

## Texas Regional Entity Advisory Committee Meeting

Room 206, 7620 Metro Center Drive, Austin, Texas

September 14, 2009 at 10:00 a.m.\*\*

Item	Topic	Presenter	Time**
1.	Call to Order	M. Gent	10:00 a.m.
2.	Approval of August 17, 2009 Minutes* (Vote)	M. Gent	10:05 a.m.
3.	Texas Regional Entity Administrative Update	L. Grimm	10:08 a.m.
4.	Finance & Audit Issues	M. Espinosa	10:15 a.m.
	A. Financial Report (Q&A)*	T. Brewer	10:15 a.m.
5.	Human Resources & Governance Issues	M. Armentrout	10:20 a.m.
	A. Recommend Bylaws for Legally Separate Texas RE* (Vote)	L. Grimm S. Vincent	10:10 a.m.
	B. Discuss Proposed Separation Plan*	L. Grimm S. Vincent	10:35 a.m.
6.	Other Business	M. Gent	11:00 a.m.
7.	Future Agenda Items*	M. Gent	11:05 a.m.
<b>Convene Executive Session</b>			
8.	Executive Session	M. Gent	11:10 a.m.
	A. Approval of July 20, 2009 Minutes * (Vote)	M. Gent	11:12 a.m.
	B. Discussion of Privileged, Contract, Governance, Ethics, Personnel, Compliance, or Legal Matters*	M. Gent	11:15 a.m.
<b>Reconvene Open Session (if needed)</b>			
9.	Vote on Matters from Executive Session, if applicable (Vote)	M. Gent	11:20 a.m.
<b>Adjourn Committee Meeting</b>		M. Gent	11:25 a.m.

\* Background material enclosed or will be distributed prior to or at meeting.

\*\* All times shown in the Agenda are approximate.

The next Texas RE Advisory Committee Meeting will be held on October 19, 2009.

**DRAFT MINUTES OF THE**

**TEXAS REGIONAL ENTITY ADVISORY COMMITTEE**

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

August 17, 2009

**Committee Members**

Michehl R. Gent, Chair		Unaffiliated
A.D. Patton, Vice Chair		Unaffiliated
Donna L. Nelson	Commissioner, Public Utility Commission of Texas	
Mark Armentrout		Unaffiliated
Jan Newton		Unaffiliated
Miguel Espinosa		Unaffiliated

**Other Directors and Segment Alternates**

Steve Bartley	CPS Energy	Municipal
Calvin Crowder	Electric Transmission Texas	Investor-Owned Utilities
Deryl Brown	Hudson Energy	Retail Electric Provider

**Other Attendees**

Larry Grimm, Texas RE CEO and CCO  
 Susan Vincent, Texas RE Director, Legal Affairs  
 Victor Barry, Texas RE Director, Compliance  
 Elaine Conces, Texas RE IT Manager (via telephone)  
 Jeff Whitmer, Texas RE Manager Compliance Enforcement  
 Derrick Davis, Texas RE Corporate Counsel  
 Judith James, Texas RE Standards Manager  
 Betty Sachnick, Texas RE Executive Assistant  
 Todd Brewer, Texas RE Senior Financial Analyst  
 Nancy Capezzuti, ERCOT ISO VP and CAO  
 Chuck Manning, ERCOT ISO  
 Deann Walker, CenterPoint Energy  
 Jennifer Windler, LCRA  
 Tom Burke, Luminant  
 Joel Firestone, Direct Energy  
 Les Barrow, CPS Energy  
 Wendell Bell, TPPA  
 Shannon K. McClendon, TAC Vice Chair  
 Kenan Ogelman, CPS Energy  
 Bridget Headrick, Public Utility Commission of Texas  
 Manji Philis, PSEG

**Call to Order**

Chair Michehl Gent called the open session of the Texas Regional Entity (“Texas RE”) Advisory Committee (“Committee”) meeting to order at approximately 8:01 a.m.

