standards development, compliance monitoring, compliance enforcement, and other related ~~activities~~ activities as a Regional Entity, pursuant to 16 U.S.C. §824n, in accordance with the Corporation's Delegation Agreement with NERC;

(b) Carry out other activities as set forth in the Delegation Agreement, the NERC Rules of Procedure, or as otherwise required or requested by NERC, in support of the Delegated Authority, including but not limited to organization registration and certification, reliability assessment and performance analysis, training and education, and situational awareness and infrastructure security; and

~~(c) Perform non-statutory compliance monitoring and reporting of the ERCOT Protocols, as authorized by the Public Utility Commission of Texas and allowed by NERC and FERC; and~~

(d)(c) Engage in any other lawful act or activity that is not in conflict with the Corporation's duties as a Regional Entity and for which non-profit corporations may be organized under the Texas Non-Profit Corporations Act.

**Section 2. Non-Profit Corporation.** The Corporation is a Texas non-profit corporation.

**Section 3. Geographic Area.** The Corporation will perform its operations primarily within the ERCOT Region. The ERCOT Region includes 200,000 square miles, 85% of Texas load, and 75% of Texas land area (does not include the Panhandle, El Paso area, and 2 areas of East Texas). The ERCOT Region includes the following Texas cities and towns: Dallas, Ft. Worth, Houston, San Antonio, Austin, Paris, Tyler, Nacogdoches, Lufkin, Bryan, College Station, Corpus Christi, Harlingen, Brownsville, Laredo, Brownwood, San Angelo, Abilene, Midland, Odessa, Fort Stockton, Monahans, Snyder, Vernon, Wichita Falls, Denton, Garland, Greenville, Waco, Temple, Killeen, Weatherford, and Graham, and does not interconnect synchronously across state lines to import or export power with neighboring reliability regions.



### ARTICLE III. MEMBERSHIP

**Section 1. Members.** The Corporation is a membership corporation. Membership in the Corporation is voluntary and is open to any companyentity that is a user, owner or operator of the ERCOT Region Bulk Power System, registers with the Corporation as a Member, maintains its registration in accordance with this Article III, and complies with the other conditions and obligations of membership specified in these Bylaws. All Members must qualify and be registered in one of the Sectors defined in Article III, Section 4. Membership in the Corporation is not a condition to participating in the development or consideration of proposed Regional Standards.

**Section 2. Registration as a Member.** Any companyentity that is eligible to be a Member of the Corporation in accordance with Article III, Section A 1 may become a Member by completing and submitting to the secretary of the Corporation a membership registration on a form prescribed by the Corporation. The Member shall designate one representative and an alternative representative with authority to receive notices, cast votes, and execute waivers and consents on behalf of the Member. The secretary of the Corporation shall maintain a current roster of the Members of the Corporation including each Member's designated representative and alternative representative. From time to time, the Board shall establish a date by which Members shall submit their registration renewals. All Members shall be required to renew their registrations annually and within 30 calendar days of a request by an officer of the Corporation, using a registration renewal form prescribed by the Corporation. The secretary of the Corporation shall remove from the roster of Members of the Corporation any Member that has not submitted a registration renewal within 30 days following a date established by the Corporation. The secretary shall inform any Member that is removed from the roster of Members of such removal, by sending notice to such former Member's last known address on the records of the Corporation.

#### **Section 3. Obligations and Conditions of Membership.**

(a) Members must agree to promote, support, and comply with Reliability Standards, comply with the ERCOT region market rules, and assist the Corporation in its compliance with the terms and provisions of the Corporation's Delegation Agreement with NERC. Each Member shall agree, in writing, to accept the responsibility to comply with policies of NERC and the Corporation as set forth in their respective certificates of formation, bylaws, rules of procedure, and Reliability Standards, as applicable, as from time to time adopted, approved, or amended.

(b) As an additional condition of membership in the Corporation, each Member shall be required to execute an agreement with the Corporation, in a form to be specified by the Corporation, that such companyentity will hold all Directors, officers, employees, and agents of the Corporation, as well as volunteers participating in good faith in the activities of the Corporation, harmless for any injury or damage caused by any act or omission of any director, officer, employee, agent, or volunteer in the course of performance of his or her duties on behalf of the Corporation, other than for willful acts of misconduct.

(c) Consistent with applicable laws and regulations, Members must share nonproprietary information at the Corporation's request as necessary for the furtherance of the

Comment [A1]: Question about whether this should be removed if no Protocol compliance.

Corporation's activities and consistent with NERC, PUCT, or any other applicable rules relating to confidentiality.

**Section 4. Membership Sectors.** Each Member shall elect to be assigned to one of the following membership Sectors:

(a) **System Coordination and Planning:** An ~~company~~entity that is registered with NERC as a Reliability Coordinator (RC), Balancing Authority (BA), Planning Authority (PA), Resource Planner (RP), ~~Transmission Service Provider (TSP)~~, or Interchange Authority (IA).

(b) **Transmission:** An ~~company~~entity that is registered with NERC as a Transmission Owner (TO), Transmission Planner (TP), ~~Transmission Service Provider (TSP)~~, and/or Transmission Operator (TOP).

(c) **Distribution Cooperative or River Authority Utility:** An entity that is (a) a corporation organized under Chapter 161 of the Texas Utilities Code or a predecessor statute to Chapter 161 and operating under that chapter; or (b) a corporation organized as an electric cooperative in a state other than Texas that has obtained a certificate of authority to conduct affairs in the State of Texas; or (c) a cooperative association organized under Tex. Rev. Civ. Stat. 1396-50.01 or a predecessor to that statute and operating under that statute; or (d) a River Authority as defined in Tex. Water Code §30.003, ~~company~~ that is registered with NERC for at least one registered function, as a Distribution Provider (DP) and is not registered as a TO and has no Affiliates that are registered as a TO.

(d) **Municipal Utility:** ~~a~~An entity that owns or controls transmission or distribution facilities, owns or controls dispatchable generating facilities, or provides retail electric service and is a municipally owned utility as defined in PURA §11.003 and is registered with NERC for at least one registered function.

Formatted: Font: Bold

Formatted: Font: Not Bold

~~(e)~~(e) **Generation:** An ~~company~~entity that is registered with NERC as a Generator Owner (GO) or Generator Operator (GOP).

~~(e)~~(f) **Load-Serving and Marketing:** An ~~company~~entity that is registered with NERC as a Load Serving Entity (LSE), a Purchasing-Selling Entity, or any newly defined NERC Function for demand response.

~~(f)~~ **BPS Owner, Operator or User:** A company that is an owner, user, or operator of the ERCOT Region Bulk Power System but is not registered with NERC for any NERC Function and has no Affiliates that are Members.

~~(g)~~ **Governmental/Regulatory:** A representative of the Public Utility Commission of Texas.

Comment [A2]: If Texas RE performs no Protocol compliance activities, there should be no entities who are owners, users, or operators of the BPS that are not registered entities. So, there should be no possible members who need voting input - thus need to eliminate this sector.

**Section 5. Participation.**

(a) There is only one level of Membership, and no company or entity may simultaneously hold more than one Membership.

(b) Members must qualify in and join a Sector. ~~If any companyentity does not qualify in any other Sector but is an owner, user, or operator of the ERCOT Region Bulk Power System, it may belong to the BPS Owner, Operator or User Sector.~~

(c) A Member that is eligible for more than one Sector may join only one Sector and it must be the most appropriate Sector for its business. Any disputes regarding appropriateness of a Member's Sector will be decided by a majority vote by the Board.

(d) A company or entity that is an Affiliate of a Member may hold a separate membership in a different Sector ~~(except for the BPS Owner Operator, User Sector)~~, so long as the legal entities have different NERC Compliance Registry Numbers under which they are currently registered for the applicable NERC Function.

(e) A Member must continue to vote in the same Sector for a minimum of one year or until it is no longer eligible to remain in such Sector, and it must give notice to the Corporate secretary when it elects or is required to change Sectors.

(f) The Board may review the Sector qualification of any Member and may determine that a Member does not qualify for, and require them to change Sectors.

(g) A Member who is no longer eligible or not in good standing may not vote on any matters that require membership.

**Section 6. Membership Fees.** Members must pay an annual Membership Fee of \$250, to offset the expenses of membership qualification, coordination, and meetings, unless the Board waives the fee for any Member for good cause shown. The Board may agree to change the amount or frequency of the Membership Fee, from time to time, by majority vote.

**Section 7. Term of Membership.** Membership in the Corporation must be renewed on an annual basis and will only be retained as long as a Member meets its respective qualifications, obligations, and conditions of membership as set forth in these Bylaws. Membership is conditioned on the annual payment of Membership Fees, unless the Membership Fees are waived by the Board for good cause shown, as determined in the Board's sole discretion.

**Section 8. Removal.** No Member or Member representative may be sanctioned, expelled or suspended and no membership in the Corporation may be terminated or suspended except pursuant to a procedure that is fair and reasonable and is carried out in good faith. The Board may, by resolution, establish a procedure to terminate, expel, suspend, or sanction a Member following notice to the Member and exercise of appropriate due process procedures and a determination by the Board in its sole discretion that in its judgment the Member has violated its obligations and responsibilities to the Corporation. In the event that the Board does not adopt procedures, the following procedures shall apply:

(a) Written notice. Written notice of intent to terminate, expel, suspend or sanction a Member shall be delivered at least twenty (20) days in advance of the date when a hearing will be held to determine whether the Member shall be expelled, suspended, terminated or sanctioned. Such notice shall set forth the reasons therefore. Said notice must be given by facsimile (receipt confirmed), e-mail (receipt confirmed) or first class or certified mail sent to the last address of the Member to be expelled, suspended, terminated or sanctioned, as shown in the Corporation's records.

(b) Hearing. An opportunity shall be provided for the Member receiving such notice to be heard by the Board at the hearing, orally and in writing. The Member shall be

entitled to have counsel present, and to participate in the hearing, at its own expense, and to present and cross-examine any witnesses.

(c) Liability. A Member which has been sanctioned, expelled, terminated or suspended shall remain liable to the Corporation for fees as a result of obligations incurred or commitments made prior to sanction, expulsion, termination or suspension.

(d) Challenges. Any proceeding challenging an expulsion, suspension, sanction or termination, including a proceeding in which defective notice is alleged, may be submitted to the Board in writing within one year after the effective date of the expulsion, suspension, sanction or termination. If the Board determines to hear such challenge, it shall notify the Member and such proceeding will be subject to the hearing requirements described in subsection (b) above of this Section 8.

**Section 9. Resignation.** Any other provision of these Bylaws notwithstanding, any Member may withdraw from participation in the activities of the Corporation at any time upon written notice to the chief executive officer or president, whereupon it shall cease to be a Member, and its representatives shall cease to be entitled or obligated to participate in the activities of the Board or any activities requiring membership.

**Section 10. Reinstatement.** A former Member may submit a written request for reinstatement of Membership. The Board will reinstate the Membership unless the company/entity does not meet the Membership qualifications set forth in these Bylaws.

#### ARTICLE IV. BOARD OF DIRECTORS

**Section 1. Board of Directors.** The business and affairs of the Corporation shall be managed by the Board. The Board shall consist of (i) five-four (4) Independent Directors who are nominated and elected in accordance with the requirements and procedures specified in this Article IV (the "Independent Directors"); (ii) the Chairman of the PUCT or another PUCT Commissioner designated by the Chairman, as an *ex officio* non-voting member; (iii) Texas Public Counsel, from the Office of Public Utility Counsel, as an *ex officio* non-voting member, representing the interests of residential and small commercial electricity consumers; and (iv) the CEO of the Corporation as an ex-officio non-voting member; (v) the chair of the Member Representatives Committee as a voting member; and (vi) the vice chair of the Member Representatives Committee as a voting member. The Directors who are the chair and vice chair of the Member Representatives Committee will be referred to herein as "Affiliated Directors." Each Director and Affiliated Director, excluding the non-voting members of the Board, shall have one (1) vote on any matter brought before the Board for a vote. All Directors are expected to serve the public interest and to represent the reliability concerns of the entire ERCOT Region Bulk Power System.

**Section 2. Independent Directors.** The Independent Directors shall be elected, shall have the qualifications specified, and shall serve in the manner provided in this Section.

(a) Qualifications:

(1) Experience in one or more of these fields: senior corporate leadership; professional disciplines of finance, accounting, engineering, bulk power systems, or law; regulation of utilities; and/or risk management.

(2) Independence of any NERC registered entity, ERCOT ISO, ~~or and~~ any ERCOT Region Market Participant. Requirements of independence include but are not limited to the following:

(i) Independent Directors and the immediate family (any spouse, mother, father, sibling, or dependent, and any spouse of mother, father, or sibling and including any step and adoptive parents, siblings or children) and household members of Independent Directors and their spouses shall not have current or recent status (within the last two years) as a director, officer or employee of an ERCOT Region NERC Registered Entity or ERCOT Region Market Participant.

(ii) Independent Directors and immediate family and household members of Independent Directors shall not have current ~~or recent~~ status ~~(within the last six months)~~ as a director, officer or employee of a non-ERCOT Region NERC Registered Entity.

(iii) Independent Directors and immediate family and household members of Independent Directors shall not have direct business relationships, other than retail customer relationships, with any NERC Registered Entity or Market Participant.

(iv) To the extent that an Independent Director or his or her spouse, dependent child, or any other household member owns stocks or bonds of NERC Registered Entities or Market Participants, these must be divested or placed in a blind trust prior to being seated on the Board.

(v) Independent Directors shall not have any relationship that would interfere with the exercise of independent judgment in carrying out the responsibilities of a Board member, including the Delegated Authority.

(vi) Other criteria as approved by the Board.

(b) Term. Except for the ~~initial-Initial~~ and originally elected Directors, the term for Independent Directors shall be staggered three year terms. An Independent Director may be elected for up to three consecutive terms. Notwithstanding the foregoing, the ~~initial-Initial~~ Directors, who are the Directors seated for formation of the Corporation, will serve only until the first membership meeting of the Corporation, which term shall not exceed six (6) months. If an ~~initial-Initial~~ Director is qualified to be an Independent Director and elected by the membership, such Director's initial term shall not be counted for purposes of ~~that~~ term limits. For the originally elected Directors, two positions will have three year terms, ~~and~~ two positions will have two year terms ~~and one position will have a one year term~~. The term for the Affiliated Directors who are chair and vice chair of the Member Representatives Committee shall be one year, and the terms of the ex officio Directors will not expire.

