

## Board of Directors Meeting

Room 206, 7620 Metro Center Drive, Austin, Texas

December 14, 2009 at 3:30 p.m.\*\*

Item	Topic	Presenter	Time**
1.	Call to Order	J. Newton	1:30 p.m.
2.	Approval of October 19, 2009 Minutes* (Vote)	J. Newton	1:35 p.m.
3.	CEO Report	L. Grimm	2:00 p.m.
4.	Operating Reports		2:05 p.m.
	A. Compliance Report* (Q&A)	V. Barry	
	B. Violation Tracking Report* (Q&A)	V. Barry	
	C. Standards Report* (Q&A)	S. Hensley	
5.	Texas RE Advisory Committee Report	M. Gent	2:10 p.m.
	A. Financial Report (Q&A)*	T. Brewer	2:15 p.m.
	B. Approve appointment of an independent financial auditor* (Vote)	M. Gent	
	C. Approve revised Bylaws and amended Delegation Agreement for new Texas RE Corporation. * (Vote)	M. Gent	
	D. Approve Amended 2010 Business Plan and Budgeting (including separation costs)* (Vote)	M. Gent	
	E. Discuss Separation Plan*	M. Gent	
6.	Other Business	J. Newton	
7.	Future Agenda Items*	J. Newton	2:30 p.m.
	<b>Convene Executive Session</b>		2:30 p.m.
8.	Executive Session	J. Newton	2:35 p.m.
	A. Approval of October 19, 2009 Minutes* (Vote)	J. Newton	2:40 p.m.
	B. Discussion of Privileged, Contract, Governance, Ethics, Personnel, Compliance, or Legal Matters*	J. Newton	2:45 p.m.
	<b>Reconvene Open Session (if needed)</b>		
9.	Vote on Matters from Executive Session, if applicable (Vote)	J. Newton	2:55 p.m.
	<b>Adjourn Board Meeting</b>	J. Newton	3:00 p.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 Board Meeting will be held on January 18, 2010

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

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

October 19, 2009

**Directors**

Jan Newton, Chair		Unaffiliated
Michehl Gent, Vice Chair		Unaffiliated
Barry T. Smitherman	Chairman, Public Utility Commission of Texas (PUC)	
Mark Armentrout		Unaffiliated
Laurie Barker <sup>1</sup>	Office of Public Utility Counsel (OPUC)	Residential Small Consumer
Andrew Dalton	Valero	Industrial Consumer
Miguel Espinosa		Unaffiliated
Nick Fehrenbach	City of Dallas	Commercial Consumer
Bob Helton	International Power America	Independent Generator
Charles Jenkins	Oncor Electric Delivery	Investor-Owned Utilities
Bob Kahn	ERCOT	
Clifton Karnei	Brazos Electric Cooperative	Cooperative
A.D. Patton		Unaffiliated
Jean Ryall	Constellation Energy	Independent Power Marketer
Dan Wilkerson	Bryan Texas Utilities	Municipal

**Segment Alternates**

Steve Bartley	CPS Energy	Municipal
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**Other Attendees (Attending in person)**

Larry Grimm, Texas RE CEO & CCO  
 Susan Vincent, Texas RE Director, Legal Affairs  
 Derrick Davis, Texas RE Corporate Counsel  
 Jeff Whitmer, Texas RE Manager, Compliance Enforcement (via telephone)  
 Elaine Conces, Texas RE Manager, Information Technology (via telephone)  
 Betty Sachnik, Texas RE Executive Assistant  
 Sarah Hensley, Texas RE Standards Coordinator  
 Jennifer Taylor, Texas RE Paralegal  
 Judith James, Texas RE Manager, Reliability Standards  
 Eric Goff, Reliant Energy  
 Mark Bruce, MJB Energy Consulting  
 Jennifer Windler, LCRA  
 Kip Fox, AEP  
 Wendell Bell, TPPA

<sup>1</sup> Don Ballard designated Laurie Barker as his Alternative Representative for this meeting.

DeAnn Walker, Centerpoint Energy  
Adrienne Brandt, Austin Energy  
Henry Durrwachtor, Luminant  
Kenan Ogelman, CPS Energy  
Lea Anne Porter, ERCOT ISO  
Kenan Ogelman, CPS Energy  
Note: Other attendees attended by publicly available conference call

### **Call to Order**

Pursuant to notice duly given, the meeting of the Texas Regional Entity (Texas RE) Board of Directors (Board) convened on October 19, 2009. Chair Jan Newton ascertained that a quorum was present, reviewed the Antitrust Admonition with the Directors, and called the meeting to order at approximately 3:38 p.m.

### **Approval of Previous Minutes**

**Miguel Espinosa made a motion to approve the minutes of the September 14, 2009 Board meeting; Bob Helton seconded the motion. Mr. Espinosa and Mr. Helton agreed to a friendly amendment by Charles Jenkins to revise these minutes to correct his company's name to Oncor Electric Delivery. The motion passed by unanimous voice vote.**

### **CEO Report**

CEO Larry Grimm provided the Board with a brief information technology update and discussed the Texas RE website statistics which are located behind tab 3 in the Advisory Committee materials. Michehl Gent commented on the importance of the website and the Texas RE Compliance Portal. Mr. Grimm also informed the Board that registered entities subject to the North American Electric Reliability Corporation (NERC) critical infrastructure protection (CIP) Standards can now submit Technical Feasibility Exceptions (TFEs) applicable to 12 CIP Standard Requirements and that the TFE request form is currently available on the portal. Mr. Grimm noted that registered entities in Tables 1, 2, and 3 of the CIP Implementation Plan have until January 31, 2010 to submit TFE requests. In response to Mr. Gent's question about whether Texas RE had received any TFE requests, Mr. Grimm responded that none had been filed but it had only been a week since the process had been implemented. Mr. Grimm discussed two recent Federal Energy Regulatory Commission (FERC) actions at its October 15<sup>th</sup> meeting, including (1) FERC's approval of Texas RE's 2010 Business Plan & Budget, (requiring two minor clarifications that Texas RE is working with NERC to re-file within 60 days); and (2) FERC's approval of the Army Corps of Engineers Notice of Penalty, which confirmed FERC's jurisdiction to enforce reliability standards against federal entities that are users, owners or operators of the bulk power system. Mr. Grimm noted that FERC did not rule on whether or not penalties could be assessed against federal governmental entities. Mr. Gent discussed the ruling with Mr. Grimm. In response to Mr. Gent's question about the number of unresolved violations in the ERCOT region, Mr. Grimm responded he was not certain of the number, but stated he could obtain the information from the Violation Tracking Report in the materials.

A.D. Patton commented that the September minutes included Andrew Dalton's motion regarding a partial delegation, but he had not seen any action on the motion. Susan Vincent responded that there was a handout on the alternative proposal available to the Board, which was not included in the materials. Mr. Dalton explained that he had received the document, but had

been busy and not able to respond to Texas RE staff before the meeting, but he did not believe it would have changed Texas RE staff's recommendation to the Board.

### **Operating Reports**

Chair Newton asked if any Directors had questions about the Compliance, Violation Tracking, or Standards reports, but received no questions.

### **Texas RE Advisory Committee Report**

Mr. Gent provided the Board with an overview of the Advisory Committee meeting. He discussed the extension of the Delegation Agreement and the need to change the effective date.

**Michehl Gent made a motion to modify the effective date of the current Delegation Agreement with NERC to May 2, 2007 and to extend the Delegation Agreement with NERC to May 2, 2011. Miguel Espinosa seconded the motion. The motion passed by unanimous voice vote.**

Mr. Gent summarized the bylaws to the Board and recommended that the Board approve the bylaws as amended. Mr. Gent explained that the Advisory Committee's recommended amendment to the bylaws proposed by Texas RE staff would permit an independent director to be affiliated with (own stock or be employed by) any registered entity that was not a registered entity or market participant in the ERCOT region.

**Michehl Gent made a motion to approve the bylaws as amended. A.D. Patton seconded the motion. Motion failed, with Andrew Dalton, Laurie Barker, Charles Jenkins, Nick Fehrenbach, and Jan Newton voting against.**

**Laurie Barker made a motion to approve the bylaws with an amendment to include a sector for non-registered in addition to the current sectors. Mark Armentrout seconded the motion.**

Mr. Dalton suggested that a registered entity should have the right to forgo its applicable registered entity segment and choose to opt into a consumer group segment. Bob Helton disagreed and questioned why a registered entity would consider itself more adequately represented by a consumer segment than by the segment for which it was registered. The Board discussed the proposed amendment. **Mark Armentrout withdrew his second for Ms. Barker's motion.**

Charles Jenkins explained that the reason why he voted against the previous motion to approve the bylaws was because of Dr. Patton's amendment. He questioned the reasoning for allowing a director from a registered entity outside of the ERCOT region to be considered an independent director. Mr. Jenkins commented that Dr. Patton's amendment may circumvent the Board's September decision to have four independent directors by casting some doubt on their independence. Dr. Patton stated that his intent was to make it easier for Texas RE to get qualified independent directors.