### **Approval of Previous Minutes**

Jan Newton made a motion to approve the minutes of the July 20, 2009 Committee meeting with the addition of the phrase “by email vote” after the word “fail” in the second line of page 3 of the draft minutes; Mark Armentrout seconded the motion. The motion passed by unanimous voice vote.

### **Texas RE Administrative Update**

CEO Larry Grimm informed the Committee that the NERC Board of Trustees approved Texas RE’s 2010 Business Plan & Budget on August 5, 2009, but because NERC has determined (after comments by industry stakeholders and some regional entities) that the regional entities must process Technical Feasibility Exceptions (TFEs), the regional entities are revising their approved business plans and budgets to include funding for processing the TFEs.

Mr. Grimm told the Committee that the Delegation Agreements with NERC would expire in May 2010; so, NERC and the regional entities are in the early stages of revising the Delegation Agreements based on things learned over the last three years and industry feedback received regarding the 3-year ERO Assessment. He explained that NERC and the regional entities would probably ask FERC to extend the current Delegation Agreements through 2010 to allow time to work through revisions for the new agreements.

Mr. Grimm provided an update on the status of PRR 822 (Removing Access to Restricted Computer Systems, Control Systems and Facilities), and informed the Committee that the Protocol Revision Subcommittee (PRS) urgency vote passed, PRS remanded the PRR to the Reliability and Operations Subcommittee (ROS), and ROS had sent the PRR to the Critical Infrastructure Protection Working Group.

In response to a question by Chair Gent asking if the urgent status of PRR 822 had affected the review process, the Committee discussed whether or not the urgent status had helped to expedite the PRR.

Mr. Grimm informed the Board that FERC would be visiting Texas RE during the last week of August to perform the final field work and the stated purpose of the meeting was to tie up a few loose ends so that the auditors to prepare the audit report. Mr. Grimm reminded the Board that Texas RE was included in the special Sunset review of ERCOT, and the Texas RE self-evaluation was due to ERCOT by the end of August. Mr. Grimm said that this was expected to take significant staff time. In reply to Chair Gent’s question about the other costs associated with the Sunset review, Susan Vincent confirmed that Texas RE expected to only incur approximately \$20,000 in expenses (primarily for outside counsel), because ERCOT had agreed to incorporate the Texas RE information into its response.

In response to questions by Chair Gent about the recently launched Texas RE website, Elaine Conces explained that previous recommendations made had been implemented. Ms. Conces also informed the Committee that usage of the website was up and that she could provide the Committee with some metrics after the meeting.

### **Financial Report (Q&A)**

Todd Brewer responded to questions by the Committee regarding the July Financial Report. In response to a question by Chair Gent, Mr. Brewer confirmed that the reports showed that the actual labor hours worked were higher than the standard labor hours (reflecting time equal to

33-34 employees working a 40 hour workweek even though Texas RE had only 31 employees), but Mr. Brewer explained that the additional hours worked were by exempt (salaried) employees, so no overtime was charged for these hours. In response to Ms. Newton's question about revenue indicating a red arrow and the title of the heading on page 4 of the Financial Report, Mr. Brewer acknowledged that changes were needed for the title to read Operating Summary and to reflect that non-statutory revenue was less due to the lower than budgeted non-statutory expenses.

### **Recommendation of 2010 Supplemental Budget for TFEs**

Mr. Grimm discussed the new requirement by NERC that the regional entities, including Texas RE, evaluate all TFEs that are submitted in the ERCOT region. He reminded the Committee that the approved Texas RE 2010 Business Plan and Budget was based upon the assumption that NERC, and not regional entities, would review and evaluate all TFEs. He explained that a TFE was a procedure by which a responsible entity to which the NERC CIP Standards apply may request and receive approval for an exception from the terms of certain requirements of the CIP Standards on the grounds of technical feasibility or technical limitations.