Formatted: Highlight

Formatted: Font: Italic

(c) Selection.

(1) Except as described below for the selection of the Independent Directors to serve as Initial Directors, ~~t~~The Board shall appoint, on an annual basis, or more frequently if needed in the event of a special election pursuant to this subsection, a nominating committee (the "Nominating Committee") to recommend candidates (i) to succeed the Independent Directors whose terms expire during the current year and (ii) to serve the remainder of the term of any Independent Director who ceased to serve as a Director subsequent to the last annual election of Directors. The Nominating Committee shall consist of ~~the all Management Directors, the ex officio Directors, and those Independent Directors~~ whose terms do not expire during the current year and such number of other persons with such qualifications as the Board shall specify, provided that the Independent Directors plus the Management Director shall constitute a majority of the voting members of the Nominating Committee. For the selection of Independent Directors to be seated as Initial Directors, the Nominating Committee shall consist of the Management Director, the ex officio Directors, two Unaffiliated Directors from the ERCOT Board of Directors, and two registered entity representatives, who are as selected by the ERCOT Board of Directors.

(2) The Nominating Committee ~~will~~may retain an executive search firm to locate and present candidates with the required qualifications, as set forth in Article IV, Section 2(a).

(3) The Nominating Committee shall interview the qualified candidates and select and nominate, by at least a two-thirds majority, qualified candidate(s) consistent with the objectives that the Board as an entirety shall reflect expertise in the areas of technical electric operations and reliability, legal, senior corporate leadership, financial, risk management, and regulatory matters, and familiarity with regional system operation issues in the ERCOT Region to present to the Membership for its approval. For the selection of the Independent Directors to serve as Initial Directors, the Nominating Committee will, following the interview process, select the Independent Directors that will serve as the initial Directors.

(4) Except for the selection of Independent Directors to serve as the Initial Directors, ~~t~~The Membership shall vote by Sector as described in Article V in favor or against the proposed Independent Director(s). A proposed Independent Director ~~that~~ who is approved by a majority of the Sectors shall become an Independent Director.

(d) Director Voting Weights. All voting Directors shall have a single vote each.

(e) Alternates and Proxies. Independent Directors may designate another Independent Director as a proxy if unable to attend a Board meeting. Ex officio Directors may designate a selected proxy or an alternate representative who may attend meetings in the absence of such Director. The chair and vice chair of the Member Representatives Committee may designate each other or may designate an Independent Director as their proxy if unable to attend a Board meeting.

**Section 3. Appointment of Management Director.** The president and chief executive officer (CEO) of the Corporation shall serve as the Management Director of the Corporation, effective as of the date of his or her appointment by the Board as CEO of the Corporation in accordance with these Bylaws, to serve until such time that he or she ceases to hold the position of CEO.

Comment [A4]: Brazos - This is to allow the 2 Affiliated Directors to participate. Otherwise there would only be 2 Independents and the majority requirement would allow only 1 Affiliated Director to vote.

Formatted: Highlight

Formatted: Font: Italic

Formatted: Not Highlight

Formatted: Not Highlight

Formatted: Highlight

Formatted: Highlight

Formatted: Highlight

No action of the Members of the Corporation shall be required in connection with the appointment of the CEO as the Management Director of the Corporation.

**Section 4. Chair and Vice Chair.** Annually, the Board shall elect from the Board's membership, by resolution of the Board, a Chair and a Vice Chair. The Chair and Vice Chair shall each be one of the Independent Directors.

**Section 5. Vacancies and Removal.** Should any vacancy on the Board arise from the death, resignation, retirement, disqualification, or removal from office of any Director, or from any other cause, such vacancy shall be filled by electing a Director at the next annual election of Directors to fill the remainder, if any, of the term of the departed Director. Provided, that the Board by resolution may in its discretion call a special election to fill any such vacancy for the remainder, if any, of the term of the departed Director. A Director may be removed with or without cause at any time by whomever had the right to appoint such Director (for ex officio Directors), or for the elected Independent Directors, by an affirmative vote of sixty percent (60%) of the Members. In addition, the Board may remove a Director for cause, upon at least seventy-five percent (75%) affirmative votes of the eligible, remaining voting Directors. The right to elect Directors may not be assigned, sold, pledged or transferred in any manner.

**Section 6. Committees of the Board.** The Board shall by resolution create and appoint all committees of the Board as the Board deems necessary to perform its responsibilities. All committees of the Board shall have such duties as are prescribed and delegated by the Board. Committees to which any of the authority of the Board to manage the Corporation is delegated must have at least two members, and a majority of the members of the committee must be Directors.

## ARTICLE V. MEETINGS OF MEMBERS OF THE CORPORATION

### Section 1. Annual and Other Meetings of Members.

(a) An annual meeting of the Members for the election of Directors and to conduct such other business as may come before the meeting shall be held on or about December 1 of each year or as soon thereafter as is reasonably practicable.

(b) Meetings of Members of the Corporation may be called for any purpose or purposes by resolution of the Board, by the chair of the Board, the CEO or the secretary of the Corporation, or by a number of Members constituting at least ten (10) percent of all Members on the roster of Members maintained by the secretary of the Corporation, which number shall include Members in at least three of the Sectors. Meetings of Members shall be held at the principal office of the Corporation or at such other place fixed by the Board as shall be specified in the notice of meeting. Meetings shall be called upon written notice of the time, date, place, and purposes of the meeting given to all Members on the roster of Members maintained by the secretary of the Corporation not less than ten (10) nor more than sixty (60) days prior to the date of the meeting. Only Members in good standing with the Corporation, as determined by the Board, have the right to vote at any meeting of the Members. Further, if at any point a Member no longer meets the qualifications for the Sector of which it is a member, the Entity may immediately elect to become a member in any Sector for which it does qualify.

**Section 2. Quorum and Voting Requirements for Meetings of Members.** At any meeting of the Members of the Corporation, attendance in person or by proxy by a majority of the Members in each of at least two-thirds of the Sectors on the roster of Members maintained by the secretary of the Corporation shall constitute a quorum.

(a) Members shall vote by Sector and each Sector shall have one vote.

(b) Except as otherwise expressly provided in the Corporation's Certificate of Formation, these Bylaws or applicable law, actions by the Members of the Corporation shall be approved upon receipt of the affirmative vote of a majority of the ~~members at a meeting of the Member Sectors~~ of the Corporation at a meeting at which a quorum is present, in person or by proxy. Each Sector's vote shall be determined by the affirmative vote of a majority of the members of the Sector voting at the meeting.

**Section 3. Waivers of Notice of Meetings of Members and Member Meeting Adjournments.** Notice of a meeting of Members need not be given to any Member who signs a waiver of notice, in person or by proxy, whether before or after the meeting. The attendance of any Member at a meeting, in person or by proxy, without protesting prior to the conclusion of the meeting the lack of proper notice of such meeting, shall constitute a waiver of notice of the meeting by such Member. When any meeting of Members is adjourned to another time or place, it shall not be necessary to give notice of the adjourned meeting if the time and place to which the meeting is adjourned are announced at the meeting at which the adjournment is taken, and if at the adjourned meeting only such business is transacted as might have been transacted at the original meeting.

**Section 4. Action Without a Meeting of Members.** Any action, required or permitted to be taken at a meeting of Members, may be taken without a meeting if the proposed action is posted to all Members (via email to an email distribution list to which Members may subscribe and by posting on the Corporation website) and consented to in writing by the minimum number of Members that would be required to approve the action at a meeting of the Members at which all Members were present. The voting in such a circumstance shall be performed in writing, including via email or other electronic means. The Members shall receive written notice of the results within ten (10) days of the action vote, and all written responses of the Members shall be filed with the Corporate records. The results of such voting will be posted on the Corporation's website.

**Section 5. Meetings of the Members to be Open.** Notice to the public of the dates, places, and times of meetings of the Members, and all non-confidential material provided to the Members, shall be posted on the Corporation's website at approximately the same time that notice is given to the Members. Meetings of the Members shall be open to the public, subject to reasonable limitations due to the availability and size of meeting facilities; provided, that the meeting may be held in or adjourned to closed session to discuss matters of a confidential nature, including but not limited to compliance and enforcement matters, personnel matters, litigation, or commercially sensitive or critical infrastructure information of the Corporation or any other entity. The results of any action taken without a meeting, as described above, will be posted on the Corporation's website.



**ARTICLE VI.  
MEETINGS OF THE BOARD OF DIRECTORS**

**Section 1. Regular Meetings of the Board.** Regular meetings of the Board shall be held at least quarterly. By resolution adopted at any meeting of the Board, the Board may provide for additional regular meetings that may be held as needed.

**Section 2. Special Meetings of the Board.** Special meetings of the Board for any purpose or purposes may be called at any time by the chair or by any two Directors. Such meetings may be held upon notice given to all Directors not less than three (3) days prior to the date of the meeting. Such notice shall specify the time, date, place, and purpose or purposes of the meeting and may be given by telephone, email or other electronic media, or by express delivery.

**Section 3. Quorum and Voting Requirements for Meetings of the Board.** Unless otherwise expressly provided in the Corporation's Certificate of Formation, these Bylaws or applicable law, (i) the quorum necessary for the transaction of business at meetings of the Board shall be a majority of the Directors in person or by proxy and at least three Independent Directors, and (ii) actions by the Board shall be approved upon receipt of the affirmative vote of a majority of the Directors present and voting in person or by proxy at a meeting at which a quorum is present.

**Section 4. Meetings of the Board to be Open.** Notice to the public of the dates, places, and times of meetings of the Board, and all non-confidential material provided to the Board, shall be posted on the Corporation's website at approximately the same time that notice or such material is given to the Directors. Meetings of the Board shall be open to the public, subject to reasonable limitations due to the availability and size of meeting facilities; provided, that the Board may meet in or adjourn to closed session to discuss matters of a confidential nature, including but not limited to compliance and enforcement matters, personnel matters, litigation, or commercially sensitive or critical infrastructure information of the Corporation or any other entity. Any or all of the Directors or members of a Board committee, may participate in a meeting of the Board, or a meeting of a committee, in person or by proxy, by means of any communications system by which all persons participating in the meeting are able to hear each other.

**Section 5. Waivers of Notice of Board Meetings and Board Meeting Adjournments.** Notice of a board meeting need not be given to any Director who signs or sends email confirming a waiver of notice, in person or by proxy, whether before or after the meeting, or who attends the meeting without protesting, prior to the conclusion of the meeting, the lack of notice of such meeting. Notice of an adjourned board meeting need not be given if the time and place to which the meeting is adjourned are announced at the meeting at which the adjournment is taken and if the period of adjournment does not exceed ten (10) days.

**Section 6. Action Without a Meeting.** Any action required or permitted to be taken at a meeting of the Board, or of any committee thereof, may be taken by the Board or by the committee without a meeting if the action is consented to in writing by the number of Directors or Members-members of the

committee, as the case may be, entitled to vote on the action that would be required to approve the action at a meeting of the Board or committee with all ~~Members-members~~ of the Board or committee present. The call for action without a meeting of the Board may be initiated by the chair or by any two Directors. Notice of the proposed call for action without a meeting, and all non-confidential material provided to the Board in connection with the call for action without a meeting, shall be posted on the Corporation's website and sent via email to an email distribution list to which Corporate Members and the public may subscribe at approximately the same time notice of the call for action without a meeting or such material is provided to the Board. The call for action without a meeting of a committee of the Board may be initiated by the chair of the committee or by any two ~~Members~~ ~~members~~ of the committee. The Directors or ~~Members-members~~ of the committee shall receive written notice of the results of such action within seven (7) days of the action vote. All written responses of the Directors shall be filed with the minutes of the Corporation, and all written responses of ~~Members-members~~ of a committee shall be filed with the minutes of such committee.

## ARTICLE VII. OFFICERS

**Section 1. Selection of Officers.** At a regular meeting held in accordance with Article V, Section 1 of these Bylaws, the Board shall elect a CEO and shall approve a corporate secretary and such other officers of the Corporation (collectively, the "Officers") as it shall deem necessary. The CEO shall be nominated and elected by the Board. All of the other Officers shall be selected by the CEO and approved by the Board, and the removal of all Officers shall be ~~removed-confirmed~~ by the Board. The Management Director shall not participate in votes electing, approving, or removing Officers. The duties and authority of the Officers shall be determined from time to time by the Board. Subject to any such determination, the Officers shall have the following duties and authority:

**Section 2. Chief Executive Officer.** The CEO shall be the chief executive officer of the Corporation. He or she shall be responsible for the day-to-day ongoing activities of the Corporation and shall have such other duties as may be delegated or assigned to him or her by the chair. The CEO may enter into and execute in the name of the Corporation contracts or other instruments not in the regular course of business that are authorized, either generally or specifically, by the Board.

**Section 3. Corporate Secretary.** The secretary shall maintain the roster of Members of the Corporation, shall cause notices of all meetings to be served as prescribed in these Bylaws, shall keep or cause to be kept the minutes of all meetings of the Members and the Board, and shall have charge of the seal of the Corporation. The secretary shall perform such other duties and possess such other powers as are incident to his or her office or as shall be assigned to him or her by the CEO

**Section 4. Chief Financial Officer.** If hired and approved, a chief financial officer shall have custody of the funds and securities of the Corporation, shall keep or cause to be kept regular books of account for the Corporation and shall have the duties normally assigned to a treasurer of a corporation. The chief

financial officer shall perform such other duties and possess such other powers as are incident to his or her office or as shall be assigned to him or her by the CEO.

**ARTICLE VIII.  
RELIABILITY STANDARDS ~~DEVELOPMENT~~ COMMITTEE**

**Section 1. Requirement.** The Corporation shall have a Reliability Standards ~~Development~~ Committee, which shall operate in accordance with the Standards Development Process as set forth in Exhibit C to the Delegation Agreement with NERC and approved by FERC. The chair and vice chair of the Standards ~~Development~~ Committee must be accepted or approved by the Board, in accordance with said Exhibit C.