**Mark Armentrout made a motion to approve the bylaws as they were presented in the materials without A.D. Patton's amendment. Clifton Karnei seconded the motion. Mark Armentrout, Miguel Espinosa, Michehl Gent, Bob Helton, Charles Jenkins, Clifton Karnei, Jean Ryall, Jan Newton, and Dan Wilkerson voted in favor. Nick Fehrenbach, Andrew Dalton, Laurie Barker opposed. A.D. Patton abstained.**

Mr. Dalton stated he wanted to expand on why he voted against the motion, explaining it was because he is not convinced separation is appropriate or necessary, and the changes to the bylaws seem to be more about facilitating enforcement actions and not promoting reliability.

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

Mr. Gent generally discussed the Texas RE's financial statements with the Board indicating that there is one new employee (Paralegal), finances are in good shape, and revenues are ahead of expenses by a substantial amount, primarily because the office rent was less than budgeted, a personnel vacancy and less than expected legal expenses.

### **Separation Plan**

Mr. Gent discussed the Separation Plan with the Board explaining that it shows the progression, the dates and processes involved with the separation.

### **Other Business**

The Board discussed future board meetings. In response to Chair Newton's query if the next Board meeting should be held in February, Ms. Vincent responded that the Board had to approve the independent financial auditors prior to February. Chair Newton stated that there would not be a November Board meeting and that the next Board meeting would be held in December with a limited agenda. Chair Newton requested that for planning purposes the 2010 Board Schedule be sent out to Directors. Mr. Dalton requested that an exception be made so that the December Board meeting occurs the same day as the ERCOT ISO board meeting. Chair Newton explained that the concurrent meeting day would be reviewed by Texas RE staff. In response to Barry Smitherman's question about the need for an Advisory Committee meeting in November, Mr. Gent responded that if there were no compliance issues there was no need for an Advisory Committee meeting in November.

### **Adjournment**

Chair Newton adjourned the Texas RE Board of Directors meeting at approximately 4:10 p.m.

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Susan Vincent  
Corporate Secretary

# Texas Regional Entity Compliance Report

Board of Directors  
December 14, 2009

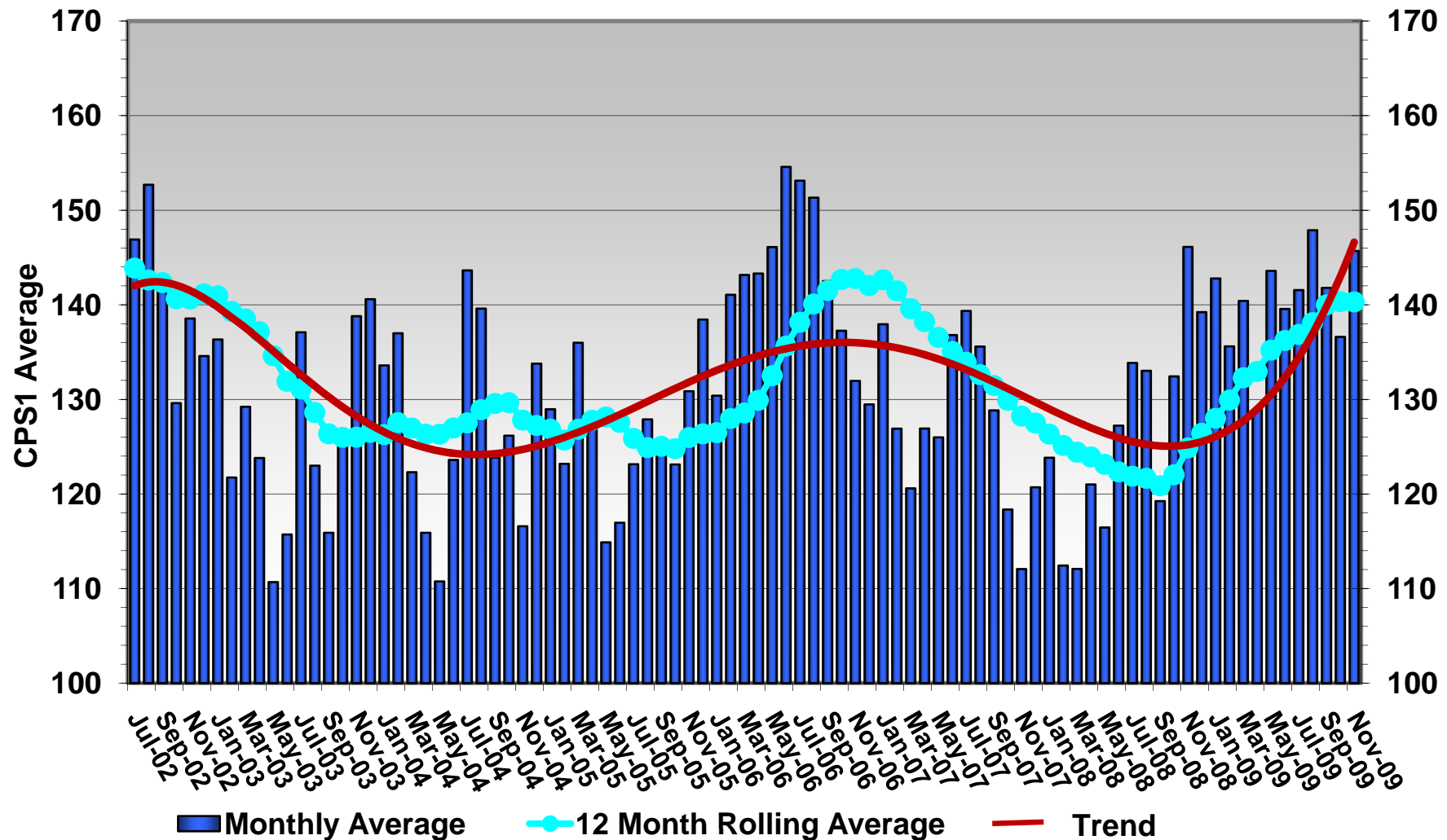
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## Overview

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- **November 2009 ERCOT CPS1 Monthly Performance**
- **November 2009 ERCOT SCPS2 Monthly Performance**
- **October 2009 Resource Plan Performance Metrics for Non-Wind and Wind Only QSEs**
- **Texas RE Stakeholder Outreach**
- **NERC Compliance Update**
- **Audits Highlight**