Mr. Grimm informed the Committee that the required evaluation of TFEs by Texas RE would take significant effort and resources, and Texas RE estimated that it would need four (4) additional full time equivalents to perform the TFE evaluations. Mr. Grimm explained the method by which Texas RE had arrived at its estimated cost for TFEs, including: (1) the current guidance by NERC regarding the required evaluation process, (2) the number of ERCOT region registered entities declaring critical cyber assets, and (3) the average amount of time estimated to review, process, and evaluate a TFE. Mr. Grimm requested that the Advisory Committee recommend that the Board approve the 2010 Texas RE TFE Supplemental Budget. The Committee discussed the proposed supplemental budget. The Committee expressed concern that the cost of NERC performing the TFE evaluation nationally would be significantly less than the cost of the regional entities performing this review regionally. In response to Chair Gent's question about Mr. Grimm's opinion on the matter of who should conduct TFEs, Mr. Grimm stated he was comfortable with NERC conducting the TFEs with regional entities in a supporting role, but it was likely too late to re-open the discussion, because the regional entities are expected to begin receiving and reviewing the TFEs in the next few weeks.

The Committee discussed and asked Mr. Grimm questions regarding Texas RE's assumptions and estimates for the additional four employees to process and evaluate the anticipated TFEs. Mr. Armentrout and Chair Gent suggested that the Committee recommend approving approximately half of the requested additional budget amount, particularly since Texas RE had reserves that could be used if it needed time to file a supplemental budget. Mr. Grimm acknowledged that the reduced amount might be sufficient, given the many assumptions and unknowns required to make the budget estimate, and it would be sufficient to provide a good start for the TFE evaluation process. Mr. Grimm committed to report back to the Board regarding the need for any additional funds for the TFE program, if necessary. Chair Gent questioned whether Texas RE could charge a fee to offset the cost of the TFE evaluations. The Committee members discussed that if there were not such a fee, companies not seeking TFEs could be burdened by the expense required for a TFE evaluation. Ms. Vincent said that she believed that any fees would need to be approved by NERC and listed in the Budget and Business Plan for approval by FERC. Chair Gent asked Ms. Vincent and Mr. Grimm to check with NERC about possibly collecting a fee for such items as TFE evaluations.

After due consideration, the Committee members determined that the Committee should recommend that Texas RE increase its previously approved 2010 budget by only \$400,000 for the TFE evaluations, given the uncertainty with the amount of work that would be required. The Committee confirmed that this \$400,000 increase was for additional resources and did not include a contingency reserve.

**Jan Newton made a motion to recommend to the Board that the previously approved 2010 Business Plan and Budget be increased by the amount of \$400,000 for the processing and evaluation of TFEs and (b) request that Texas RE staff have a conversation with NERC about allowing regional entities to charge registered entities who requested a TFE a fee for the TFE evaluation process; Mark Armentrout seconded the motion. The motion passed by unanimous voice vote.**

### **Human Resources & Governance Issues**

#### **Review Draft Bylaws for Separation and Comments**

Mr. Armentrout opened the discussion about the draft bylaws and stakeholder comments. The Committee discussed whether the number of independent directors should be reduced from five, but acknowledged that having only three could cause difficulties with obtaining a quorum if one director was ever absent. Mr. Armentrout said he recommended that the Texas RE CEO be a voting member. The other Committee members voiced agreement with this addition to the bylaws. Mr. Armentrout suggested that with this addition, perhaps the number of independent directors could be reduced, to save expense, and the other members voiced approval.

The Committee discussed whether the Public Counsel from the Office of Public Utility Counsel (OPUC) should be included as a non-voting director or as a voting member in the Governmental Sector. Mr. Armentrout took note of the comment (on page 61 of the Bylaws section of the materials, as submitted by Texas Competitive Power Advocacy) requesting that OPUC be removed from the Board. Dr. Patton stated that he believed that given the mission of OPUC and the mission of Texas RE, he thought that OPUC should not be on the Texas RE Board. Ms. Vincent said that they could confirm OPUC's position directly with Don Ballard during the Board meeting, but she understood from telephone conversations with Mr. Ballard and the PUCT that both would agree to have OPUC either have a vote on the Member Representatives Committee (MRC) or be a non-voting position on the Board. The Committee indicated that if the Public Counsel was satisfied with voting as a member, governmental membership might best address the OPUC concerns. Shannon McClendon stated she was speaking on behalf of Don Ballard who was not present and said that Public Counsel should not be a voting member, because he was on the ERCOT Board, but he would like to be a non-voting *ex officio* Director on the Board.