**ARTICLE IX.  
MEMBER REPRESENTATIVES COMMITTEE**

**Section 1. Purpose of Member Representatives Committee.** The Corporation shall have a Member Representatives Committee that shall provide advice and recommendations to the Board with respect to annual budgets, business plans and funding mechanisms of the Corporation; other matters relevant to reliability of the ERCOT Bulk Power System; and other matters pertinent to the purpose and operations of the Corporation. The Member Representatives Committee shall provide its advice and recommendation to the Board through its chair and the vice chair, who also serve as the Affiliated Directors on the Board. The Members Representatives Committee may create subcommittees, task forces, or working groups ("subcommittees") as it deems appropriate to study or discuss selected technical or compliance matters to make recommendations to the board as requested or required by the Board or as deemed appropriate to its purpose by the Members Representatives Committee. Because it is elected by the Members of the Corporation and not appointed by the Board, the Member Representatives Committee shall not be a standing committee of the Board of Directors of the Corporation, but is authorized to provide advice and recommendations directly to the Board, through its elected chair and vice chair.

**Section 2. Composition of the Member Representatives Committee.** The Member Representatives Committee shall consist of two representatives from each Sector to serve annually and will annually select a chair and vice chair for the Member Representatives Committee. The representatives of each Sector shall be officers, employees, or directors of Members in that Sector; provided however, except for a Sector that has only one Member, only one officer, employee, or director of a Member in a Sector may be a representative from that Sector. No member of the Board shall be a member of the Member Representatives Committee. The Board may by resolution create additional non-voting positions on the Member Representatives Committee on its own initiative or at the written request of any group of Members of the Corporation that believes its interests are not adequately represented on the Member Representatives Committee. There shall be no limit on the number of terms that an officer, employee, or director of a Member, may serve on the Member Representatives Committee.

**Section 3. Election of Representatives of the Member Representatives Committee.** Unless a Sector adopts an alternative election

procedure, the annual election of representatives from each Sector to the Member Representatives Committee, and any election to fill a vacancy, shall be conducted in accordance with the following process, which shall be administered by the officers of the Corporation.

(a) During the period beginning no more than ninety (90) days and ending no less than fifteen (15) days prior to an annual meeting, or beginning no more than forty-five (45) days and ending no less than fifteen (15) days prior to a special meeting called in whole or in part to hold an election to fill a vacancy, nominations may be submitted for candidates for election to the Member Representatives Committee. A nominee for election as a Sector representative must be an officer, employee, or director of a Member in that Sector. No more than one nominee who is an officer, employee, or director of a Member may stand for election in any single Sector; if more than one officer, employee, or director of a Member is nominated for election from a Sector, the Member shall designate which such nominee shall stand for election. The election of representatives shall be conducted over a period of ten (10) days using an electronic process approved by the secretary of the Corporation.

(b) Each Member in a Sector shall have one vote for each Representative to be elected from the Sector in that election and may cast no more than one vote for any nominee. The nominee receiving the highest number of votes in each Sector shall be elected to one Representative position to be filled from that Sector and the nominee receiving the second highest number of votes shall be elected as the second Representative position for that Sector. To be elected on the first ballot, a nominee must receive a number of votes equal to a simple majority of the Members in the Sector casting votes in the election. If no nominee in a Sector receives a simple majority of votes cast in the first ballot, a second ballot shall be conducted which shall be limited to the number of candidates receiving the three (3) highest vote totals on the first ballot. The nominees receiving the two highest totals of votes on the second ballot shall be elected to the Representative positions for the Sector.

(c) A Sector may adopt an alternative procedure to the foregoing to nominate and elect its Representatives to the Member Representatives Committee if ~~(i) the alternative procedure is consistent in principle with the procedures specified in the preceding paragraph of this Section, and (ii) the alternative procedure is approved by vote of at least two-thirds of the Members in the Sector, provided, however that any alternative procedure may be reviewed and disapproved by the Board.~~

~~(d) A Sector may elect an Alternate to serve in place and at the convenience of the Sector's Member Representatives Committee Representative(s) in the event a Member Representatives Committee Representative cannot attend a Member Representatives Committee meeting.~~

Comment [A5]: Municipal ~~Segment~~ suggests removal of this language – not clear what principles are intended. Can leave Board review, in case of any segment having a clearly inappropriate voting mechanism – which is unlikely.

Comment [A6]: AEP ~~ETT~~ request Alternates be allowed for the MRC.

**Section 4. Chair and Vice Chair of the Member Representatives Committee.** After the annual selection of its Representatives, the Member Representatives Committee shall select a chair and vice chair from among its voting Representatives by majority vote to serve during the upcoming year and be the Affiliated Directors on the Board. The selected chair and vice chair may not be representatives of the same Sector or NERC function and may not concurrently serve on the Board of ERCOT ISO or any other registered entity in the ERCOT Region. The Board shall be notified of the selection of the chair and vice chair, but the selection will not be subject to approval of the Board. The chair is responsible for ensuring that minutes of the meetings are properly maintained and made available to the public, but the chair may delegate this responsibility to the vice

chair or to another Representative of the Member Representatives Committee who is designated as secretary of the Member Representatives Committee.

**Section 5. Vacancies on the Member Representatives Committee.**

In the event that any Representative of the Member Representatives Committee ceases to serve as a Representative of the Member Representatives Committee as a result of his or her death, resignation, retirement, disqualification, or removal or other cause, the Members in the Sector of which such Representative was a representative shall elect, as soon thereafter as reasonably practicable, and in accordance with the procedures in this Article IX, a new Representative to replace the Representative of the Member Representatives Committee who ceased to serve. For those Sectors that have elected an Alternate, the Alternate will fill a vacancy left by the Sector's Member Representative and a new Alternate will be elected by the Sector.

Comment [A7]: ETT AEP request this as an addition to the Sector Alternates language above.

**Section 6. Meetings of the Member Representatives Committee.**

The Member Representatives Committee will annually plan and hold quarterly meetings, at a time and place determined by the Member Representatives Committee and posted on the Corporation's website. Except for closed session meetings specifically allowed by this Section, all meetings shall be open to the public. The Members Representatives Committee shall adopt such procedural rules as are needed to operate in accordance with its purpose and will include procedures for coordinating with employees of the Corporation who provide administrative support, as set forth in subsection 6(c), below.

(a) Notice to the public of the dates, places, and times of meetings of the Member Representatives Committee and any subcommittees thereof, and all non-confidential material provided to the Member Representatives Committee or any subcommittees thereof, shall be posted on the Corporation's website at approximately the same time that notice or such material is given to the Member Representatives Committee, which will normally be at least one week prior to any meeting. Meetings of the Member Representatives Committee shall be open to the public, subject to reasonable limitations due to the availability and size of meeting facilities; provided, that the Member Representatives Committee may meet in or adjourn to closed session to discuss matters of a confidential nature, including but not limited to confidential planning information, critical infrastructure information, or commercially sensitive information of the corporation or any other entity. Any or all Representatives of, and any other participants in, the Member Representatives Committee may participate in a meeting of the Member Representatives Committee by means of a communications system by which all persons participating in the meeting are able to hear each other.

(b) Special meetings may be called for any purpose or purposes by the chair of the Member Representatives Committee or by any three (3) Representatives of the Member Representatives Committee, which number shall include representatives from at least three Sectors, and require notice given to all Representatives of the Member Representatives Committee not less than seven (7) days prior to the date of the meeting. Such notice shall specify the time, date, place, and purpose or purposes of the meeting and may be given by telephone, facsimile, or other electronic media, or by express delivery.

(c) The Member Representatives Committee shall effectively coordinate with the employees of the Corporation and adopt procedural rules for the voting for Representatives, scheduling of meetings, and public posting of required meeting information and minutes. The chair or vice chair of the Member Representatives Committee shall provide all meeting

agendas, material, minutes and other information required or desired to be posted on the Corporation's website to appropriate Corporation employees at least one business day prior to the time such information should be posted.

**Section 7. Waivers of Notice of Meetings of the Member Representative Committee and Meeting Adjournments.** Notice of a meeting of the Member Representatives Committee need not be given to any member of the Member Representatives Committee who signs a waiver of notice, in person or by proxy, whether before or after the meeting, or who attends the meeting without protesting, prior to the conclusion of the meeting, the lack of notice of such meeting. Notice of an adjourned meeting of the Member Representatives Committee need not be given if the time and place to which the meeting is adjourned are announced at the meeting at which the adjournment is taken and if the period of adjournment does not exceed ten (10) days.

**Section 8. Quorums and Voting for Meetings of the Member Representatives Committee.** The quorum necessary for the transaction of business at meetings of the Member Representatives Committee shall be two-thirds of the voting members of the Member Representatives Committee attending the meeting in person or by proxy. A member of the Member Representatives Committee may give a proxy only to a person who is an officer, employee, or director of a Member, registered in the same Sector. Each voting member of the Member Representatives Committee shall have one (1) vote on any matter coming before the Member Representatives Committee that requires a vote. Except as otherwise expressly provided in the Corporation's Certificate of Formation, these Bylaws or applicable law, actions by members of the Member Representatives Committee shall be approved upon receipt of the affirmative vote of a majority of the voting members of the Member Representatives Committee present and voting at any meeting at which a quorum is present.

~~Section 8.~~ **Section 9. Alternates and Proxies. Member Representatives may designate another Member Representative or the Sector Alternate as a proxy if unable to attend a Members Representative Committee meeting.**

~~Section 9.~~ **Section 10. Other Procedures of the Member Representatives Committee.** The chair of the Board, shall preside at the initial meeting of the Member Representatives Committee, until a chair is selected in accordance with Article IX, Section 4. Except as to any matter as to which the procedure to be followed by the Member Representatives Committee is expressly set forth in these Bylaws, the Member Representatives Committee may adopt such additional procedures, not inconsistent with these Bylaws, as it deems appropriate, subject to review and disapproval by the Board.

## ARTICLE X. OTHER COMMITTEES AND SUBCOMMITTEES

**Section 1. Committees of the Corporation.** In addition to those committees specified by these Bylaws, to which the Board shall appoint members in accordance with the requirements of these Bylaws, the Board may by resolution create standing committees of the Corporation; and may in addition by resolution appoint such committees, subcommittees, task forces and Sector-specific forums

Formatted: Body Text

Comment [A8]: AEP ETT request the addition of Sector Alternates and Proxies for MRC.

Formatted: Don't adjust space between Latin and Asian text

as the Board deems necessary or desirable to carry out the purposes of the Corporation. The Board shall appoint standing committees and other committees of the Corporation that are representative of Members, other interested parties, and the public, that provide for balanced decision-making and that include persons with outstanding technical knowledge and experience. All committees, subcommittees, task forces and Sector-specific forums shall have such scope and duties, not inconsistent with law, as are specified in these Bylaws and the Rules of Procedure of the Corporation or otherwise determined by the Board.

#### ARTICLE XI. BUDGETS AND FUNDING

**Section 1. Compensation of the Board and Member Representatives Committee.** The Board shall have the right to fix from time to time, by resolution adopted by a majority of the Directors and a majority of the Independent Directors then serving as Directors, the amount of the annual retainer fee or other compensation to be paid to the Independent Directors for their services to the Corporation, including any fees to be paid for each meeting of the Board or any Board committee attended by an Independent Director. The Board will evaluate the fee or other compensation at least every three years, to ensure that Director compensation is appropriate. No compensation shall be paid to any Management Director, Affiliated Director, or any *ex officio* Director for his or her services on the Board, other than the compensation paid to the Management Director for services as CEO of the Corporation. No compensation shall be paid by the Corporation to any member of the Member Representatives Committee for ~~their~~ his or her services on the Member Representatives Committee. Independent Directors shall be entitled to be reimbursed their reasonable out-of-pocket expenditures for attending meetings and conducting the business of the Corporation.

Formatted: Font: Italic

**Section 2. Preparation and Adoption of Annual Budget, Business Plan, and Funding Mechanism.** The Board shall require the CEO to prepare for Board approval an annual business plan and budget for the administrative and other expenses of the Corporation, including the expenditures for the fiscal year for any material special projects undertaken by the Corporation and reasonable and proper reserves and provisions for contingencies, in accordance with all NERC and Commission requirements. ~~If the Corporation might or will be performing Non-statutory activities in the budget year, the Board will require that such Non-statutory activities be budgeted for separately from the activities performed pursuant to the Delegation Agreement. The Board shall further require that a funding mechanism be in place for such Non-statutory activities (pursuant to Article XI, Section 3), prior to the approval of any Non-statutory activities.~~ The annual business plan, budget and funding mechanism of the Corporation shall be for a fiscal year commencing on January 1 and ending on December 31. Each annual business plan, budget, and funding mechanism shall be approved by the Board at a regular meeting or a special meeting of the Board duly called for that purpose. The Board shall use reasonable efforts to approve each annual business plan, budget, and funding mechanism at a time that allows for timely submittal of the approved annual business plan, budget, and funding mechanism to the applicable regulatory authorities.

~~Section 3. — Criteria for Non-Statutory Funding Mechanisms. For any authorized Non-statutory activities, the Board must approve a funding mechanism, which is authorized and approved by the PUCT, which funding mechanism shall recover, over the course of the fiscal year, the revenue required to fund the fiscal year Non-statutory activities~~

~~Section 4.~~**Section 3. Comments During Preparation of Annual Business Plan and Budget.** In preparing the annual business plan and budget, the Board shall require that the CEO post a draft business plan and budget for review and comment by the Members of the Corporation and the Member Representatives Committee and the standing committees of the Corporation for at least ten (10) days prior to the date of the meeting of the Board at which the annual business plan and budget is to be adopted.