# November 2009 ERCOT's CPS1 Monthly Performance



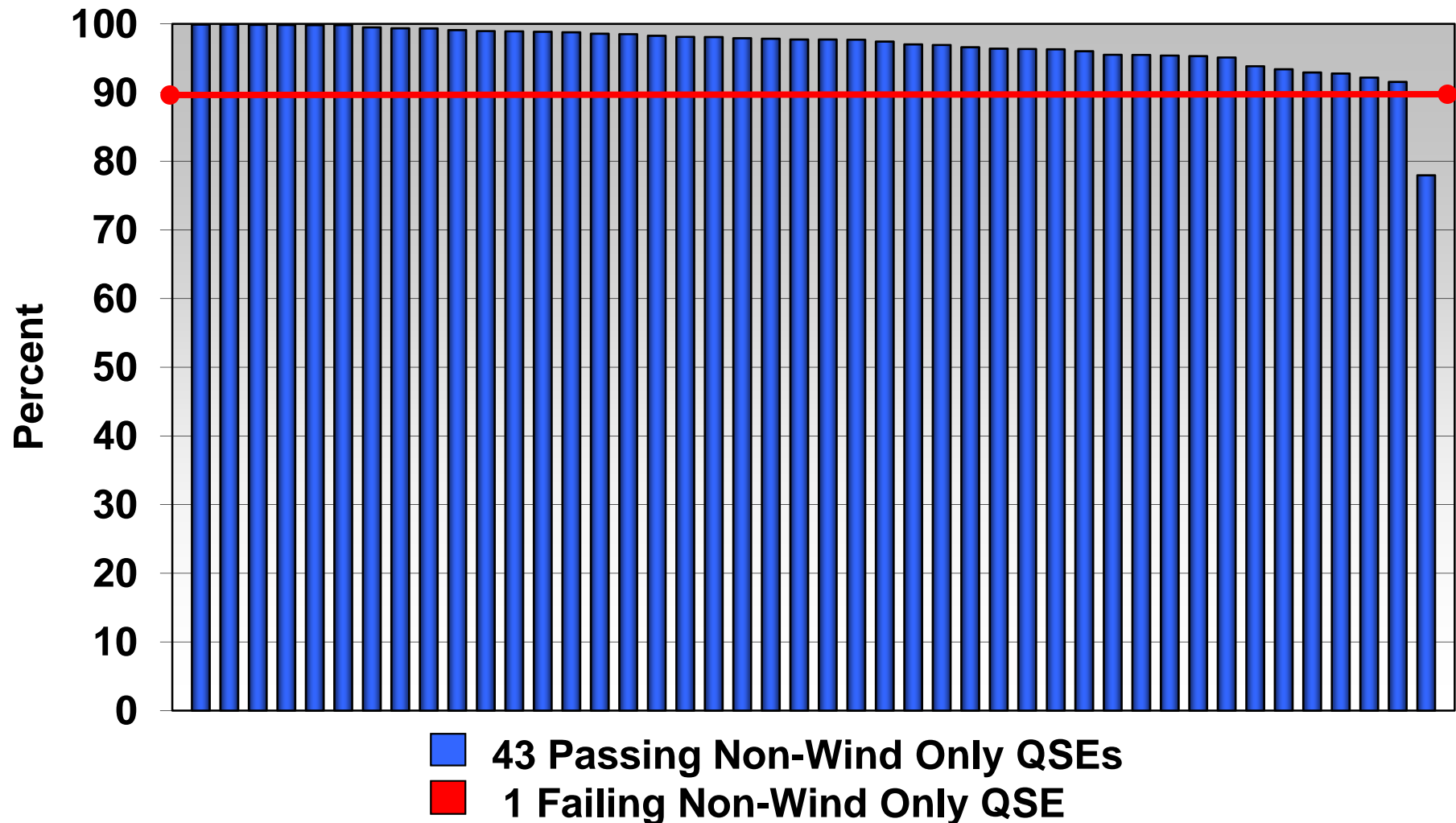


# Analysis of CPS1 Monthly Performance

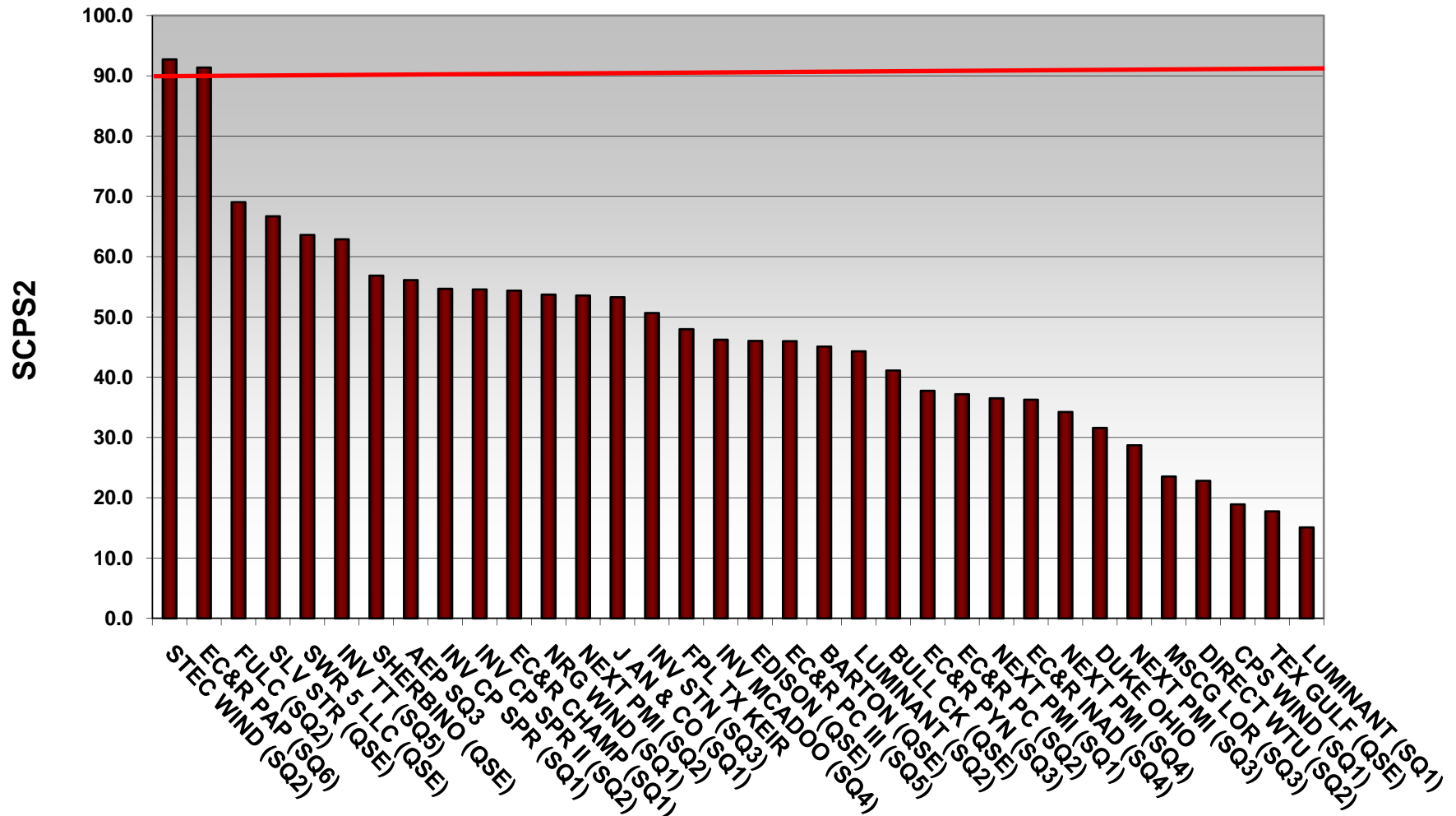
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- **Purpose:** To maintain Interconnection steady-state frequency within defined limits by balancing real power demand and supply in real-time
- **CPS1 is one reliability measure of how well the ERCOT region managed the BPS**
- **ERCOT region's frequency performance is determined by NERC Control Performance Standard 1 (CPS1)**
- **Seasonal fluctuation is expected**
- **Scores for individual months can be adversely affected by events (such as hurricanes)**
- **A detailed formula can be found in NERC Reliability Standard BAL-001-0a**

## November 2009 SCPS2 Scores: Non-Wind Only QSEs



# November 2009 SCPS2 Scores: Wind Only QSEs




# October 2009 Resource Plan Performance Metrics for Non-Wind Only QSEs

ID	DK	DE	AP	BY	BC	AY	AM	AR	KB	BR	DF	CI	AD	BJ	KE	KF	CF	ET	DA	DP	KD	IP
Resource Status	100	100	100	100	100	99	99	100	100	100	100	100	100	94	100	100	100	99	99	98	100	100
LSL HSL Percent	99	100	-	100	99	100	100	99	98	98	100	94	95	100	100	98	100	100	97	100	100	100
DA Zonal Schedule	100	100	98	99	100	99	99	100	100	99	100	99	97	98	99	98	100	90	98	99	100	100
AP Adj. Score	100	100	98	99	100	99	99	100	100	99	100	99	97	98	99	98	100	90	98	99	100	100
Down Bid Score	99	95	96	92	100	99	95	100	99	98	100	96	97	97	100	90	98	100	91	90	97	100
Up AS Sch. Obligation	-	100	98	96	100	99	96	100	98	100	100	-	-	-	97	100	100	100	96	100	97	-

ID	BG	CQ	JV	JU	KM	CX	KG	FK	HW	JD	KC	KA	JZ	IN	IZ	BX	CC	CD	AC	ID	KN	IO
Resource Status	100	100	100	100	100	100	99	99	99	100	99	100	100	100	100	99	100	100	95	100	92	100
LSL HSL Percent	100	92	100	100	100	97	100	90	98	99	83	96	94	100	100	100	97	97	100	100	100	100
DA Zonal Schedule	99	100	100	100	100	97	97	100	100	99	99	100	98	99	100	98	100	100	100	100	100	100
AP Adj. Score	99	100	100	100	100	97	97	100	100	99	99	100	98	99	100	98	100	100	100	100	100	100
Down Bid Score	99	94	100	100	100	98	100	100	98	99	90	99	98	99	100	98	92	90	99	94	99	97
Up AS Sch. Obligation	99	100	-	-	-	99	-	98	99	98	98	100	99	94	100	99	96	100	100	-	-	99