### **Protocol & Operating Guide Compliance Activities and Membership Sectors**

The Committee determined that the subject of Protocol compliance and appropriate membership Sectors should be discussed at the Board meeting.

## **Independent or Hybrid Directors**

Dr. Patton and Chair Gent stated that they believed that a hybrid board was more appropriate than an independent board, because stakeholder representatives would provide the Board with better technical expertise. After extended discussion about the best way to accomplish stakeholder input, Chair Gent responded that the elected chair and vice-chair of the MRC could be on the Board as the stakeholder representatives. In response to a question by Ms. Newton, Mr. Grimm relayed to the Committee that he had spoken with the CEO of ReliabilityFirst (RFC), which was a regional entity with a hybrid board that included three independent directors. Mr. Grimm said that Mr. Gallagher was very positive and recommended hybrid boards. Mr. Grimm noted that with the hybrid board a compliance committee would probably be required, and Mr. Espinosa said that the quorum should require a majority of independents. Calvin Crowder stated that steps would need to be taken to ensure independents lead, but stakeholders on the board would bring value with their expertise and knowledge. Mr. Crowder recommended the hybrid board.

Chair Gent's proposed recommendation to the Texas RE Board for a straw vote on proposed bylaws for a legally separate Texas RE:

- CEO a voting member
- OPUC as a voting member of the Government sector but not a director on the board (subject to confirming with Mr. Ballard)
- Four independent directors and independent director must be board chair
- Two stakeholders (chair and vice-chair of MRC)
- Proxies to other directors allowed but no alternates (except for *ex officio*)
- Quorum must include a majority of independent directors
- Engagement of search firms for independent directors optional
- No member of Texas RE Board can be on ERCOT Board also (except *ex officio*)

The Committee determined that it would take a straw vote on the proposal to the Board. Jan Newton made a motion to approve by a straw vote Michehl Gent's proposed recommendation to the Texas RE Board; A.D. Patton seconded the motion. The straw vote motion passed by unanimous voice vote. The Committee generally discussed a membership sector of municipal and cooperative utilities, but determined that this should be discussed at the Board meeting. The Committee discussed details of the independence requirements in the bylaws and the requirements for the nominating committee.

## **Bylaws Next Steps**

Mr. Armentrout requested that Texas RE staff prepare a document outlining the "next steps" toward legal separation of Texas RE for a meeting in September. Ms. Newton confirmed that Texas RE Board would also hold a September Board meeting on the 14<sup>th</sup> to allow Texas RE Board to vote on the bylaws. In response to questions by the Committee, Ms. Vincent confirmed that Texas RE will send out revised draft of bylaws (including comments from the Advisory Committee and Board meetings) to all registered entities and market participants to send final comments before the September meetings. Ms. Newton requested that this all be discussed at the upcoming Texas RE Board meeting.



**Other Business**

Mr. Armentrout recommended that ERCOT CEO begin work on non-statutory compliance monitoring planning.

**Future Agenda Items**

Ms. Newton asked staff to correct Item 9 to read "Discuss Texas RE Management Succession Planning".

**Adjournment**

Chair Gent adjourned the open session of the Texas RE Advisory Committee at approximately 9:21 a.m.