~~Section 5.~~**Section 4. Modified or Supplemental Budgets.** During the course of a fiscal year, the Board may modify any approved budget or develop and approve a supplemental budget if determined by the Board to be necessary due to such factors as a shortfall in revenues of the Corporation from projected levels, incurred or anticipated expenditures, duties, or new projects not provided for in the annual budget, or such other factors as in the judgment of the Board warrant modification of the budget for the fiscal year or development of a supplemental budget. In preparing a modified or supplemental budget, the Board shall follow the provisions of this Article XI, Section 4 to the extent practicable in the judgment of the Board in light of the urgency of the circumstances necessitating preparation and approval of the modified or supplemental budget. Each modified or supplemental budget shall be approved by the Board at a regular meeting or a special meeting of the Board duly called for that purpose.

~~Section 6.~~**Section 5. Submission of Annual Business Plans and Budgets to the Regulatory Authorities.** Each annual budget, annual business plan, and annual, modified, or supplemental budget approved by the Board shall be submitted by the Corporation to the ERO and any applicable regulatory authorities for approval in accordance with its regulations, and shall not be effective until approved by the applicable regulatory authorities. If ordered to modify or remand an annual budget, business plan, or annual, modified, or supplemental funding mechanism, the Board shall promptly following such order adopt such modifications to the business plan, budget, or funding mechanism as are required or directed by the order of the ERO and any applicable regulatory authority.

## ARTICLE XII. AMENDMENTS TO THE BYLAWS

**Section 1. Amendments to the Bylaws.** These Bylaws may be altered, amended, or repealed by a majority vote of both the Board and the Membership at respective meetings of the Board and the ~~Members at~~Members at which a quorum is present. Written notice of the subject matter of the proposed changes to the Bylaws shall be provided to the Directors and to the Members not less than ten (10) nor more than sixty (60) days prior to the date of the meeting of the Board or the Members at which the vote is to be taken. Notwithstanding the provisions of this Article XIV, the Members of the Corporation voting by Sector shall have the right to alter, amend, or repeal Bylaws adopted by the Board and to



adopt new Bylaws, provided that any such alteration, amendment, or repeal or the adoption of new Bylaws is approved by vote of two-thirds of the Sectors at a meeting of Members called for that purpose, or by written consent of two-thirds of the Sectors, where the number of votes for and against the proposed alteration, amendment, repeal or adoption of Bylaws shall be determined in accordance with Article IV, Section 2. Any alteration, amendment, repeal or adoption of Bylaws shall be subject to any applicable requirements for filing with or approval by the ERO or any other applicable regulatory authority.

**ARTICLE XIII.  
INDEMNIFICATION; PROCEDURE; DISSOLUTION**

**Section 1. Indemnification.** The Corporation shall indemnify each person who at any time shall serve, or shall have served, as an officer, Director, employee, or other corporate agent of the Corporation, is or was serving at its request as a director, officer, partner, venturer, proprietor, employee, agent or similar functionary of another foreign or domestic corporation, partnership, joint venture, sole proprietorship, trust, employee benefit plan or other enterprise ("Indemnified Parties"), to the full extent from time to time permitted by the Texas Business Organizations Code and other applicable law. Such right of indemnification shall inure to the benefit of the legal representative of any such Indemnified Party. The foregoing indemnification shall be in addition to, and not in restriction or limitation of, any privilege or power that the Corporation may have with respect to the indemnification or reimbursement of its Indemnified Parties. The Corporation shall also pay or advance reasonable expenses incurred by an Indemnified Party in connection with a proceeding in advance of the final disposition of the proceeding upon receipt of a written affirmation by the Indemnified Party of a good faith belief that the standard of conduct necessary for indemnification under this Article XIII and the Texas Business Organizations Code has been met and a written undertaking by or on behalf of the officer, Director, or other corporate agent to repay the amount if it shall be ultimately determined that the Indemnified Party was not entitled to be indemnified by the Corporation.

**Section 2. Parliamentary Rules.** In the absence of and to the extent not inconsistent with specific provisions in these Bylaws, meetings or other actions pursuant to these Bylaws shall be governed by procedures that the Board may, from time to time, establish by resolution.

**Section 3. Dissolution.** Upon dissolution of the Corporation, in accordance with the Certificate of Formation, the remaining assets of the Corporation after payment of debts shall be distributed in the manner determined by the Board, provided that, (i) no part of the assets shall be distributed to any Director of the Corporation, and (ii) the distribution of assets shall be consistent with the requirements of Section 501(c)(3) of the United States Internal Revenue Code of 1954.

**ARTICLE XIV.  
CONFLICTS OF INTEREST**

**Section 1. Conflicts of Interest.**

(a) Each ~~Independent~~ Director shall have an affirmative duty to disclose to the Board or committee (as the case may be) any actual or potential conflicts of interest of the Director that arise during his or her tenure as a ~~director~~ Director where, and to the extent that, such conflicts or potential conflicts directly or indirectly affect any matter that comes before the Board. An ~~Independent~~ Director with a direct or potentially conflicting interest in a matter shall recuse himself from deliberations and actions on the matter in which the conflict arises and shall abstain on any vote on the matter and not otherwise participate in a decision on the matter. Any disclosure of a potential conflict of interest by a Director shall be noted in the minutes of the Board meeting at which the direct interest is disclosed. Mere attendance at the meeting, without participating in discussion of the issue raising the potential conflict, shall not constitute participation.

(b) The Corporation may not make any loan to a Director, committee member or officer of the Corporation. A Member, Director, officer, or committee member of the Corporation may not lend money to, or otherwise transact business with, the Corporation except as otherwise provided by these Bylaws, the Certificate of Formation, and applicable law. A related party transacting business with the Corporation has the same rights and obligations relating to those matters as other persons transacting business with the Corporation, provided the related party nature of the transaction is known to the Board. The Corporation may not borrow money from, or otherwise transact business with, a Member, Director, officer, or committee member of the Corporation unless the transaction is described fully in a legally binding instrument and is in the Corporation's best interests. The Corporation may not borrow money from, or otherwise transact business with, a Member, Director, officer, or committee member of the Corporation without full disclosure of all relevant facts and without the Board's approval, not including the vote of any person having a personal interest in the transaction.

**Section 2. Prohibited Acts.** No Member, Director, officer, or committee member of the Corporation may do any of the below-listed prohibited acts. Performance of these prohibited acts may lead to sanction, suspension, expulsion or termination after a hearing as described in these Bylaws. The prohibited acts include the following:

- (a) Do any act in violation of these Bylaws.
- (b) Do any act in violation of a binding obligation of the Corporation except with the Board's prior approval.
- (c) Do any act with the intention of harming the Corporation or any of its operations.
- (d) Receive an improper personal benefit from the operation of the Corporation.
- (e) Use the Corporation's assets, directly or indirectly, for any purpose other than carrying on the Corporation's business.
- (f) Wrongfully transfer or dispose of Corporation property, including intangible property such as goodwill.
- (g) Use the Corporation's name (or any substantially similar name) or any trademark or trade name adopted by the Corporation, except on behalf of Corporation in the ordinary course of its business or as a reference to the Corporation or its region.

(h) Disclose any of Corporation's or Members' business practices, trade secrets, or any other confidential or proprietary information not generally known to the business community to any person not authorized to receive it.

**Section 3. Loans and Guarantees.** Neither participation in the activities of the Corporation nor any provision of these Bylaws or of the Certificate of Formation shall be deemed to constitute a pledge or loan of the credit of any Member for the benefit of the Corporation or a guarantee by any Member of any obligation of the Corporation.

**ARTICLE XV.  
BOOKS AND RECORDS; AUDIT; FISCAL YEAR**

**Section 1. Access to Books and Records.** All Members of the Corporation will have access to the books and records of the Corporation, including financial statements and budgets; however, the Board shall establish procedures by which a Member, upon written demand stating the purpose of the demand may examine and copy the books and records of the Corporation. If necessary to protect the confidential information of the Corporation, a Member requesting examination of any of the Corporation's non-public books and records may will be required to sign a confidentiality and non-disclosure agreement before viewing such information. The procedures shall include policies that provide reasonable protection against the unnecessary disclosure of information related to individual employees, including their compensation.

**Section 2. Audit.** At least annually, an audit of the financial statements of the Corporation shall be performed by the Auditor approved by the Board. The Auditor's opinion and the audited financial statements will be made available to all Members as described in Article XV, Section 1.

**Section 3. Fiscal Year.** The fiscal year of the Corporation shall be from January 1 through the following December 31, unless otherwise established by resolution of the Board.

# Exhibit C

# Comments Received from Market Participants and Registered Entities

August 20, 2009 – September 4, 2009

Draft [0708.2019.2009]

**BYLAWS  
OF  
TEXAS REGIONAL ENTITY, INC.**

(A Texas Non-Profit Corporation)

Approved on \_\_\_\_\_, 2009

**Table of Contents**

	<b>Page</b>
Article I. Definitions .....	1
Article II. Purpose.....	3
Article III. Membership .....	4
Article IV. Board of Directors .....	7
Article V. Meetings of Members of the Corporation .....	10
Article VI. Meetings of the Board of Directors .....	11
Article VII. Officers .....	12
Article VIII. Reliability Standards Development Committee .....	13
Article IX. Member Representatives Committee .....	13
Article X. Other Committees and SubCommittees .....	17
Article XI. Budgets and Funding .....	17
Article XII. Amendments to the Bylaws .....	18
Article XIII. Indemnification; Procedure; Dissolution .....	19
Article XIV. Conflicts of Interest.....	19
Article XV. Books and Records; Audit; Fiscal Year.....	21

Formatted: Centered

Draft [0708.2018.2009]

## ARTICLE I. DEFINITIONS

**Section 1. Definitions.** The capitalized terms used in these Bylaws of Texas Regional Entity, Inc. (the “Corporation” or “Texas RE”), shall have the meanings set forth below, or if not set forth below, shall have the meanings given them in the NERC Rules of Procedure.

(a) “Affiliate” means any ~~companyentity~~ controlling, controlled by or under common control with the entity under consideration, and includes any ~~companyentity~~ (i.e., any commercial enterprise) in any of the following relationships: (i) an ~~companyentity~~ that directly or indirectly owns or holds at least five percent of the voting securities of another ~~companyentity~~, (ii) an ~~companyentity~~ in a chain of successive ownership of at least five percent of the voting securities of another ~~companyentity~~, (iii) an ~~companyentity~~ which shares a common parent with or is under common influence or control with another ~~companyentity~~ or (iv) an ~~companyentity~~ that actually exercises substantial influence or control over the policies and actions of another ~~companyentity~~. Evidence of influence or control shall include the possession, directly or indirectly, of the power to direct or cause the direction of the management and/or policies and procedures of another, whether that power is established through ownership or voting of at least five percent of the voting securities or by any other direct or indirect means. In cases where the level of control or influence is disputed, the Board shall have discretion to determine whether or not the entities are Affiliates of one another. Membership in Texas RE shall not create an affiliation with Texas RE.

Formatted: Highlight

(b) “Board” means the Board of Directors of the Corporation.

(c) “Bulk Power System” or “BPS” means facilities and control systems necessary for operating an interconnected electric energy transmission network (or any portion thereof) and facilities generating electric energy as needed to maintain transmission system reliability, but does not include facilities used in the local distribution of electricity.

(d) “Commission” or “FERC” means the Federal Energy Regulatory Commission.

(e) “Delegated Authority” means the authority delegated by NERC to the Corporation to propose and enforce NERC Reliability Standards and perform other reliability-related activities in the ERCOT Region under the Delegation Agreement executed by NERC and the Corporation and approved by FERC, pursuant to Section 215 of the Federal Power Act (16 U.S.C. §824n).

(f) Delegation Agreement means the agreement between the Corporation and NERC and approved by the Commission which describes the Delegated Authority and may be amended from time to time.

(g) “Electric Reliability Organization” or “ERO” means the organization that is certified by the Commission pursuant to Section 39.3 of its regulations, and has received recognition by appropriate regulatory authorities in Canada and Mexico, as applicable, to establish and enforce Reliability Standards for the Bulk Power Systems of the respective countries and that has entered into a delegation agreement with the Corporation pursuant to which the Electric Reliability Organization delegates enforcement authority for Reliability Standards for the Bulk Power System in the ERCOT Region. NERC was certified as the ERO on July 20, 2006.

Draft [0708.2018.2009]

(h) "ERCOT Region" means the geographic area and associated transmission and distribution facilities that are not synchronously interconnected with electric utilities operating outside the jurisdiction of the Public Utility Commission of Texas.

(i) "Independent Director" means a person who is not (a) an officer or employee of the Corporation; (b) a NERC Registered Entity or Member or an officer, director, or employee of a Member of the Corporation; or (c) an officer, director, or employee of any company or entity that would reasonably be perceived as having a direct financial interest in the outcome of Board decisions and who does not have a relationship that would interfere with the exercise of independent judgment in carrying out the responsibilities of a Director, as more specifically described in Article IV of these Bylaws.

(j) "Member" means a member of the Corporation pursuant to Article II of these Bylaws.

(k) "PUCT" means the Public Utility Commission of Texas.

(l) "NERC" means North American Electric Reliability Corporation, the entity certified by FERC as the ERO on July 20, 2006.

(m) "NERC Rules of Procedure" means the Rules of Procedure that are adopted by NERC and approved by the Commission.

(n) "Regional Entity" means an entity with a Delegation Agreement with NERC, as ERO, including the following organizations, in addition to Texas Regional Entity: Florida Reliability Coordinating Council (FRCC), Midwest Reliability Organization (MRO), Northeast Power Coordinating Council (NPCC), ReliabilityFirst Corporation (RFC), Southeastern Electric Reliability Council (SERC), Southwest Power Pool (SPP), and Western Electricity Coordinating Council (WECC).

(o) Regional Reliability Standard means a standard for the ERCOT Region that is proposed and approved in accordance with the Texas RE Standards Development Process, as set forth in Exhibit C to the Delegation Agreement, and either, (i) sets more stringent reliability requirements than a national Reliability Standard, or (ii) covers matters not covered by a national Reliability Standard.

~~(p)~~ "Registered Entity" means an entity that is registered with NERC and listed on the NERC Compliance Registry (available at www.nerc.com).