 4 Consecutive Failing Score

 3 Consecutive Failing Score

 2 Consecutive Failing Score

 1 Failing Score

# Analysis of October 2009 Resource Plan Performance Metrics for Non-Wind Only QSEs

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- **KC – Second time failing the LSL (Low Sustainable Limit) as % of HSL (High Sustainable Limit) Resource Plan Performance Measure**
  - Actions: QSE was notified of its failing score
  - Reason: QSE's operators incorrectly set LSL & HSL values in the Resource Plan
  - Solution: QSE implemented scheduling software changes to alert its operators when its LSL & HSL levels need correction, however, too many days into the month to avoid a second failure

# October 2009 Resource Plan Performance Metrics for Wind Only QSEs

ID	JG	BT	JF	JS	HJ	BH	DI	JY	JM	KI	KJ	JW	JL	GR	GS	HS
DA Zonal Schedule	100	99	100	100	100	100	100	100	100	100	100	100	97	99	100	100
AP Adj Score	100	92	100	100	97	100	100	100	100	100	98	100	97	100	100	100
Down Bid Score	100	99	99	100	97	100	100	100	100	100	100	100	100	100	100	100

ID	BF	BE	FX	JH	JI	JN	JJ	JT	JC	IV	KL	JQ	JP	JK	JX	JE	JR
DA Zonal Schedule	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
AP Adj Score	99	100	100	100	100	100	100	100	100	97	100	97	100	100	93	100	100
Down Bid Score	100	96	100	100	100	100	100	100	100	100	100	99	100	100	100	100	100

 4 Consecutive Failing Scores

 3 Consecutive Failing Scores

 2 Consecutive Failing Scores

 1 Failing Score

# Texas RE Stakeholder Outreach

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- **NERC LSE Registration Update – CFR Approved**
  - Consensus reached on Load Serving Entity (LSE) Coordinated Functional Registration (CFR)
  - Entities are signing up and sending their CFR Declaration and Matrix of responsibilities to Texas RE. For these entities the LSE registration date will be January 1, 2010
  - LSE registration for entities not participating in the CFR process, begins on January 2 , 2010

# NERC Compliance Update

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- **Transmission Protection System Misoperations Documentation Submittal- PRC-004-1**
  - NERC Transmission Owners (TOs) and Distribution providers (DPs)
  - Responses due December 14<sup>th</sup>
- **Generation Protection System Misoperations Documentation Submittal- PRC-004-1**
  - NERC Generator Owners (GOs)
  - Responses due December 14<sup>th</sup>



# Audits Highlight

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- **Preparation for 2010 audits**
  - Information and questionnaire packages for the 2010 audits were sent out to the entities on November 17<sup>th</sup>

**NERC Standards Violations**

	Entity	Violation Date	Violation Status	Category	VSL	VRF	Mitigation Plan Status	Next Step(s) Needed	Deadline for Finishing Next Step(s)	Texas RE Assessment of Reliability Impact
1	T	10/20/2008	Alleged	Technical	H	M	Completed*	Settlement Agreement+		Large
2	T	10/20/2008	Alleged	Technical	H	M	Completed*	Settlement Agreement+		Large
3	T	10/20/2008	Alleged	Technical	H	M	Completed*	Settlement Agreement+		Large
4	T	10/20/2008	Alleged	Technical	S	H	Completed*	Settlement Agreement+		Large
5	T	10/20/2008	Alleged	Technical	H	H	Completed*	Settlement Agreement+		Large
6	F	3/21/2008	Preliminary	Technical	S	H	Completed*	NERC Settlement Approval		Medium
7	T	10/10/2008	Alleged	Technical	H	M	Submitted*	Settlement Agreement		Medium
8	W	11/17/2008	Preliminary	Technical	S	H	Completed*	Settlement Agreement	12/4/2009	Medium
9	Q	9/22/2008	Preliminary	Technical	S	H	Completed*	Settlement Agreement	12/9/2009	Small
10	U	9/24/2008	Alleged	Technical	S	H	Completed*	Settlement Agreement	12/18/2009	Small
11	F	10/10/2008	Preliminary	Technical	M	H	Approval (by NERC)*	Settlement Agreement	12/18/2009	Small
12	V	11/3/2008	Preliminary	Technical	S	H	Not Submitted	NAVAPS	12/4/2009	Small
13	V	11/3/2008	Preliminary	Technical	S	M	Not Submitted	NAVAPS	12/4/2009	Small
14	AC	6/2/2009	Preliminary	Technical	TBD	H	Approval (by NERC)	NAVAPS	12/11/2009	Small
15	AC	6/2/2009	Preliminary	Technical	TBD	H	Approval (by NERC)	NAVAPS	12/11/2009	Small
16	F	6/8/2009	Preliminary	Technical	TBD	H	Approval (by NERC)	Settlement Agreement	12/18/2009	Small
17	A	10/3/2007	Confirmed	Admin	S	L	New Plan Submitted	Approval (by NERC)		Minimal
18	A	10/3/2007	Confirmed	Admin	S	L	New Plan Submitted	Approval (by NERC)		Minimal
19	A	10/3/2007	Confirmed	Admin	S	L	New Plan Submitted	Approval (by NERC)		Minimal
20	A	10/3/2007	Confirmed	Admin	S	M	New Plan Submitted	Approval (by NERC)		Minimal
21	A	10/3/2007	Confirmed	Admin	S	M	New Plan Submitted	Approval (by NERC)		Minimal

	Entity	Violation Date	Violation Status	Category	VSL	VRF	Mitigation Plan Status	Next Step(s) Needed	Deadline for Finishing Next Step(s)	Texas RE Assessment of Reliability Impact
22	A	10/3/2007	Confirmed	Technical	L	H	Approved, Completed	N/A		Minimal
23	C	1/23/2008	Alleged	Admin	L	M	Completed & Confirmed	N/A	N/A	Minimal
24	C	1/23/2008	Alleged	Admin	H	M	Completed & Confirmed	N/A	N/A	Minimal
25	D	2/15/2008	Preliminary	Technical	S	H	Completed & Confirmed	N/A	N/A	Minimal
26	D	2/15/2008	Preliminary	Technical	S	H	Completed & Confirmed	N/A	N/A	Minimal
27	D	2/15/2008	Preliminary	Technical	S	M	Completed & Confirmed	N/A	N/A	Minimal
28	D	2/15/2008	Preliminary	Technical	S	M	Completed & Confirmed	N/A	N/A	Minimal
29	D	2/15/2008	Preliminary	Technical	S	M	Completed & Confirmed	N/A	N/A	Minimal
30	D	2/15/2008	Preliminary	Admin	L	M	Completed & Confirmed	N/A	N/A	Minimal
31	D	2/15/2008	Preliminary	Admin	L	M	Completed & Confirmed	N/A	N/A	Minimal
32	D	2/15/2008	Preliminary	Admin	H	M	Completed & Confirmed	N/A	N/A	Minimal
33	D	2/15/2008	Preliminary	Admin	L	M	Completed & Confirmed	N/A	N/A	Minimal
34	D	2/15/2008	Preliminary	Admin	S	M	Completed & Confirmed	N/A	N/A	Minimal
35	D	2/15/2008	Preliminary	Admin	S	L	Completed & Confirmed	N/A	N/A	Minimal
36	E	3/5/2008	Preliminary	Admin	M	L	Completed & Confirmed*	N/A	N/A	Minimal
37	E	3/5/2008	Preliminary	Admin	M	M	Completed & Confirmed*	N/A	N/A	Minimal
38	T	10/20/2008	Alleged	Technical	L	M	Completed*	Settlement Agreement+		Minimal
39	T	10/20/2008	Alleged	Technical	S	H	Completed*	Settlement Agreement+		Minimal
40	T	10/20/2008	Alleged	Technical	L	M	Approval (by NERC)	Dismissed	N/A	Minimal
41	T	10/20/2008	Alleged	Technical	S	L	Approval (by NERC)	Dismissed	N/A	Minimal
42	T	10/20/2008	Alleged	Technical	M	M	Approval (by NERC)	Dismissed	N/A	Minimal
43	F	11/18/2008	Preliminary	Technical	TBD	M	Completed*	Settlement Agreement	12/18/2009	Minimal