**TEXAS  
REGIONAL  
ENTITY™**

*An Independent Division of ERCOT*

# Texas Regional Entity Financial Report

Advisory Committee  
September 14, 2009



# August 2009 Financial Report

- **Submitted Texas RE's 2010 Business Plan & Budget Draft 4.0 to NERC who filed it with FERC (\$400K allotted for TFE evaluations)**
- **Based on preliminary data, revenue and expenses for August will be as planned**
- **Will have a complete August Summary of Revenue and Expenses for the October Advisory Committee meeting**

Proposed Separation Plan [September 4, 2009]

Topic	Issue	Details	Tentative	Complete
<b>Initial Governance Decisions</b>				
	Legal separation from ERCOT	Texas RE Board decision	6/15/09	
	Board Composition	<ul style="list-style-type: none"> <li>• 4 independent directors &amp; Texas RE CEO</li> <li>• PUCT Chair and OPUC Public Counsel (ex officio non-voting)</li> <li>• 2 Affiliated (MRC chair &amp; vice chair)</li> </ul>	8/17/09	
	Membership Sectors	<ul style="list-style-type: none"> <li>• Transmission</li> <li>• Generation</li> <li>• System Coordination</li> <li>• LSE/PSE</li> <li>• Municipal Utility</li> <li>• Cooperative Utility</li> </ul>	8/17/09	
	Corporate name & Non-profit status	Texas Regional Entity 501(c)(3)	11/1/2009	
<b>Prepare for governance and legal changes</b>				
	Bylaws	Draft and obtain comments on 1st draft	7/20/09 to 8/17/09	
		Review comments on revised 2nd draft	8/20/09 to 9/14/09	
		Board Vote on bylaws draft (for submission to FERC as pre-filing)	9/14/2009	
		Confirm membership acceptance	November 2009	
	Delegation Agreement	Prepare delegation agreement modifications, per new bylaws – send out for comments	9/24/09	
	Obtain input from regulators	<ul style="list-style-type: none"> <li>• PUCT (Executive Director, Chairman, Legal counsel)</li> </ul>	On-going	
		<ul style="list-style-type: none"> <li>• NERC (CEO, General Counsel)</li> </ul>	On-going	
		<ul style="list-style-type: none"> <li>• FERC (OER, OE, GC, and Chairman)</li> </ul>	6/10/2009	October Pre-filing
	Find Directors	<ul style="list-style-type: none"> <li>• Retain search firm</li> </ul>	November 2009	
<b>Prepare for Separate Operations</b>				
	Texas RE policies and procedures	Develop and adopt any needed additions	On-going	
	Protocol Compliance	Transition Protocol compliance files and activities with PUCT	November	
	ERCOT equipment and administrative services	Transition <ul style="list-style-type: none"> <li>• Human Resources and Benefits</li> <li>• Membership services</li> <li>• Finance (accounting, treasury, etc.)</li> <li>• Information Technology</li> </ul>	Planning on-going	
	Transition contracts and other services	Transition contracts, equipment, software, etc.	December 2009	

**Texas Regional Entity  
Advisory Committee  
Future Agenda Items - September 2009**

<b>Item</b>		<b>Meeting</b>
1.	Discuss Proposed Delegation Agreement Modifications	October and November 2009
2.	Discuss Proposed Bylaws Modifications, if needed	October and November 2009
3.	Review Texas RE Employee Ethics Agreements	October 2009
4.	Review and Consider Modifications to the Advisory Committee Charter	October 2009
5.	Review and Recommend 2010 Goals & Objectives	November 2009
6.	Review Texas RE Strategic Plan & long-term goals	November 2009
7.	Discuss Texas RE Management Succession Planning	November 2009
8.	Recommend an Independent Auditor for the TRE Annual Financial Audit	November 2009
9.	Distribute Committee Self-Evaluation Survey	November 2009
10.	Elect Committee Chair	January 2010
11.	Distribute and Discuss Committee Self-Evaluation Results	January 2010
12.	Consider Board Training Needs	January 2009
13.	Evaluate CEO/CCO performance against goals	February 2010
14.	Review and approve CEO/CCO Compensation Plan	February 2010