~~(p)~~(q) "Reliability Standard" means a requirement to provide for Reliable Operation of the Bulk-Power System, which is approved by NERC and the Commission, pursuant to Section 215 of the Federal Power Act and all amendments thereto. This term includes requirements for the operation of existing Bulk-Power System facilities, including cybersecurity protection, and the design of planned additions or modifications to such facilities to the extent necessary to provide for Reliable Operation of the Bulk-Power System.

~~(q)~~(r) "Reliable Operation" means operating the elements of the Bulk Power System within equipment and electric system thermal, voltage, and stability limits so that instability, uncontrolled separation, or cascading failures of the Bulk Power System will not occur as a result of a sudden disturbance, including a cybersecurity incident, or unanticipated failure of system elements.



Draft [0708.2018.2009]

(s) “Sector” means a group of Members of the Corporation that are Bulk Power System owners, operators, or users, as defined in Article III, Section 4 of these Bylaws. Each Sector shall constitute a class of Members for purposes of Chapter 22 (Nonprofit Corporations) of the Texas Business Organizations Code.

## ARTICLE II. PURPOSE

**Section 1. General Purpose.** The purpose of the Corporation is to preserve and enhance reliability in the ERCOT Region. In furtherance of this goal, the Corporation will:

(a) Perform Reliability Standards development, compliance monitoring, compliance enforcement, and other related ~~activities~~ activities as a Regional Entity, pursuant to 16 U.S.C. §824n, in accordance with the Corporation’s Delegation Agreement with NERC;

(b) Carry out other activities as set forth in the Delegation Agreement, the NERC Rules of Procedure, or as otherwise required or requested by NERC, in support of the Delegated Authority, including but not limited to organization registration and certification, reliability assessment and performance analysis, training and education, and situational awareness and infrastructure security; and

~~(c) Perform non-statutory compliance monitoring and reporting of the ERCOT Protocols, as authorized by the Public Utility Commission of Texas and allowed by NERC and FERC; and~~

(c) Engage in any other lawful act or activity that is not in conflict with the Corporation’s duties as a Regional Entity and for which non-profit corporations may be organized under the Texas Non-Profit Corporations Act.

**Section 2. Non-Profit Corporation.** The Corporation is a Texas non-profit corporation.

**Section 3. Geographic Area.** The Corporation will perform its operations primarily within the ERCOT Region. The ERCOT Region includes 200,000 square miles, 85% of Texas load, and 75% of Texas land area (does not include the Panhandle, El Paso area, and 2 areas of East Texas). The ERCOT Region includes the following Texas cities and towns: Dallas, Ft. Worth, Houston, San Antonio, Austin, Paris, Tyler, Nacogdoches, Lufkin, Bryan, College Station, Corpus Christi, Harlingen, Brownsville, Laredo, Brownwood, San Angelo, Abilene, Midland, Odessa, Fort Stockton, Monahans, Snyder, Vernon, Wichita Falls, Denton, Garland, Greenville, Waco, Temple, Killeen, Weatherford, and Graham, and does not interconnect synchronously across state lines to import or export power with neighboring reliability regions.

Draft [0708.2018.2009]

**ARTICLE III.  
MEMBERSHIP**

**Section 1. Members.** The Corporation is a membership corporation. Membership in the Corporation is voluntary and is open to any companyentity that is a user, owner or operator of the ERCOT Region Bulk Power System, registers with the Corporation as a Member, maintains its registration in accordance with this Article III, and complies with the other conditions and obligations of membership specified in these Bylaws. All Members must qualify and be registered in one of the Sectors defined in Article III, Section 4. Membership in the Corporation is not a condition to participating in the development or consideration of proposed Regional Standards.

**Section 2. Registration as a Member.** Any companyentity that is eligible to be a Member of the Corporation in accordance with Article III, Section A may become a Member by completing and submitting to the secretary of the Corporation a membership registration on a form prescribed by the Corporation. The Member shall designate one representative and an alternative representative with authority to receive notices, cast votes, and execute waivers and consents on behalf of the Member. The secretary of the Corporation shall maintain a current roster of the Members of the Corporation including each Member's designated representative and alternative representative. From time to time, the Board shall establish a date by which Members shall submit their registration renewals. All Members shall be required to renew their registrations annually and within 30 calendar days of a request by an officer of the Corporation, using a registration renewal form prescribed by the Corporation. The secretary of the Corporation shall remove from the roster of Members of the Corporation any Member that has not submitted a registration renewal within 30 days following a date established by the Corporation. The secretary shall inform any Member that is removed from the roster of Members of such removal, by sending notice to such former Member's last known address on the records of the Corporation.

**Section 3. Obligations and Conditions of Membership.**

(a) Members must agree to promote, support, and comply with Reliability Standards, comply with the ERCOT region market rules, and assist the Corporation in its compliance with the terms and provisions of the Corporation's Delegation Agreement with NERC. Each Member shall agree, in writing, to accept the responsibility to comply with policies of NERC and the Corporation as set forth in their respective certificates of formation, bylaws, rules of procedure, and Reliability Standards, as applicable, as from time to time adopted, approved, or amended.

(b) As an additional condition of membership in the Corporation, each Member shall be required to execute an agreement with the Corporation, in a form to be specified by the Corporation, that such companyentity will hold all Directors, officers, employees, and agents of the Corporation, as well as volunteers participating in good faith in the activities of the Corporation, harmless for any injury or damage caused by any act or omission of any director, officer, employee, agent, or volunteer in the course of performance of his or her duties on behalf of the Corporation, other than for willful acts of misconduct.

(c) Consistent with applicable laws and regulations, Members must share nonproprietary information at the Corporation's request as necessary for the furtherance of the Corporation's activities and consistent with NERC, PUCT, or any other applicable rules relating to confidentiality.

Draft [0708.2018.2009]

**Section 4. Membership Sectors.** Each Member shall elect to be assigned to one of the following membership Sectors:

(a) **System Coordination and Planning:** An ~~company~~entity that is registered with NERC as a Reliability Coordinator (RC), Balancing Authority (BA), Planning Authority (PA), Resource Planner (RP), ~~Transmission Service Provider (TSP)~~, or Interchange Authority (IA).

(b) **Transmission:** An ~~company~~entity that is registered with NERC as a Transmission Owner (TO), Transmission Planner (TP), ~~Transmission Service Provider (TSP)~~, and/or Transmission Operator (TOP).

(c) **Distribution Cooperative or River Authority Utility:** An entity that is (a) a corporation organized under Chapter 161 of the Texas Utilities Code or a predecessor statute to Chapter 161 and operating under that chapter; or (b) a corporation organized as an electric cooperative in a state other than Texas that has obtained a certificate of authority to conduct affairs in the State of Texas; or (c) a cooperative association organized under Tex. Rev. Civ. Stat. 1396-50.01 or a predecessor to that statute and operating under that statute; or (d) a River Authority as defined in Tex. Water Code §30.003, ~~company~~ that is registered with NERC for at least one registered function, ~~as a Distribution Provider (DP) and is not registered as a TO and has no Affiliates that are registered as a TO.~~

(d) **Municipal Utility:** ~~a~~An entity that owns or controls transmission or distribution facilities, owns or controls dispatchable generating facilities, or provides retail electric service and is a municipally owned utility as defined in PURA §11.003 and is registered with NERC for at least one registered function.

Formatted: Font: Bold

Formatted: Font: Not Bold

~~(d)~~(e) **Generation:** An ~~company~~entity that is registered with NERC as a Generator Owner (GO) or Generator Operator (GOP).

~~(e)~~(f) **Load-Serving and Marketing:** An ~~company~~entity that is registered with NERC as a Load Serving Entity (LSE), a Purchasing-Selling Entity, or any newly defined NERC Function for demand response.

~~(f)~~ **BPS Owner, Operator or User:** A company that is an owner, user, or operator of the ERCOT Region Bulk Power System but is not registered with NERC for any NERC Function and has no Affiliates that are Members.

Comment [A1]: If Texas RE performs no Protocol compliance activities, there should be no entities who are owners, users, or operators of the BPS that are not registered entities. So, there should be no possible members who need voting input - thus need to eliminate this sector.

~~(g)~~ **Governmental/Regulatory:** A representative of the Public Utility Commission of Texas.

**Section 5. Participation.**

(a) There is only one level of Membership, and no company or entity may simultaneously hold more than one Membership.

(b) Members must qualify in and join a Sector. ~~If any companyentity does not qualify in any other Sector but is an owner, user, or operator of the ERCOT Region Bulk Power System, it may belong to the BPS Owner, Operator or User Sector.~~

Draft [0708.2018.2009]

(c) A Member that is eligible for more than one Sector may join only one Sector and it must be the most appropriate Sector for its business. Any disputes regarding appropriateness of a Member's Sector will be decided by a majority vote by the Board.

(d) A company or entity that is an Affiliate of a Member may hold a separate membership in a different Sector (except for the BPS Owner Operator, User Sector), so long as the legal entities have different NERC Compliance Registry Numbers under which they are currently registered for the applicable NERC Function.

(e) A Member must continue to vote in the same Sector for a minimum of one year or until it is no longer eligible to remain in such Sector, and it must give notice to the Corporate secretary when it elects or is required to change Sectors.

(f) The Board may review the Sector qualification of any Member and may determine that a Member does not qualify for, and require them to change Sectors.

(g) A Member who is no longer eligible or not in good standing may not vote on any matters that require membership.

**Section 6. Membership Fees.** Members must pay an annual Membership Fee of \$250, to offset the expenses of membership qualification, coordination, and meetings, unless the Board waives the fee for any Member for good cause shown. The Board may agree to change the amount or frequency of the Membership Fee, from time to time, by majority vote.

**Section 7. Term of Membership.** Membership in the Corporation must be renewed on an annual basis and will only be retained as long as a Member meets its respective qualifications, obligations, and conditions of membership as set forth in these Bylaws. Membership is conditioned on the annual payment of Membership Fees, unless the Membership Fees are waived by the Board for good cause shown, as determined in the Board's sole discretion.

**Section 8. Removal.** No Member or Member representative may be sanctioned, expelled or suspended and no membership in the Corporation may be terminated or suspended except pursuant to a procedure that is fair and reasonable and is carried out in good faith. The Board may, by resolution, establish a procedure to terminate, expel, suspend, or sanction a Member following notice to the Member and exercise of appropriate due process procedures and a determination by the Board in its sole discretion that in its judgment the Member has violated its obligations and responsibilities to the Corporation. In the event that the Board does not adopt procedures, the following procedures shall apply:

(a) Written notice. Written notice of intent to terminate, expel, suspend or sanction a Member shall be delivered at least twenty (20) days in advance of the date when a hearing will be held to determine whether the Member shall be expelled, suspended, terminated or sanctioned. Such notice shall set forth the reasons therefore. Said notice must be given by facsimile (receipt confirmed), e-mail (receipt confirmed) or first class or certified mail sent to the last address of the Member to be expelled, suspended, terminated or sanctioned, as shown in the Corporation's records.

(b) Hearing. An opportunity shall be provided for the Member receiving such notice to be heard by the Board at the hearing, orally and in writing. The Member shall be entitled to have counsel present, and to participate in the hearing, at its own expense, and to present and cross-examine any witnesses.

Draft [0708.2018.2009]

(c) Liability. A Member which has been sanctioned, expelled, terminated or suspended shall remain liable to the Corporation for fees as a result of obligations incurred or commitments made prior to sanction, expulsion, termination or suspension.

(d) Challenges. Any proceeding challenging an expulsion, suspension, sanction or termination, including a proceeding in which defective notice is alleged, may be submitted to the Board in writing within one year after the effective date of the expulsion, suspension, sanction or termination. If the Board determines to hear such challenge, it shall notify the Member and such proceeding will be subject to the hearing requirements described in subsection (b) above of this Section 8.

**Section 9. Resignation.** Any other provision of these Bylaws notwithstanding, any Member may withdraw from participation in the activities of the Corporation at any time upon written notice to the chief executive officer or president, whereupon it shall cease to be a Member, and its representatives shall cease to be entitled or obligated to participate in the activities of the Board or any activities requiring membership.

**Section 10. Reinstatement.** A former Member may submit a written request for reinstatement of Membership. The Board will reinstate the Membership unless the company entity does not meet the Membership qualifications set forth in these Bylaws.

#### ARTICLE IV. BOARD OF DIRECTORS

**Section 1. Board of Directors.** The business and affairs of the Corporation shall be managed by the Board. The Board shall consist of (i) ~~five-four (4)~~ Independent Directors who are nominated and elected in accordance with the requirements and procedures specified in this Article IV (the "Independent Directors"); (ii) the Chairman of the PUCT or another PUCT Commissioner designated by the Chairman, as an *ex officio* non-voting member; (iii) Texas Public Counsel, from the Office of Public Utility Counsel, as an *ex officio* non-voting member, representing the interests of residential and small commercial electricity consumers; ~~and~~ (iv) the CEO of the Corporation as an ~~ex officio non-voting member~~; (v) the chair of the Member Representatives Committee as a voting member; and (vi) the vice chair of the Member Representatives Committee as a voting member. The Directors who are the chair and vice chair of the Member Representatives Committee will be referred to herein as "Affiliated Directors." Each Director or Affiliated Director, excluding the non-voting members of the Board, shall have one (1) vote on any matter brought before the Board for a vote. All Directors are expected to serve the public interest and to represent the reliability concerns of the entire ERCOT Region Bulk Power System.

Formatted: Highlight

**Section 2. Independent Directors.** The Independent Directors shall be elected, shall have the qualifications specified, and shall serve in the manner provided in this Section.

(a) Qualifications:

(1) Experience in one or more of these fields: senior corporate leadership; professional disciplines of finance, accounting, engineering, bulk power systems, or law; regulation of utilities; and/or risk management.

(2) Independence of any NERC registered entity, ERCOT ISO, or and any ERCOT Region Market Participant. Requirements of independence include but are not limited to the following:

Draft [0708.2018.2009]

(i) Independent Directors and the immediate family (any spouse, mother, father, sibling, or dependent, and any spouse of mother, father, or sibling and including any step and adoptive parents, siblings or children) and household members of Independent Directors and their spouses shall not have current or recent status (within the last two years) as a director, officer or employee of an ERCOT Region NERC Registered Entity or ERCOT Region Market Participant.