	Entity	Violation Date	Violation Status	Category	VSL	VRF	Mitigation Plan Status	Next Step(s) Needed	Deadline for Finishing Next Step(s)	Texas RE Assessment of Reliability Impact
44	F	11/18/2008	Preliminary	Technical	S	M	Completed*	Settlement Agreement	12/18/2009	Minimal
45	Z	12/18/2008	Preliminary	Technical	TBD	H	Approval (by NERC)	NAVAPS	12/18/2009	Minimal
46	F	2/10/2009	Possible	N/A	N/A	N/A	N/A	Dismissed	N/A	N/A
47	F	6/8/2009	Preliminary	Technical	TBD	M	Approval (by NERC)*	Settlement Agreement	12/18/2009	Minimal
48	T	8/25/2009	Preliminary	TBD	TBD	TBD	Completed*	Settlement Agreement+		Minimal
49	T	8/25/2009	Preliminary	TBD	TBD	TBD	Completed*	Settlement Agreement+		Minimal
50	AC	6/2/2009	Preliminary	Technical	TBD	M	Approval (by NERC)	NAVAPS	12/11/2009	Minimal
51	AD	8/20/2009	Preliminary	Technical	TBD	M	Not Submitted	NAVAPS	12/18/2009	Minimal
52	AE	8/20/2009	Preliminary	Technical	TBD	M	Not Submitted	NAVAPS	12/18/2009	Minimal
53	AF	8/20/2009	Preliminary	Technical	TBD	M	Not Submitted	NAVAPS	12/18/2009	Minimal
54	AG	8/20/2009	Preliminary	Technical	TBD	M	Not Submitted	NAVAPS	12/18/2009	Minimal
55	AH	8/20/2009	Preliminary	Technical	TBD	M	Not Submitted	NAVAPS	12/18/2009	Minimal
56	AI	11/11/2009	Preliminary	Technical	TBD	H	Not Submitted	NAVAPS	11/20/2009	Minimal

	Entity	Violation Date	Violation Status	Category	VSL	VRF	Mitigation Plan Status	Next Step(s) Needed	Deadline for Finishing Next Step(s)	Texas RE Assessment of Reliability Impact
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Legend:

Violation Status – Preliminary, Alleged, Confirmed

Discovery Method – Compliance Audit, Readiness Audit, Investigation, Self-Reported, Spot Check, Self-Certification, Data Submittal, Complaint

Category – Technical, Training, Administrative

Violation Severity Level (VSL) – Lower (L), Moderate (M), High (H), Severe (S)

Violation Risk Factor – High (H), Medium (M), Lower (L)

Mitigation Plan Status – Not Submitted, Submitted, Approval (by NERC), (After Approval - On Schedule, Behind Schedule, Extension Requested, Completed)

NAVAPS = Notice of Alleged Violation and Proposed Penalty or Sanction

Assessment of Reliability Impact - Minimal, Small, Medium, Large, Immense

- Assessment of Reliability Impact Considers:
- Time horizon (real-time issues versus planning issues)
  - Size of the entity (assets and facilities);
  - Category of violation (technical versus documentation)
  - Potential effect of violation
  - Actual effect of violation

*Status Change = Highlighted in Gray*

\* *Entity is in settlement discussions*      \* *Next step is dependent on entity*

**ERCOT Protocols & Operating Guides Violations**

	Protocol/ Operating Guide	Brief Description	Violation Date	Violation Status	Mitigation Plan Status	Next Status Step	Estimated Date of Next Step	Texas RE Assessment of Reliability Impact
1	P6.10.5.3	SCPS2 Score less than 90%	4/30/2009	Alleged	Submitted	Review Plan	12/4/2009	Medium
2	P8.1.3.2	Planned Outage and Maintenance Outage	5/12/2009	Alleged	Completed	N/A	N/A	Medium
3	P6.10.5.3	SCPS2 Score less than 90%	6/9/2009	Alleged	Submitted	Approve Mitigation Plan	11/30/2009	Medium
4	OG1.8.2	System Operating Training Requirements	1/13/2009	Alleged	Submitted	Complete Plan <sup>+</sup>	12/31/2009	Small
5	OG1.8.2	System Operating Training Requirements	4/20/2009	Alleged	Submitted	Complete Plan <sup>+</sup>	12/31/2009	Small
6	OG1.8.2	System Operating Training Requirements	6/2/2009	Initial	Not Submitted	Review Response	12/4/2009	Small

\*Next step is dependent on entity

**Legend:**

Violation Status – Initial, Alleged, Confirmed

Discovery Method – Compliance Audit, Investigation, Self-Reported, Spot Check, Self-Certification, Data Submittal, Incident Report, Data Gathering

Mitigation Plan Status – Not Submitted, Submitted, On Schedule, Behind Schedule, Extension Requested, Extension Requested/Granted, Completed

Assessment of Reliability Impact - Minimal, Small, Medium, Large, Immense

Assessment of Reliability Impact Considers: • Time horizon (real-time issues versus planning issues) • Size of the entity (assets and facilities);  
• Category of violation (technical versus documentation) • Potential effect of violation • Actual effect of violation

\*Next step is dependent on entity

# Texas Regional Entity Standards Report

Board of Directors  
December 14, 2009

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# SAR-001 Provision to Give ERCOT ISO a Vote in the Processes

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- **November 2, 2009 - FERC approved Texas RE's Standard Development Process changes to add ERCOT ISO as an Eighth Segment and to give ERCOT a  $\frac{1}{4}$  segment vote in the development of regional standards**
- **Implementation is nearly complete**
  - Reliability Standards Tracking Site modifications in process
  - Anticipated completion by the end of December, prior to next posting
  - No votes anticipated for 60 days



## SAR-003 Regional Standard BAL-001-TRE

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- **This standard drafting team has two meetings scheduled for the rest of 2009 and one in January 2010 with a goal of having a second draft ready for RSC vote at their February meeting.**
- **The previous plan was for the RSC to vote in January, but due to the quantity of remaining work, the team decided that February was a more realistic goal.**
- **The RSC may vote to move it forward to a second comment period or may vote to move it to ballot depending on the significance of changes from draft one to draft two.**

**Date:** December 4, 2009  
**To:** Texas Regional Entity (Texas RE) Board of Directors  
**From:** Susan Vincent  
**Subject:** Selection of 2009 Financial Auditor

**Texas RE Board of Director Meeting Date:** December 14, 2009

**Agenda Item No.:** 5B

**Issue:**

Selection by the Board of Directors (Board) of a qualified independent public accounting firm to audit the Texas RE 2009 financial statements.

Section 4.10 of the ERCOT Bylaws requires that the Board of Directors must annually select a qualified public accounting firm ("Auditor") to audit the financial statements of ERCOT. Section 6.3 of the ERCOT Bylaws requires Texas RE to have its separate financial statements audited or reviewed annually. Section 5.3.7 of the Texas RE Advisory Committee Charter requires the Committee to recommend a selection of independent auditor to the Board.

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**Background/History:**

On September 15, 2009, after ERCOT received bids and evaluated potential auditors through a competitive process, the ERCOT Finance & Audit (F&A) Committee selected and the ERCOT Board of Directors approved Ernst & Young as the qualified public accounting firm to perform the ERCOT financial audit for 2009.

Since Texas RE is a division of ERCOT and because ERCOT has already selected Ernst & Young to perform its financial audit (and given the efficiencies of using the same auditor as ERCOT), Texas RE does not believe that it could obtain a financial audit from a similar public accounting firm for less expense.

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**Key Factors Influencing Issue:**

- The requirement of Board approval of the financial auditor
- The efficiency gained by using the audit firm that is auditing ERCOT

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**Alternatives:**

- Select Ernst & Young to perform the 2009 financial statement audit of Texas RE
- Require Texas RE to conduct a competitive process to select a different financial auditor

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**Conclusion/Recommendation:**

Texas RE staff recommends and anticipates that the Texas RE Advisory Committee will recommend that the Board approve the selection of Ernst & Young as the accounting firm to audit the 2009 Texas RE financial statements.

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 (the "Board") of Texas Regional Entity, a division of Electric Reliability Council of Texas, Inc., a Texas non-profit corporation must annually select a public accounting firm to audit or review the Texas Regional Entity financial statements;

WHEREAS, after consideration, the Board deems it desirable and in the best interest of Texas Regional Entity to select Ernst & Young as the independent public accounting firm to audit the Texas Regional Entity 2009 financial statements;

THEREFORE be it RESOLVED, that Ernst & Young is hereby selected as the independent public accounting firm to audit the 2009 financial statements of Texas Regional Entity.

