



## MEMORANDUM

To: Members, Human Resources and Governance Committee  
From: Mike Grable, General Counsel  
Date: 8 September 2009  
Re: Synopsis of Proposed Bylaw Revisions

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Per your request, the following are the explanations available to ERCOT Staff regarding the purpose of the various Bylaws revisions that have been proposed to date.

The following proposed edits are unchanged from August:

Article 2, Paragraph 3. Nick Fehrenbach proposed these edits based on his experience representing a Member of the Commercial Consumer Segment and as a Director.

Article 4, Section 4.3(b)(2)(ii). Nick Fehrenbach proposed these edits based on his view that "Market Participant" includes any entity that qualifies for ERCOT members, and all businesses located in the ERCOT service area qualify for membership, then the present Bylaws disqualify anyone who has worked in the ERCOT region during the past two years.<sup>1</sup>

Article 5, Section 5.1(g).<sup>2</sup> Jan Newton proposed this edit based on her experience as an Unaffiliated Director and as Board Chairman.

Article 5, Section 5.4. Kent Saathoff proposed this edit to reflect the evolution of NERC Committee appointments, which should be made through TAC for those committees that are appointed according to NERC regions. TAC's role in electing representatives is not governed by whether or not NERC "requests" TAC involvement.

Article 10, Section 10.1(b). Nick Fehrenbach proposed this edit to add a reimbursement policy for Unaffiliated and Consumer Directors' travel costs in attending Board meetings. He has expressed concern that potential Consumer Director candidates may be dissuaded from seeking to join the Board due to the financial commitment that is currently required.

Meanwhile, the following proposed edits have been revised since August:

Various Edits to Articles 2, 3, 4, 5 and 14. These edits surrounding the voting requirements for the Corporate Members, for the Board, and for TAC are generally unchanged from August. The changes have been: (1) to group together all-purpose definitions around terms like "Eligible Voting Director," at Andrew Dalton's suggestion; and (2) to change the minimum absolute voting number required to be 50% of the Board, at Mark Armentrout's suggestion. As you already know, I proposed this group of edits for three reasons: (1) to clarify language that is currently susceptible to multiple interpretations

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<sup>1</sup> Mr. Fehrenbach recognizes that ERCOT Legal has a different view on what the word "qualifies" must mean.

<sup>2</sup> Reference is to the section as modified; the section is 5.1(e) under the existing Bylaws.

regarding how many affirmative votes are required for the Board to approve an action (the most problematic current phrase is “eligible voting Director,” which could mean a Director who is actually voting on that issue either in person or by proxy, or could also mean a Director other than the non-voting Chair of the Public Utility Commission; (2) to end a discrepancy between the minimum number of votes required when an abstention is registered versus the minimum number of votes required when there are no abstentions; and (3) to move language governing quorum and proxy rules for meetings of the Corporate Members, the Board, Board Committees, TAC and TAC subcommittees out of Article 14 (Miscellaneous Provisions) and into the various Articles that explicitly govern such meetings. It is not reasonable to group such provisions into the rules of construction at the end of the bylaws, rather than in the existing sections that govern each type of meeting.

Finally, the following are newly proposed edits:

Article 3, Section 3.7(c). I am proposing this edit because of the expense and burden of preparing hard-copy notice to the Members, when email seems to be an acceptable manner of giving notice.

Article 4, Section 4.3(f) (new). I am proposing this edit because of the need to strictly control Director and Segment Alternate participation in the stakeholder process so that no one inadvertently triggers a broadcast requirement in light of the recent revisions to the Public Utility Regulatory Act that require broadcast of any subcommittee of the Board on which a Director sits as a member.

Article 10, Section 10.1(c). Mark Dreyfus proposed this edit to remove an outdated reference to the TNT group.