(ii) Independent Directors and immediate family and household members of Independent Directors shall not have current ~~or recent~~ status ~~(within the last six months)~~ as a director, officer or employee of a non-ERCOT Region NERC Registered Entity.

(iii) Independent Directors and immediate family and household members of Independent Directors shall not have direct business relationships, other than retail customer relationships, with any NERC Registered Entity or Market Participant.

(iv) To the extent that an Independent Director or his or her spouse, dependent child, or any other household member owns stocks or bonds of NERC Registered Entities or Market Participants, these must be divested or placed in a blind trust prior to being seated on the Board.

(v) Independent Directors shall not have any relationship that would interfere with the exercise of independent judgment in carrying out the responsibilities of a Board member, including the Delegated Authority.

(vi) Other criteria as approved by the Board.

(b) Term. Except for the ~~initial-Initial~~ and originally elected Directors, the term for Independent Directors shall be staggered three year terms. An Independent Director may be elected for up to three consecutive terms. Notwithstanding the foregoing, the ~~initial-Initial~~ Directors, who are ~~the Directors~~ seated for formation ~~of the Corporation,~~ will serve only until the first membership meeting of the Corporation, which term shall not exceed six (6) months. If an ~~initial-Initial~~ Director is qualified to be an Independent Director and elected by the membership, such Director's initial term shall not be counted for purposes of that term limits. For the originally elected Directors, two positions will have three year terms, ~~and~~ two positions will have two year terms ~~and one position will have a one year term.~~ The term for the Affiliated Directors who are chair and vice chair of the Member Representatives Committee shall be one year, and the terms of the *ex officio* Directors will not expire.

Formatted: Font: Italic

(c) Selection.

(1) Except as described below for the selection of the Independent Directors to serve as Initial Directors, ~~t~~The Board shall appoint, on an annual basis, or more frequently if needed in the event of a special election pursuant to this subsection, a nominating committee (the "Nominating Committee") to recommend candidates (i) to succeed the Independent Directors whose terms expire during the current year and (ii) to serve the remainder of the term of any Independent Director who ceased to serve as a Director subsequent to the last annual election of Directors. The Nominating Committee shall consist of ~~the all Management Directors, the ex officio Directors, and those Independent Directors~~ whose terms do not expire during the current year and such

Draft [0708.2018.2009]

number of other persons with such qualifications as the Board shall specify, provided that the Independent Directors shall constitute a majority of the voting members of the Nominating Committee. For the selection of Independent Directors to be seated as Initial Directors, the Nominating Committee shall consist of the Management Director, the ex officio Directors, two Unaffiliated Directors from the ERCOT Board of Directors, and two registered entity representatives who are as selected by the ERCOT Board of Directors.

Formatted: Font: Italic

Formatted: Not Highlight

Formatted: Not Highlight

(2) The Nominating Committee ~~will~~may retain an executive search firm to locate and present candidates with the required qualifications, as set forth in Article IV, Section 2(a).

(3) The Nominating Committee shall interview the qualified candidates and select and nominate, by at least a two-thirds majority, qualified candidate(s) consistent with the objectives that the Board as an entirety reflects expertise in the areas of technical electric operations and reliability, legal, senior corporate leadership, financial, risk management, and regulatory matters, and familiarity with regional system operation issues in the ERCOT Region to present to the Membership for its approval. For the selection of the Independent Directors to serve as Initial Directors, the Nominating Committee will, following the interview process, select the Independent Directors that will serve as the initial Directors.

(4) Except for the selection of Independent Directors to serve as the Initial Directors, ~~t~~he Membership shall vote by Sector as described in Article V in favor or against the proposed Independent Director(s). A proposed Independent Director that is approved by a majority of the Sectors shall become an Independent Director.

(d) Director Voting Weights. All voting Directors shall have a single vote each.

(e) Alternates and Proxies. Independent Directors may designate another Independent Director as a proxy if unable to attend a Board meeting. Ex officio Directors may designate a selected proxy or an alternate representative who may attend meetings in the absence of such Director. The chair and vice chair of the Member Representatives Committee may designate each other or may designate an Independent Director, or the CEO of the Corporation as their proxy if unable to attend a Board meeting.

**Section 3. Appointment of Management Director.** The president and chief executive officer (CEO) of the Corporation shall serve as the Management Director of the Corporation, effective as of the date of his or her appointment by the Board as CEO of the Corporation in accordance with these Bylaws, to serve until such time that he or she ceases to hold the position of CEO. No action of the Members of the Corporation shall be required in connection with the appointment of the CEO as the Management Director of the Corporation.

**Section 4. Chair and Vice Chair.** Annually, the Board shall elect from the Board's membership, by resolution of the Board, a Chair and a Vice Chair. The Chair and Vice Chair shall be one of the Independent Directors.

**Section 5. Vacancies and Removal.** Should any vacancy on the Board arise from the death, resignation, retirement, disqualification, or removal from office of any Director, or from any other cause, such vacancy shall be filled by electing a Director at the next annual election of Directors to fill the remainder, if any, of the term of the departed Director. Provided, that the

Draft [0708.2018.2009]

Board by resolution may in its discretion call a special election to fill any such vacancy for the remainder, if any, of the term of the departed Director. A Director may be removed with or without cause at any time by whomever had the right to appoint such Director (for ex officio Directors), or for the elected Independent Directors, by an affirmative vote of sixty percent (60%) of the Members. In addition, the Board may remove a Director for cause, upon at least seventy-five percent (75%) affirmative votes of the eligible, remaining voting Directors. The right to elect Directors may not be assigned, sold, pledged or transferred in any manner.

**Section 6. Committees of the Board.** The Board shall by resolution create and appoint all committees of the Board as the Board deems necessary to perform its responsibilities. All committees of the Board shall have such duties as are prescribed and delegated by the Board. Committees to which any of the authority of the Board to manage the Corporation is delegated must have at least two members, and a majority of the members of the committee must be Directors.

#### ARTICLE V. MEETINGS OF MEMBERS OF THE CORPORATION

##### **Section 1. Annual and Other Meetings of Members.**

(a) An annual meeting of the Members for the election of Directors and to conduct such other business as may come before the meeting shall be held on or about December 1 of each year or as soon thereafter as is reasonably practicable.

(b) Meetings of Members of the Corporation may be called for any purpose or purposes by resolution of the Board, by the chair of the Board, the CEO or the secretary of the Corporation, or by a number of Members constituting at least ten (10) percent of all Members on the roster of Members maintained by the secretary of the Corporation, which number shall include Members in at least three of the Sectors. Meetings of Members shall be held at the principal office of the Corporation or at such other place fixed by the Board as shall be specified in the notice of meeting. Meetings shall be called upon written notice of the time, date, place, and purposes of the meeting given to all Members on the roster of Members maintained by the secretary of the Corporation not less than ten (10) nor more than sixty (60) days prior to the date of the meeting. Only Members in good standing with the Corporation, as determined by the Board, have the right to vote at any meeting of the Members. Further, if at any point a Member no longer meets the qualifications for the Sector of which it is a member, the Entity may immediately elect to become a member in any Sector for which it does qualify.

**Section 2. Quorum and Voting Requirements for Meetings of Members.** At any meeting of the Members of the Corporation, attendance in person or by proxy by a majority of the Members in each of at least two-thirds of the Sectors on the roster of Members maintained by the secretary of the Corporation shall constitute a quorum.

(a) Members shall vote by Sector and each Sector shall have one vote.

(b) Except as otherwise expressly provided in the Corporation's Certificate of Formation, these Bylaws or applicable law, actions by the Members of the Corporation shall be approved upon receipt of the affirmative vote of a majority of the ~~members at a meeting of the MemberSectors~~ of the Corporation at a meeting at which a quorum is present, in person or by proxy. Each Sector's vote shall be determined by the affirmative vote of a majority of the members of the Sector voting at the meeting.



Draft [0708.2018.2009]

**Section 3. Waivers of Notice of Meetings of Members and Member Meeting Adjournments.** Notice of a meeting of Members need not be given to any Member who signs a waiver of notice, in person or by proxy, whether before or after the meeting. The attendance of any Member at a meeting, in person or by proxy, without protesting prior to the conclusion of the meeting the lack of proper notice of such meeting, shall constitute a waiver of notice of the meeting by such Member. When any meeting of Members is adjourned to another time or place, it shall not be necessary to give notice of the adjourned meeting if the time and place to which the meeting is adjourned are announced at the meeting at which the adjournment is taken, and if at the adjourned meeting only such business is transacted as might have been transacted at the original meeting.

**Section 4. Action Without a Meeting of Members.** Any action, required or permitted to be taken at a meeting of Members, may be taken without a meeting if the proposed action is posted to all Members (via email to an email distribution list to which Members may subscribe and by posting on the Corporation website) and consented to in writing by the minimum number of Members that would be required to approve the action at a meeting of the Members at which all Members were present. The voting in such a circumstance shall be performed in writing, including via email or other electronic means. The Members shall receive written notice of the results within ten (10) days of the action vote, and all written responses of the Members shall be filed with the Corporate records. The results of such voting will be posted on the Corporation's website.

**Section 5. Meetings of the Members to be Open.** Notice to the public of the dates, places, and times of meetings of the Members, and all non-confidential material provided to the Members, shall be posted on the Corporation's website at approximately the same time that notice is given to the Members. Meetings of the Members shall be open to the public, subject to reasonable limitations due to the availability and size of meeting facilities; provided, that the meeting may be held in or adjourned to closed session to discuss matters of a confidential nature, including but not limited to compliance and enforcement matters, personnel matters, litigation, or commercially sensitive or critical infrastructure information of the Corporation or any other entity. The results of any action taken without a meeting, as described above, will be posted on the Corporation's website.

## ARTICLE VI. MEETINGS OF THE BOARD OF DIRECTORS

**Section 1. Regular Meetings of the Board.** Regular meetings of the Board shall be held at least quarterly. By resolution adopted at any meeting of the Board, the Board may provide for additional regular meetings that may be held as needed.

**Section 2. Special Meetings of the Board.** Special meetings of the Board for any purpose or purposes may be called at any time by the chair or by any two Directors. Such meetings may be held upon notice given to all Directors not less than three (3) days prior to the date of the meeting. Such notice shall specify the time, date, place, and purpose or purposes of the meeting and may be given by telephone, email or other electronic media, or by express delivery.

**Section 3. Quorum and Voting Requirements for Meetings of the Board.** Unless otherwise expressly provided in the Corporation's Certificate of Formation, these Bylaws or applicable law, (i) the quorum necessary for the transaction of business at meetings of the Board shall be a majority of the Directors in person or by proxy and at least three Independent Directors, and (ii) actions by the Board shall be approved upon receipt of the affirmative vote of

Draft [0708.2018.2009]

a majority of the Directors present and voting in person or by proxy at a meeting at which a quorum is present.

**Section 4. Meetings of the Board to be Open.** Notice to the public of the dates, places, and times of meetings of the Board, and all non-confidential material provided to the Board, shall be posted on the Corporation's website at approximately the same time that notice or such material is given to the Directors. Meetings of the Board shall be open to the public, subject to reasonable limitations due to the availability and size of meeting facilities; provided, that the Board may meet in or adjourn to closed session to discuss matters of a confidential nature, including but not limited to compliance and enforcement matters, personnel matters, litigation, or commercially sensitive or critical infrastructure information of the Corporation or any other entity. Any or all of the Directors or members of a Board committee, may participate in a meeting of the Board, or a meeting of a committee, in person or by proxy, by means of any communications system by which all persons participating in the meeting are able to hear each other.

**Section 5. Waivers of Notice of Board Meetings and Board Meeting Adjournments.** Notice of a board meeting need not be given to any Director who signs or sends email confirming a waiver of notice, in person or by proxy, whether before or after the meeting, or who attends the meeting without protesting, prior to the conclusion of the meeting, the lack of notice of such meeting. Notice of an adjourned board meeting need not be given if the time and place to which the meeting is adjourned are announced at the meeting at which the adjournment is taken and if the period of adjournment does not exceed ten (10) days.

**Section 6. Action Without a Meeting.** Any action required or permitted to be taken at a meeting of the Board, or of any committee thereof, may be taken by the Board or by the committee without a meeting if the action is consented to in writing by the number of Directors or ~~Members-members~~ of the committee, as the case may be, entitled to vote on the action that would be required to approve the action at a meeting of the Board or committee with all ~~Members-members~~ of the Board or committee present. The call for action without a meeting of the Board may be initiated by the chair or by any two Directors. Notice of the proposed call for action without a meeting, and all non-confidential material provided to the Board in connection with the call for action without a meeting, shall be posted on the Corporation's website and sent via email to an email distribution list to which Corporate Members and the public may subscribe at approximately the same time notice of the call for action without a meeting or such material is provided to the Board. The call for action without a meeting of a committee of the Board may be initiated by the chair of the committee or by any two ~~Members-members~~ of the committee. The Directors or ~~Members-members~~ of the committee shall receive written notice of the results of such action within seven (7) days of the action vote. All written responses of the Directors shall be filed with the minutes of the Corporation, and all written responses of ~~Members-members~~ of a committee shall be filed with the minutes of such committee.

## ARTICLE VII. OFFICERS

**Section 1. Selection of Officers.** At a regular meeting held in accordance with Article V, Section 1 of these Bylaws, the Board shall elect a CEO and shall approve a corporate secretary and such other officers of the Corporation (collectively, the "Officers") as it shall deem necessary. The CEO shall be nominated and elected by the Board. All of the other Officers shall be selected by the CEO and approved by the Board, and the removal of all Officers shall be ~~removed-confirmed~~ by the Board. The Management Director shall not participate in votes electing, approving, or removing Officers. The duties and authority of the Officers shall be

Draft [0708.2018.2009]

determined from time to time by the Board. Subject to any such determination, the Officers shall have the following duties and authority:

**Section 2. Chief Executive Officer.** The CEO shall be the chief executive officer of the Corporation. He or she shall be responsible for the day-to-day ongoing activities of the Corporation and shall have such other duties as may be delegated or assigned to him or her by the chair. The CEO may enter into and execute in the name of the Corporation contracts or other instruments not in the regular course of business that are authorized, either generally or specifically, by the Board.