CORPORATE SECRETARY'S CERTIFICATE

I, \_\_\_\_\_, Corporate Secretary of Texas Regional Entity, do hereby certify that, at the \_\_\_\_\_, 2009 Texas Regional Entity Board 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

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

**Texas Regional Entity Board of Directors Meeting Date:** December 14, 2009  
**Agenda Item No.:** 5c

**Issue:**

Approval of Bylaws and Delegation Agreement for Texas Reliability Entity, Inc., the new independent corporation which is being formed to take over as the successor regional entity for the ERCOT region, and recommendation of Initial directors.

**Background/History:**

At the October 19, 2009 Board meeting, the Board voted to approve Bylaws for the new Texas RE corporation (these approved Bylaws are attached hereto as Exhibit A), to allow Texas RE to draft an Amended Delegation Agreement based upon those Bylaws and to submit the Bylaws and Amended Delegation Agreement to North American Electric Reliability Corporation (NERC) and the Federal Energy Regulatory Commission (FERC) for approval of a new Texas RE corporation (now referred to as Texas Reliability Entity, Inc. or "New Texas RE") as the successor regional entity for the ERCOT region.

After the October Board meeting, Texas RE staff prepared a draft Amended and Restated Regional Delegation Agreement between New Texas RE and NERC (New Delegation Agreement), based upon the approved Bylaws. Texas RE posted the Bylaws and the draft Delegation Agreement for stakeholder comments on October 30, 2009. After receiving comments, Texas RE posted the documents with requested revisions on November 17, 2009.

Several changes have since been made to the Bylaws (and to the New Delegation Agreement), based upon comments by stakeholders and NERC. The current draft of the New Delegation Agreement is attached hereto as Exhibit B, and a redlined version of the Bylaws showing all changes made since the Board's approval is attached hereto as Exhibit C.

A. **Bylaws Changes**

On November 24, 2009, Texas RE held a "straw" or pre-membership meeting with potential New Texas RE members. The attendees discussed requested changes to the Bylaws, including the removal of River Authorities from the Cooperative Utility Sector, specific inclusion of Distribution Providers in the Transmission Sector, and a change of the corporate name, to "Texas Reliability Entity, Inc." The attendees voted informally to accept the revised Bylaws and New Delegation Agreement as shown in Exhibit A and Exhibit B.

The primary changes to the Bylaws that were made to address comments by NERC included additional language describing actions to be taken by the formation directors (referred to as the "Initial Directors" in the Bylaws) and identification of the initial Nominating Committee (Initial Nominating Committee) to select the initial Independent Directors. At the time the Board approved the Bylaws, Texas RE thought that NERC Board of Trustees would agree to approve the New Texas RE Amended Delegation Agreement and 2010 Business Plan and Budget as

approved by the current Texas RE Board (particularly if the New Texas RE membership also formally approved the Bylaws). However, the NERC Board of Trustees requires that the Board of New Texas RE formally approve the Bylaws, new Amended Delegation Agreement, and Amended 2010 Business Plan and Budget of New Texas RE before NERC will approve and submit the documents to FERC for approval.

New Texas RE quickly needs to identify Initial Directors that will form the corporation and have at least one meeting to formally approve the New Texas RE Bylaws, New Delegation Agreement, and Amended 2010 Business Plan and Budget. Because New Texas RE Initial Directors will probably not qualify as Independent Directors, language was added to Article VI Section 3 to allow the Initial Board to conduct administrative business (including the approval of contracts and budgets) prior to having three Independent Directors.

In addition, because the Initial Directors will hold at least one meeting before Independent Directors were approved, language was added to Article IV Section 2(c) of the Bylaws to set forth the composition of the Initial Nominating Committee, as follows:

“The Initial Nominating Committee will consist of the Initial Directors except the Management Director (as defined in Article IV, Section 3), and at least two other persons selected by these Initial Directors to represent the interests of the Membership.”

Most of the other modifications to the Bylaws requested by NERC's counsel are primarily clarifications. If any additional modifications are requested or required by NERC or FERC at or after the December 7, 2009 pre-filing meeting, Texas RE staff will discuss these modifications with the Board at the December 14, 2009 meeting. No other requested modifications are known at this time.

#### B. Delegation Agreement Differences

The primary differences between the approved current Texas RE Amended and Restated Regional Delegation Agreement and the New Delegation Agreement are due to the governance changes that are set forth in the new Texas RE Bylaws. The primary changes are that New Texas RE is not affiliated with any registered entity and has different membership Sectors than current Texas RE. It also has a different group of hybrid directors.

The Hearing Process, which is included in Exhibit D and Attachments 1 and 2 to the New Delegation Agreement, has only been slightly modified to have the PUCT, as the hearing body, submit its recommendation to the New Texas RE board of directors (or a committee thereof), instead of to the New Texas RE CEO. The Standards Development Process (Exhibit C to the Delegation Agreement) has some intended efficiency improvements and it now includes the required quorums and voting mechanisms for the Standards Development Committee as well as the Ballot Body (which were previously included in procedure documents).

#### C. Initial Director Recommendation

Time is of the essence for the selection of Initial directors. In order for the NERC Board of Trustees to approve the New Texas RE Bylaws, New Delegation Agreement, and Amended 2010 Business Plan and Budget at or before its February 16, 2010 meeting (for filing with FERC near the end of February), the New Texas RE Initial Directors will need to be selected to form New Texas RE in early January, and the Initial Directors will need to schedule and hold a meeting before the end of January to approve the required documents and to establish a Nominating Committee to screen and select new Independent Directors.

It will likely not be possible to select three new Independent Directors to serve as the Initial Directors and meet the planned time schedule. Texas RE staff proposes that, subject to approval by NERC and by FERC staff at the pre-filing meeting, New Texas RE form the new corporation with the following four directors: Larry Grimm as the CEO of Texas RE and three current Texas RE Unaffiliated Directors. Texas RE staff suggests that the Board Chair, Advisory Committee Chair, and Miguel Espinosa, as the Director with financial expertise, be recommended to serve as the Initial Directors. If NERC or FERC do not allow current Directors to serve as the Initial Directors, Texas RE staff will locate different Initial Directors.

Texas RE respectfully requests that the Board approve the revised Bylaws, as set forth in Exhibit A, and the New Delegation Agreement, as set forth in Exhibit B, and recommend Initial Directors for New Texas RE.

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**Key Factors Influencing Issue:**

Desire to have the current Texas RE Board approve the revised Bylaws and New Delegation Agreement and to recommend formation Directors to allow Texas RE staff to have its required documents formally approved in time for the February NERC Board of Trustees meeting.

**Alternatives:**

- Approve the revised Bylaws and New Delegation Agreement
- Suggest modifications to the Bylaws or New Delegation Agreement
- Recommend Initial Directors

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**Conclusion/Recommendation:**

Texas RE respectfully requests that the Board (1) approve the revised Bylaws attached hereto as Exhibit A; (2) approve the New Texas RE Delegation Agreement attached hereto as Exhibit B; and (3) recommend Initial Directors for New Texas RE.

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 of Texas Regional Entity, a division of the Electric Reliability Council of Texas, Inc. (Board), 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 new corporation named Texas Reliability Entity, Inc. to become the successor regional entity for the ERCOT region; and

WHEREAS, the Board has determined it to be desirable and in the best interest of Texas Regional Entity to approve the Amended and Restated Regional Delegation Agreement between Texas Reliability Entity, Inc., and North American Electric Reliability Corporation (New Delegation Agreement), which is attached hereto as Exhibit B; and

WHEREAS, the Board agrees that it is in the best interest of Texas Regional Entity for the following individuals to serve as the formation directors or "Initial Directors" of Texas Reliability Entity, Inc.: (1) Larry Grimm as Chief Executive Officer; (2) \_\_\_\_\_; (3) \_\_\_\_\_; and (4) \_\_\_\_\_.

THEREFORE be it RESOLVED, that the Board hereby approves the Bylaws which are attached hereto as Exhibit A and incorporated herein for all purposes; and

Be it further RESOLVED, that the Board hereby approves the New Delegation Agreement which is attached hereto as Exhibit B and incorporated herein for all purposes; and

Be it further RESOLVED that the Board hereby recommends the following individuals to serve as the Initial Directors of Texas Reliability Entity, Inc.:

1. Larry Grimm as Chief Executive Officer;
2. \_\_\_\_\_;
3. \_\_\_\_\_; and
4. \_\_\_\_\_.

CORPORATE SECRETARY'S CERTIFICATE

I, Susan Vincent, Corporate Secretary of Texas Regional Entity, do hereby certify that, at the December 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



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

(A Texas Non-Profit Corporation)

Approved on \_\_\_\_\_, 2010

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## ARTICLE I. DEFINITIONS

**Section 1. Definitions.** The capitalized terms used in these Bylaws of Texas Reliability 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 or having 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) “Initial Director” means a Director named in the Certificate of Formation and seated for formation of the Corporation.