**Section 3. Corporate Secretary.** The secretary shall maintain the roster of Members of the Corporation, shall cause notices of all meetings to be served as prescribed in these Bylaws, shall keep or cause to be kept the minutes of all meetings of the Members and the Board, and shall have charge of the seal of the Corporation. The secretary shall perform such other duties and possess such other powers as are incident to his or her office or as shall be assigned to him or her by the CEO

**Section 4. Chief Financial Officer.** If hired and approved, a chief financial officer shall have custody of the funds and securities of the Corporation, shall keep or cause to be kept regular books of account for the Corporation and shall have the duties normally assigned to a treasurer of a corporation. The chief financial officer shall perform such other duties and possess such other powers as are incident to his or her office or as shall be assigned to him or her by the CEO.

#### ARTICLE VIII.

##### RELIABILITY STANDARDS ~~DEVELOPMENT~~ COMMITTEE

**Section 1. Requirement.** The Corporation shall have a Reliability Standards ~~Development~~ Committee, which shall operate in accordance with the Standards Development Process as set forth in Exhibit C to the Delegation Agreement with NERC and approved by FERC. The chair and vice chair of the Standards ~~Development~~ Committee must be accepted or approved by the Board, in accordance with said Exhibit C.

#### ARTICLE IX.

##### MEMBER REPRESENTATIVES COMMITTEE

**Section 1. Purpose of Member Representatives Committee.** The Corporation shall have a Member Representatives Committee that shall provide advice and recommendations to the Board with respect to annual budgets, business plans and funding mechanisms of the Corporation; other matters relevant to reliability of the ERCOT Bulk Power System; and other matters pertinent to the purpose and operations of the Corporation. The Member Representatives Committee shall provide its advice, technical expertise and recommendation to the Board through its chair and the vice chair, who also serve as the Affiliated Directors on the Board. The Members Representatives Committee may create subcommittees, task forces, or working groups ("subcommittees") as it deems appropriate to study or discuss selected technical or compliance matters to make recommendations to the board as requested or required by the Board or as deemed appropriate to its purpose by the Members Representatives Committee. Because it is elected by the Members of the Corporation and not appointed by the Board, the Member Representatives Committee shall not be a standing committee of the Board of Directors of the Corporation, but is authorized to provide advice and recommendations directly to the Board, through its elected chair and vice chair.

Draft [0708.2018.2009]

**Section 2. Composition of the Member Representatives Committee.** The Member Representatives Committee shall consist of two representatives from each Sector to serve annually and will annually select a chair and vice chair for the Member Representatives Committee. The representatives of each Sector shall be officers, employees, or directors of Members in that Sector; provided however, except for a Sector that has only one Member, only one officer, employee, or director of a Member in a Sector may be a representative from that Sector. No member of the Board shall be a member of the Member Representatives Committee. The Board may by resolution create additional non-voting positions on the Member Representatives Committee on its own initiative or at the written request of any group of Members of the Corporation that believes its interests are not adequately represented on the Member Representatives Committee. There shall be no limit on the number of terms that an officer, employee, or director of a Member, may serve on the Member Representatives Committee.

**Section 3. Election of Representatives of the Member Representatives Committee.** Unless a Sector adopts an alternative election procedure, the annual election of representatives from each Sector to the Member Representatives Committee, and any election to fill a vacancy, shall be conducted in accordance with the following process, which shall be administered by the officers of the Corporation.

(a) During the period beginning no more than ninety (90) days and ending no less than fifteen (15) days prior to an annual meeting, or beginning no more than forty-five (45) days and ending no less than fifteen (15) days prior to a special meeting called in whole or in part to hold an election to fill a vacancy, nominations may be submitted for candidates for election to the Member Representatives Committee. A nominee for election as a Sector representative must be an officer, employee, or director of a Member in that Sector. No more than one nominee who is an officer, employee, or director of a Member may stand for election in any single Sector; if more than one officer, employee, or director of a Member is nominated for election from a Sector, the Member shall designate which such nominee shall stand for election. The election of representatives shall be conducted over a period of ten (10) days using an electronic process approved by the secretary of the Corporation.

(b) Each Member in a Sector shall have one vote for each Representative to be elected from the Sector in that election and may cast no more than one vote for any nominee. The nominee receiving the highest number of votes in each Sector shall be elected to one Representative position to be filled from that Sector and the nominee receiving the second highest number of votes shall be elected as the second Representative position for that Sector. To be elected on the first ballot, a nominee must receive a number of votes equal to a simple majority of the Members in the Sector casting votes in the election. If no nominee in a Sector receives a simple majority of votes cast in the first ballot, a second ballot shall be conducted which shall be limited to the number of candidates receiving the three (3) highest vote totals on the first ballot. The nominees receiving the two highest totals of votes on the second ballot shall be elected to the Representative positions for the Sector.

(c) A Sector may adopt an alternative procedure to the foregoing to nominate and elect its Representatives to the Member Representatives Committee if (i) the alternative procedure is consistent in principle with the procedures specified in the preceding paragraph of this Section, and (ii) the alternative procedure is approved by vote of at least two-thirds of the Members in the Sector, provided, however that any alternative procedure may be reviewed and disapproved by the Board.

Formatted: Bullets and Numbering

Draft [0708.2018.2009]

(d) A Sector may elect an Alternate to serve in place and at the convenience of the Sector's Members Committee Representative(s) in the event a Members Committee Representative cannot attend a Members Committee meeting.

Formatted: Highlight

(e)

Formatted: Body Text, Indent: First line: 1"

**Section 4. Chair and Vice Chair of the Member Representatives Committee.**

After the annual selection of its Representatives, the Member Representatives Committee shall select a chair and vice chair from among its voting Representatives by majority vote to serve during the upcoming year and be the Affiliated Directors on the Board. The selected chair and vice chair may not be representatives of the same Sector or NERC function and may not concurrently serve on the Board of ERCOT ISO or any other registered entity in the ERCOT Region. The Board shall be notified of the selection of the chair and vice chair, but the selection will not be subject to approval of the Board. The chair is responsible for ensuring that minutes of the meetings are properly maintained and made available to the public, but the chair may delegate this responsibility to the vice chair or to another Representative of the Member Representatives Committee who is designated as secretary of the Member Representatives Committee.

**Section 5. Vacancies on the Member Representatives Committee.**

In the event that any Representative of the Member Representatives Committee ceases to serve as a Representative of the Member Representatives Committee as a result of his or her death, resignation, retirement, disqualification, or removal or other cause, the Members in the Sector of which such Representative was a representative shall elect, as soon thereafter as reasonably practicable, and in accordance with the procedures in this Article IX, a new Representative to replace the Representative of the Member Representatives Committee who ceased to serve. For those Sectors that have elected an Alternate, the Alternate will fill a vacancy left by the Sector's Member Representative and a new Alternate will be elected by the Sector.

Formatted: Bullets and Numbering

Formatted: Highlight

**Section 5.**

**Section 6. Meetings of the Member Representatives Committee.**

The Member Representatives Committee will annually plan and hold quarterly meetings, at a time and place determined by the Member Representatives Committee and posted on the Corporation's website. Except for closed session meetings specifically allowed by this Section, all meetings shall be open to the public. The Members Representatives Committee shall adopt such procedural rules as are needed to operate in accordance with its purpose and will include procedures for coordinating with employees of the Corporation who provide administrative support, as set forth in subsection 6(c), below.

(a) Notice to the public of the dates, places, and times of meetings of the Member Representatives Committee and any subcommittees thereof, and all non-confidential material provided to the Member Representatives Committee or any subcommittees thereof, shall be posted on the Corporation's website at approximately the same time that notice or such material is given to the Member Representatives Committee, which will normally be at least one week prior to any meeting. Meetings of the Member Representatives Committee shall be open to the public, subject to reasonable limitations due to the availability and size of meeting facilities; provided, that the Member Representatives Committee may meet in or adjourn to closed session to discuss matters of a confidential nature, including but not limited to confidential planning information, critical infrastructure information, or commercially sensitive information of the corporation or any other entity. Any or all Representatives of, and any other participants in, the Member Representatives Committee may participate in a meeting of the

Draft [0708.2018.2009]

Member Representatives Committee by means of a communications system by which all persons participating in the meeting are able to hear each other.

(b) Special meetings may be called for any purpose or purposes by the chair of the Member Representatives Committee or by any three (3) Representatives of the Member Representatives Committee, which number shall include representatives from at least three Sectors, and require notice given to all Representatives of the Member Representatives Committee not less than seven (7) days prior to the date of the meeting. Such notice shall specify the time, date, place, and purpose or purposes of the meeting and may be given by telephone, facsimile, or other electronic media, or by express delivery.

(c) The Member Representatives Committee shall effectively coordinate with the employees of the Corporation and adopt procedural rules for the voting for Representatives, scheduling of meetings, and public posting of required meeting information and minutes. The chair or vice chair of the Member Representatives Committee shall provide all meeting agendas, material, minutes and other information required or desired to be posted on the Corporation's website to appropriate Corporation employees at least one business day prior to the time such information should be posted.

**Section 7. Waivers of Notice of Meetings of the Member Representative Committee and Meeting Adjournments.** Notice of a meeting of the Member Representatives Committee need not be given to any member of the Member Representatives Committee who signs a waiver of notice, in person or by proxy, whether before or after the meeting, or who attends the meeting without protesting, prior to the conclusion of the meeting, the lack of notice of such meeting. Notice of an adjourned meeting of the Member Representatives Committee need not be given if the time and place to which the meeting is adjourned are announced at the meeting at which the adjournment is taken and if the period of adjournment does not exceed ten (10) days.

**Section 8. Quorums and Voting for Meetings of the Member Representatives Committee.** The quorum necessary for the transaction of business at meetings of the Member Representatives Committee shall be two-thirds of the voting members of the Member Representatives Committee attending the meeting in person or by proxy. A member of the Member Representatives Committee may give a proxy only to a person who is an officer, employee, or director of a Member, registered in the same Sector. Each voting member of the Member Representatives Committee shall have one (1) vote on any matter coming before the Member Representatives Committee that requires a vote. Except as otherwise expressly provided in the Corporation's Certificate of Formation, these Bylaws or applicable law, actions by members of the Member Representatives Committee shall be approved upon receipt of the affirmative vote of a majority of the voting members of the Member Representatives Committee present and voting at any meeting at which a quorum is present.

**Section 9. Alternates and Proxies.** Member Representatives may designate another Member Representative or the Sector Alternate as a proxy if unable to attend a Members Representative Committee meeting.

**Section 9.**

**Section 9. Section 10. Other Procedures of the Member Representatives Committee.** The chair of the Board, shall preside at the initial meeting of the Member Representatives Committee, until a chair is selected in accordance with Article IX, Section 4. Except as to any matter as to which the procedure to be followed by the Member

- Formatted: Bullets and Numbering
- Formatted: Highlight
- Formatted: Highlight

Draft [0708.2018.2009]

Representatives Committee is expressly set forth in these Bylaws, the Member Representatives Committee may adopt such additional procedures, not inconsistent with these Bylaws, as it deems appropriate, subject to review and disapproval by the Board.

#### ARTICLE X. OTHER COMMITTEES AND SUBCOMMITTEES

**Section 1. Committees of the Corporation.** In addition to those committees specified by these Bylaws, to which the Board shall appoint members in accordance with the requirements of these Bylaws, the Board may by resolution create standing committees of the Corporation; and may in addition by resolution appoint such committees, subcommittees, task forces and Sector-specific forums as the Board deems necessary or desirable to carry out the purposes of the Corporation. The Board shall appoint standing committees and other committees of the Corporation that are representative of Members, other interested parties, and the public, that provide for balanced decision-making and that include persons with outstanding technical knowledge and experience. All committees, subcommittees, task forces and Sector-specific forums shall have such scope and duties, not inconsistent with law, as are specified in these Bylaws and the Rules of Procedure of the Corporation or otherwise determined by the Board.

#### ARTICLE XI. BUDGETS AND FUNDING

**Section 1. Compensation of the Board and Member Representatives Committee.** The Board shall have the right to fix from time to time, by resolution adopted by a majority of the Directors and a majority of the Independent Directors then serving as Directors, the amount of the annual retainer fee or other compensation to be paid to the Independent Directors for their services to the Corporation, including any fees to be paid for each meeting of the Board or any Board committee attended by an Independent Director. The Board will evaluate the fee or other compensation at least every three years, to ensure that Director compensation is appropriate. No compensation shall be paid to any Management Director, Affiliated Director, or any *ex officio* Director for his or her services on the Board, other than the compensation paid to the Management Director for services as CEO of the Corporation. No compensation shall be paid by the Corporation to any member of the Member Representatives Committee for ~~their~~-his or her services on the Member Representatives Committee. Independent Directors shall be entitled to be reimbursed their reasonable out-of-pocket expenditures for attending meetings and conducting the business of the Corporation.

Formatted: Font: Italic

**Section 2. Preparation and Adoption of Annual Budget, Business Plan, and Funding Mechanism.** The Board shall require the CEO to prepare for Board approval an annual business plan and budget for the administrative and other expenses of the Corporation, including the expenditures for the fiscal year for any material special projects undertaken by the Corporation and reasonable and proper reserves and provisions for contingencies, in accordance with all NERC and Commission requirements. ~~If the Corporation might or will be performing Non-statutory activities in the budget year, the Board will require that such Non-statutory activities be budgeted for separately from the activities performed pursuant to the Delegation Agreement. The Board shall further require that a funding mechanism be in place for such Non-statutory activities (pursuant to Article XI, Section 3), prior to the approval of any Non-statutory activities.~~—The annual business plan, budget and funding mechanism of the Corporation shall be for a fiscal year commencing on January 1 and ending on December 31. Each annual business plan, budget, and funding mechanism shall be approved by the Board at a regular meeting or a special meeting of the Board duly called for that purpose. The Board

Draft [0708.2018.2009]

shall use reasonable efforts to approve each annual business plan, budget, and funding mechanism at a time that allows for timely submittal of the approved annual business plan, budget, and funding mechanism to the applicable regulatory authorities.

~~Section 3.—Criteria for Non-Statutory Funding Mechanisms. For any authorized Non-statutory activities, the Board must approve a funding mechanism, which is authorized and approved by the PUCT, which funding mechanism shall recover, over the course of the fiscal year, the revenue required to fund the fiscal year Non-statutory activities~~

~~Section 4.~~**Section 3. Comments During Preparation of Annual Business Plan and Budget.** In preparing the annual business plan and budget, the Board shall require that the CEO post a draft business plan and budget for review and comment by the Members of the Corporation and the Member Representatives Committee and the standing committees of the Corporation for at least ten (10) days prior to the date of the meeting of the Board at which the annual business plan and budget is to be adopted.

~~Section 5.~~**Section 4. Modified or Supplemental Budgets.** During the course of a fiscal year, the Board may modify any approved budget or develop and approve a supplemental budget if determined by the Board to be necessary due to such factors as a shortfall in revenues of the Corporation from projected levels, incurred or anticipated expenditures, duties, or new projects not provided for in the annual budget, or such other factors as in the judgment of the Board warrant modification of the budget for the fiscal year or development of a supplemental budget. In preparing a modified or supplemental budget, the Board shall follow the provisions of this Article XI, Section 4 to the extent practicable in the judgment of the Board in light of the urgency of the circumstances necessitating preparation and approval of the modified or supplemental budget. Each modified or supplemental budget shall be approved by the Board at a regular meeting or a special meeting of the Board duly called for that purpose.

~~Section 6.~~**Section 5. Submission of Annual Business Plans and Budgets to the Regulatory Authorities.** Each annual budget, annual business plan, and annual, modified, or supplemental budget approved by the Board shall be submitted by the Corporation to the ERO and any applicable regulatory authorities for approval in accordance with its regulations, and shall not be effective until approved by the applicable regulatory authorities. If ordered to modify or remand an annual budget, business plan, or annual, modified, or supplemental funding mechanism, the Board shall promptly following such order adopt such modifications to the business plan, budget, or funding mechanism as are required or directed by the order of the ERO and any applicable regulatory authority.

## ARTICLE XII. AMENDMENTS TO THE BYLAWS

**Section 1. Amendments to the Bylaws.** These Bylaws may be altered, amended, or repealed by a majority vote of both the Board and the Membership at respective meetings of the Board and the ~~Members—at~~**Members at** which a quorum is present. Written notice of the subject matter of the proposed changes to the Bylaws shall be provided to the Directors and to the Members not less than ten (10) nor more than sixty (60) days prior to the date of the meeting of the Board or the Members at which the vote is to be taken. Notwithstanding the provisions of this Article XIV, the Members of the Corporation voting by Sector shall have the right to alter, amend, or repeal Bylaws adopted by the Board and to adopt new Bylaws, provided that any such alteration, amendment, or repeal or the adoption of new Bylaws is approved by vote of two-thirds of the Sectors at a meeting of Members called for that purpose, or by written



Draft [0708.2018.2009]

consent of two-thirds of the Sectors, where the number of votes for and against the proposed alteration, amendment, repeal or adoption of Bylaws shall be determined in accordance with Article IV, Section 2. Any alteration, amendment, repeal or adoption of Bylaws shall be subject to any applicable requirements for filing with or approval by the ERO or any other applicable regulatory authority.

### ARTICLE XIII. INDEMNIFICATION; PROCEDURE; DISSOLUTION

**Section 1. Indemnification.** The Corporation shall indemnify each person who at any time shall serve, or shall have served, as an officer, Director, employee, or other corporate agent of the Corporation, is or was serving at its request as a director, officer, partner, venturer, proprietor, employee, agent or similar functionary of another foreign or domestic corporation, partnership, joint venture, sole proprietorship, trust, employee benefit plan or other enterprise ("Indemnified Parties"), to the full extent from time to time permitted by the Texas Business Organizations Code and other applicable law. Such right of indemnification shall inure to the benefit of the legal representative of any such Indemnified Party. The foregoing indemnification shall be in addition to, and not in restriction or limitation of, any privilege or power that the Corporation may have with respect to the indemnification or reimbursement of its Indemnified Parties. The Corporation shall also pay or advance reasonable expenses incurred by an Indemnified Party in connection with a proceeding in advance of the final disposition of the proceeding upon receipt of a written affirmation by the Indemnified Party of a good faith belief that the standard of conduct necessary for indemnification under this Article XIII and the Texas Business Organizations Code has been met and a written undertaking by or on behalf of the officer, Director, or other corporate agent to repay the amount if it shall be ultimately determined that the Indemnified Party was not entitled to be indemnified by the Corporation.

**Section 2. Parliamentary Rules.** In the absence of and to the extent not inconsistent with specific provisions in these Bylaws, meetings or other actions pursuant to these Bylaws shall be governed by procedures that the Board may, from time to time, establish by resolution.

**Section 3. Dissolution.** Upon dissolution of the Corporation, in accordance with the Certificate of Formation, the remaining assets of the Corporation after payment of debts shall be distributed in the manner determined by the Board, provided that, (i) no part of the assets shall be distributed to any Director of the Corporation, and (ii) the distribution of assets shall be consistent with the requirements of Section 501(c)(3) of the United States Internal Revenue Code of 1954.

### ARTICLE XIV. CONFLICTS OF INTEREST

#### Section 1. Conflicts of Interest.

(a) Each ~~Independent~~ Director shall have an affirmative duty to disclose to the Board or committee (as the case may be) any actual or potential conflicts of interest of the Director that arise during his or her tenure as a ~~director~~ Director where, and to the extent that, such conflicts or potential conflicts directly or indirectly affect any matter that comes before the Board. An ~~Independent~~ Director with a direct or potentially conflicting interest in a matter shall recuse himself from deliberations and actions on the matter in which the conflict arises and shall abstain on any vote on the matter and not otherwise participate in a decision on the matter. Any disclosure of a potential conflict of interest by a Director shall be noted in the minutes of the

Draft [0708.2018.2009]

Board meeting at which the direct interest is disclosed. Mere attendance at the meeting, without participating in discussion of the issue raising the potential conflict, shall not constitute participation.

(b) The Corporation may not make any loan to a Director, committee member or officer of the Corporation. A Member, Director, officer, or committee member of the Corporation may not lend money to, or otherwise transact business with, the Corporation except as otherwise provided by these Bylaws, the Certificate of Formation, and applicable law. A related party transacting business with the Corporation has the same rights and obligations relating to those matters as other persons transacting business with the Corporation, provided the related party nature of the transaction is known to the Board. The Corporation may not borrow money from, or otherwise transact business with, a Member, Director, officer, or committee member of the Corporation unless the transaction is described fully in a legally binding instrument and is in the Corporation's best interests. The Corporation may not borrow money from, or otherwise transact business with, a Member, Director, officer, or committee member of the Corporation without full disclosure of all relevant facts and without the Board's approval, not including the vote of any person having a personal interest in the transaction.

**Section 2. Prohibited Acts.** No Member, Director, officer, or committee member of the Corporation may do any of the below-listed prohibited acts. Performance of these prohibited acts may lead to sanction, suspension, expulsion or termination after a hearing as described in these Bylaws. The prohibited acts include the following:

- (a) Do any act in violation of these Bylaws.
- (b) Do any act in violation of a binding obligation of the Corporation except with the Board's prior approval.
- (c) Do any act with the intention of harming the Corporation or any of its operations.
- (d) Receive an improper personal benefit from the operation of the Corporation.
- (e) Use the Corporation's assets, directly or indirectly, for any purpose other than carrying on the Corporation's business.
- (f) Wrongfully transfer or dispose of Corporation property, including intangible property such as goodwill.
- (g) Use the Corporation's name (or any substantially similar name) or any trademark or trade name adopted by the Corporation, except on behalf of Corporation in the ordinary course of its business or as a reference to the Corporation or its region.
- (h) Disclose any of Corporation's or Members' business practices, trade secrets, or any other confidential or proprietary information not generally known to the business community to any person not authorized to receive it.

**Section 3. Loans and Guarantees.** Neither participation in the activities of the Corporation nor any provision of these Bylaws or of the Certificate of Formation shall be deemed to constitute a pledge or loan of the credit of any Member for the benefit of the Corporation or a guarantee by any Member of any obligation of the Corporation.

Draft [0708.2018.2009]

**ARTICLE XV.  
BOOKS AND RECORDS; AUDIT; FISCAL YEAR**

**Section 1. Access to Books and Records.** All Members of the Corporation will have access to the books and records of the Corporation, including financial statements and budgets; however, the Board shall establish procedures by which a Member, upon written demand stating the purpose of the demand may examine and copy the books and records of the Corporation. If necessary to protect the confidential information of the Corporation, a Member requesting examination of any of the Corporation's non-public books and records ~~may~~ will be required to sign a confidentiality and non-disclosure agreement before viewing such information. The procedures shall include policies that provide reasonable protection against the unnecessary disclosure of information related to individual employees, including their compensation.

**Section 2. Audit.** At least annually, an audit of the financial statements of the Corporation shall be performed by the Auditor approved by the Board. The Auditor's opinion and the audited financial statements will be made available to all Members as described in Article XV, Section 1.

**Section 3. Fiscal Year.** The fiscal year of the Corporation shall be from January 1 through the following December 31, unless otherwise established by resolution of the Board.

## Vincent, Susan

---

**From:** kmfox@aep.com  
**Sent:** Tuesday, September 01, 2009 8:47 AM  
**To:** Texas Regional Entity Information  
**Cc:** rdrana@aep.com; Crowder, Calvin; jnhuerta@aep.com; tkness@aep.com; pbjohnson@aep.com; Ross, C. Richard  
**Subject:** Comments from AEP and ETT on TRE Bylaws  
**Attachments:** TexasRE\_Bylaws\_Draft\_with AEP comments\_31AUG2009.doc

Attached for TRE consideration are redline comments and additions (highlighted in blue) from AEP and ETT concerning the TRE Bylaws. AEP and ETT are members of the TexasRE and submit the following comments on the proposed Texas Regional Entity bylaws. The companies can summarize our comments as follows:

- AEP and ETT support TexasRE's effort to revise its bylaws to function as a legally separate corporation.
- AEP and ETT are supportive of the changes moving to a hybrid board. AEP and ETT believe that a hybrid Board comprised of independent Directors and elected representatives from the industry sectors is a better structure for the TexasRE board. The hybrid Board with stakeholders participation at the Board level will increase: 1) the Board's understanding of the complexities associated with the planning and operation of the Texas bulk electric system in decision making, 2) close interaction with the stakeholders that will strengthen the collaborative partnership between members and the Board, and 3) responsiveness of the members. Stakeholders representatives as part of the Board will bring valuable experience in planning and operating the Texas bulk electric system. Furthermore, this structure is consistent with other Regional Entities. The other six Reliability Entities (REs) under NERC, excluding TexasRE, have either a FERC-approved stakeholder or a hybrid Board. AEP and ETT also support industry participation in the appropriate committees, while taking steps to balance the voting rights of stakeholders with a good governance practice of ensuring that independent members have a high degree of influence.
- The Members Committee Sectors should have the opportunity to elect a sector alternate for the two sector members in the event a sector member cannot attend a meeting or the alternate can replace the sector member representative in the event that a sector member resigns or cannot complete their obligation as sector member representative. The sector alternate is a good training position; provides for more members to share representation for their sector; reduces risk in the event something happens to a sector representative.

AEP and ETT appreciate the opportunity to comment and look forward to further discussion on the structure of the TexasRE board.

Regards, Kip  
Kip Fox  
American Electric Power Company

214-777-1063 office  
8-777-1063 audinet  
972-400-1384 cell

The information contained within is intended for specific individual and specific purpose, and is protected by law. If you are not the intended recipient, you should delete this message.

## Vincent, Susan

---

**From:** Unruh, Julie L [Julie.L.Unruh@conocophillips.com]  
**Sent:** Tuesday, September 01, 2009 2:44 PM  
**To:** Texas Regional Entity Information  
**Subject:** proposed bylaws for Texas RE  
**Attachments:** TexasRE\_Bylaws\_Draft\_for\_Comments\_20AUG2009.doc

Article III, Section 2 (p. 4) contains a reference to "Article III, Section A" in the second line of that section. There does not appear to be a Section A in Article III.

---

**From:** Texas Regional Entity Information [mailto:information@texasre.org]  
**Sent:** Friday, August 21, 2009 8:54 AM  
**Subject:**

Ladies and Gentlemen:

Proposed Bylaws for a legally separate Texas RE are attached for your review and final comments. This document is also posted on the Texas RE website in the "[Under Review](#)" section. The redlines in this version of the Bylaws reflects the changes made (to the Bylaws that were sent out and posted on the Texas RE website in July) during the Texas RE Board of Directors meeting on Monday August 17<sup>th</sup>.

The primary changes made to the Bylaws at the Board meeting include:

1. The possible performance of Protocol compliance activities by Texas RE has been removed (from the general purpose and the budgeting sections);
2. Two Affiliated Directors (selected by the Member Representatives Committee) were added to make the Board hybrid, one independent director was removed, and the CEO is now a voting director (a Board quorum requires 3 Independents as well as a majority of the Directors); and
4. Sectors have been added for both Municipal and Cooperative Utilities, and the sectors have been removed for Distribution (since the coop sector covers these entities), Governmental, and the BPS owner, operator, or user sector (if only NERC compliance is performed only registered entities need to be members and vote) – giving a total of 6 sectors.

**Please send all comments or requested modifications to [information@texasre.org](mailto:information@texasre.org) by Wednesday, September 2<sup>nd</sup>.** Comments received by us will be included in the Board materials that will be posted and send out on Thursday, September 3<sup>rd</sup>. You must send written comments to [information@texasre.org](mailto:information@texasre.org) by September 2<sup>nd</sup> to have your comments or input considered at the September 14<sup>th</sup> Board meeting. **The Board intends to vote on the Bylaws at the September 14<sup>th</sup> Board meeting.**