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

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

(o) “OPUC” means the Texas Office of Public Utility Counsel.

(p) “Regional Entity” means an entity with a Delegation Agreement with NERC, as ERO, including the following organizations, in addition to Texas Reliability 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).

(q) “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.

(r) “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)).

(s) “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.

(t) “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.

(u) “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 Business Organizations Code.

**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 only 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, 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 and Distribution:** An entity that is registered with NERC as a Transmission Owner (TO), Transmission Planner (TP), Transmission Service Provider (TSP), Distribution Provider (DP), and/or Transmission Operator (TOP) and is not a Cooperative or Municipal Utility.

(c) **Cooperative:** 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 and is registered with NERC for at least one reliability function.

(d) **Municipal Utility:** A municipally owned utility as defined in PURA §11.003 and is registered with NERC for at least one reliability 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 reliability 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 of 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 reliability function.

(e) A Member must continue to vote in the same Sector for a minimum of the remainder of the fiscal year in which it becomes a Member 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 which 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 of the Corporation, 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 OPUC (or another employee of OPUC designated by Texas Public 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 (the "Management Director"); (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 collectively referred to herein as "Affiliated Directors." Each Director, including the Affiliated Directors and 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, including 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 Directors named as Initial Directors will serve only until the first membership meeting of the Corporation at which Independent Directors are elected. If an Initial Director is qualified to be an Independent Director and elected by the membership, such Director's term as an Initial Director shall not be counted for purposes of term limits. For the originally elected Independent Directors, two positions will have three year terms, one position will have a two year term, 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.

(c) Selection.

(1) Except for the selection of the 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. Except for the original Nominating Committee appointed by the Initial Directors ("Initial Nominating Committee"), the Nominating Committee shall consist of all Independent Directors except those whose terms expire during the current year and are seeking re-election and Affiliated Directors and such other persons with such qualifications as the Board shall specify (provided that such other persons may not vote), provided that the Independent Directors shall constitute a majority of the voting members of the Nominating Committee. The Initial Nominating Committee will consist of the Initial Directors except the Management Director (as defined in Article IV, Section 3), and at least two other persons selected by these Initial Directors to represent the interests of the Membership. The PUCT Chair may choose to participate on the Nominating Committee. If any Nominating Committee should have only two eligible Independent Directors for any reason, the requirement that Independent Directors must constitute a majority of the voting members will be removed to allow both Affiliated Directors to participate on the Nominating Committee. 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).

(2) 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.

(3) 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.**

(a) 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 as follows:

(1) For an Independent Director, by the election of a new Independent Director at the next annual election of Directors to fill the remainder, if any, of the term of the departed Independent 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 Independent Director.

(2) For the Management Director, by the appointment of a new CEO or interim CEO to fill the vacancy.

(3) For an ex officio Director, by the appointment of a new PUCT Chair or Texas Public Counsel by whomever had the right to appoint such Director.

(4) For an Affiliated Director, by the election of a new chair or vice chair, as applicable, by the Member Representative Committee.

(b) 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 any voting 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 Directors, 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 to elect 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.**

(a) 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.

(b) Except as otherwise expressly provided in the Corporation's Certificate of Formation, these Bylaws, or applicable law, Members shall vote by Sector and each Sector shall have one vote.

(c) 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, during, 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.**

The Board consisting of the Initial Directors ("Initial Board") may conduct only organizational business of the corporation, including but not limited to approving these Bylaws, authorizing the opening of a bank account, appointing officers, approving the Delegation Agreement and reviewing and approving the Corporation's business plan and budget. The quorum necessary for transaction of business by the Initial Board shall be a majority of the Initial Directors, either in person or by proxy, at meetings at which a quorum is present. Thereafter, 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 voting Directors in person or by proxy and at least three Independent Directors, and (ii) actions by the Board shall be deemed 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 but in no case less than four votes.

**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 and at least ten (10) business days prior to the scheduled meeting; provided however that the Board may meet on urgent matters on such shorter notice, not less than two (2) hours, as the person(s) calling such meeting may deem necessary for appropriate for urgent matters (emergency conditions threatening health or safety or a reasonably unforeseen situation). 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, during, 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 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 meeting held in accordance with Article VI 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 ("CEO").** 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.

**Section 5. Vice Presidents.** The CEO may select such other Corporate officers as he or she deems appropriate, subject to Board approval. Any such officer shall perform such other duties and possess such 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. 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 and may not concurrently serve on the Board of ERCOT ISO. 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 may be 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, 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 plan and hold quarterly meetings, at a time and place determined by the Member Representatives Committee, normally shortly before the regular meetings of the Board, 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 Representatives on 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 the presence, in person or by proxy, of two-thirds of the voting Representatives on the Member Representatives Committee entitled to attend. 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 an employee of the Member Representative as a proxy if both the Member Representative and the Sector Alternate are unable to attend a Members Representative Committee meeting. 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.

**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 the members of 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 members to such 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 sufficient 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 including 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 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, 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 action of the Membership, as set forth below. 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. These Bylaws may be altered, amended, or repealed as follows:

(a) Any Director or Member suggesting amendments to these Bylaws must submit a proposal of the amendment, including any necessary supporting documents, to the CEO.

(b) The CEO shall place the proposal on the agenda for a Board meeting in the time and manner prescribed by the Board and within 95 days of the request.

(c) If the proposal is approved by an act of the Board as set forth in Article VI, Section 3, the Board shall place the proposal on the agenda of the next Annual Meeting of the Corporate Members unless the Board in its discretion calls a Special Meeting of the Corporate Members to vote on the proposal or determines to seek Membership approval without a meeting as provided in Article V, Section 4.

(d) If the proposal is not approved by the Board, the Members of the Corporation may call a meeting, pursuant to Article V, Section 1(b), for the purpose of voting on a proposal not approved by the Board. Any such proposal must be approved by a vote of five of the six Sectors at a meeting of Members called for that purpose or by written consent of five 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 V, Section 2.

### **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 is in the Corporation's best interests, and is on terms no less favorable to the Corporation than could be obtained in an arms-length transaction. 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. Engaging in 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.

**AMENDED AND RESTATED DELEGATION AGREEMENT BETWEEN  
NORTH AMERICAN ELECTRIC RELIABILITY CORPORATION  
AND TEXAS RELIABILITY ENTITY, INC.**

AMENDED AND RESTATED DELEGATION AGREEMENT (“Agreement”) made effective \_\_\_\_\_, 2010, between the North American Electric Reliability Corporation (“NERC”), an organization certified by the Federal Energy Regulatory Commission (“Commission”) pursuant to Section 215(c) of the Federal Power Act to establish and enforce Reliability Standards for the bulk power system, and the Texas Reliability Entity, Inc. (“Texas RE”), an organization established to develop and enforce Reliability Standards within the geographic boundaries identified on **Exhibit A** to this Agreement, and for other purposes. NERC and Texas RE may be individually referred to herein as “Party” or collectively as “Parties.”

**WITNESSETH**

**WHEREAS**, Subtitle A of the Electricity Modernization Act of 2005 added Section 215 to the Federal Power Act (16 U.S.C. § 824n) (hereafter “the Act”) and, among other things, provides for the establishment of an electric reliability organization (“ERO”) to develop and enforce Reliability Standards applicable to all owners, operators, and users of the bulk power system;

**WHEREAS**, the Commission has adopted regulations for the implementation of the Act set forth at Chapter I, Title 18, Code of Federal Regulations, Part 39, as adopted by Commission Order No. 672 in Docket No. RM05-30-000 on February 3, 2006; (114 FERC ¶ 61, 104; hereafter “Order 672”);

**WHEREAS**, the Commission has certified NERC as the ERO that will, in accordance with the Act, establish and enforce Reliability Standards for the bulk power system, subject to certain delegation provisions described below;

**WHEREAS**, the Act recognizes the international interdependency of electric reliability within North America and envisions the ERO and such applicable Regional Entities as international organizations;

**WHEREAS**, the Act and Section 39.8 of the Commission's regulations provide for the delegation by the ERO of authority to propose and enforce Reliability Standards to regional entities such as Texas RE provided that:

(A) The Regional Entity is governed by —

- (i) an independent board;
- (ii) a balanced stakeholder board; or
- (iii) a combination independent and balanced stakeholder board.

(B) The Regional Entity otherwise satisfies the provisions of Section 215(c)(1) and (2) of the Act; and

(C) The agreement promotes effective and efficient administration of bulk power system reliability;

**WHEREAS**, certain Regional Entities are organized on an Interconnection-wide basis and are therefore entitled to the presumption set forth in the Act that: “[t]he ERO and the Commission shall rebuttably presume that a proposal for delegation to a Regional Entity organized on an Interconnection-wide basis promotes effective and efficient administration of bulk power system reliability and should be approved”;

**WHEREAS**, the Act further provides that the ERO shall rebuttably presume that a proposal from a Regional Entity organized on an Interconnection-wide basis for a Reliability Standard or modification to a Reliability Standard to be applicable on an Interconnection-wide basis is just, reasonable, and not unduly discriminatory or preferential, and in the public interest;

**WHEREAS**, Texas RE is organized on an Interconnection-wide basis and therefore is entitled to the rebuttable presumptions accorded such an entity;



**WHEREAS**, NERC will work through Texas RE to carry out certain of its activities in furtherance of its responsibilities as the electric reliability organization under the Act; and

**WHEREAS**, NERC has concluded that Texas RE meets all requirements of the Act, the Commission's regulations, and the NERC Rules of Procedure as approved by the Commission ("NERC Rules") necessary to qualify for delegation;

**NOW, THEREFORE**, in consideration of the mutual covenants and agreements herein contained, NERC and Texas RE, agree as follows:

**1. Definitions.** The capitalized terms used in this Agreement shall be defined as set forth in the Act, the Commission's regulations, or the NERC Rules or, if not so defined, shall be defined as follows:

(a) Breach means (i) the failure of a Party to perform or observe any material term, condition or covenant of the Agreement or (ii) a representation in Section 2 of the Agreement shall have become materially untrue.

(b) Cross-Border Regional Entity means a Regional Entity that encompasses a part of the United States and a part of Canada or Mexico.

(c) Delegated Authority means the authority delegated by NERC to Texas RE to propose and enforce Reliability Standards pursuant to the Act.

(d) Texas RE Rules means the bylaws, a rule of procedure or other organizational rule or protocol of Texas RE.

(e) Reliability Standard means a requirement approved by the Commission under Section 215 of the Federal Power Act to provide for reliable operation of the bulk power system. The term includes requirements for the operation of existing bulk power system facilities, including cyber security protection, and the design of planned additions or modifications to such facilities to the extent necessary for reliable operation of the bulk power system; but the term does not include any requirement to enlarge such facilities or to construct new transmission capacity or generation capacity.

## 2. Representations.

(a) For purposes of its Delegated Authority, Texas RE hereby represents and warrants to NERC that:

(i) Texas RE is and shall remain during the term of this Agreement validly existing and in good standing pursuant all applicable laws relevant to this Agreement and that no applicable law, contract or other legal obligation prevents it from executing this Agreement and fulfilling its obligations hereunder. Texas RE is governed in accordance with its bylaws by a combination independent and balanced stakeholder board. Pursuant to these bylaws, no two industry sectors can control any Texas RE decision and no single industry sector can veto any Texas RE decision. The bylaws are attached hereto as **Exhibit B**, and as so attached are in full force and effect. No other such corporate governance documents are binding upon Texas RE.

(ii) As set forth in **Exhibit C** hereto, Texas RE has developed a standards development procedure, which provides the process that Texas RE may use to develop Regional Reliability Standards and Regional Variances that are proposed to NERC for adoption.

(iii) As set forth in **Exhibit D** hereto, Texas RE has developed a regional compliance enforcement program, which provides for the enforcement of Reliability Standards within its geographic boundaries.

(b) NERC hereby represents and warrants to Texas RE that:

(i) It is and shall remain during the term of this Agreement validly existing and in good standing pursuant all applicable laws relevant to this Agreement and that no applicable law, contract or other legal obligation prevents it from executing this Agreement and fulfilling its obligations hereunder; and

(ii) It has been certified as the ERO by the Commission pursuant to the Act.

## 3. Covenants.

(a) During the term of this Agreement, Texas RE shall maintain and preserve its qualifications for delegation pursuant to the Act and shall not amend the Texas RE Rules without NERC's approval, which shall not be unreasonably withheld or delayed and which shall, in the

case of a Regional Entity organized on an Interconnection-wide basis, be governed by the presumptions provided for in Section 215(d)(2) and (e)(4)(C) of the Act, and be subject to any required Commission approval.

(b) During the term of this agreement, NERC shall maintain its qualification and status as the ERO pursuant to the Act and, subject to the provisions of Sections 16 and 17 of this Agreement, NERC shall not adopt amendments to the NERC Rules that conflict with the rights, obligations or programs of Texas RE under this Agreement without first obtaining the consent of Texas RE, which consent shall not be unreasonably withheld or delayed.

(c) During the term of this agreement, NERC and Texas RE shall adhere to and require that all participants in their respective activities under this Agreement follow and comply with the NERC Antitrust Compliance Guidelines.

#### **4. Delegation of Authority.**

(a) Based upon the representations, warranties and covenants of Texas RE in Sections 2 and 3 above, the corporate governance documents set forth in **Exhibit B**, the standards development process set forth in **Exhibit C**, and the regional compliance enforcement program set forth in **Exhibit D**, NERC hereby delegates authority, pursuant to Section 215(e)(4) of the Act, to Texas RE for the purpose of proposing Reliability Standards to NERC, as set forth in Section 5 of this Agreement, and enforcing Reliability Standards, as set forth in Section 6 of this Agreement, within the geographic boundaries set forth on **Exhibit A**. Without limiting the scope of the foregoing delegation, as of the effective date of this Agreement, Texas RE is delegated authority and responsibility for continuation of all compliance monitoring and enforcement activities formerly delegated to and conducted by Texas Regional Entity, a division of Electric Reliability Council of Texas, Inc. ("ERCOT") prior to the effective date, including without limitation: all compliance audits, spot checks, self-certifications, self-reports, compliance violation investigations, investigations of complaints, investigation and processing of possible violations and alleged violations and imposition of penalties or sanctions for violations, review, acceptance or rejection, and oversight of completion of settlement agreements with and mitigation plans of registered entities, and receipt, review, acceptance or rejection, approval or disapproval, and ongoing monitoring, of Technical Feasibility Exceptions requested by registered entities to certain Requirements of Critical Infrastructure Protection Standards. No

further redelegation of authority or responsibility, in total or in part, under this Agreement is allowed without NERC's express consent.

(b) For Cross-Border Regional Entities, the authority delegated by this Agreement shall extend only to the portion of the region identified on **Exhibit A** that is within the United States. Any delegation of authority by governmental authorities in Canada or Mexico shall be governed by a separate agreement and is outside the scope of this Agreement; provided, however, that both Texas RE and NERC shall endeavor to ensure that this Agreement and such separate agreements are compatible.

(c) As a condition to this delegation of authority and subject to the provisions of section 16 of this Agreement, Texas RE shall comply with the applicable provisions of NERC's Certificate of Incorporation, Bylaws, Rules of Procedure, and Reliability Standards, as from time to time adopted, approved, or amended.

## **5. Reliability Standards.**

- (a) In connection with its Delegated Authority, Texas RE shall be entitled to:
  - (i) propose Reliability Standards, Regional Variances, or modifications thereof to NERC, which shall be considered by NERC through an open and inclusive process for proposing and adopting Reliability Standards that affords Texas RE reasonable notice and opportunity to be heard; and
  - (ii) develop Regional Reliability Standards and Regional Variances through Texas RE's process as set forth in **Exhibit C**. Proposals approved through Texas RE's process shall be reviewed by the NERC Board of Trustees after NERC provides notice and an opportunity for interested persons to comment. In the case of a proposal from a Regional Entity organized on an Interconnection-wide basis, comments shall be limited to the factors identified in NERC Rule 313, section 3.1 as it may be amended from time to time. The NERC board of trustees shall promptly thereafter consider such proposed Regional Reliability Standard or Regional Variance, applying the rebuttable presumption described in subsection 5(b) if the proposed Regional Reliability Standard or Regional Variance is from a Regional Entity organized on an Interconnection-wide basis, and either approve the proposed standard and submit it to the Commission for approval, or disapprove it in writing setting forth its reasons.

Texas RE may appeal any disapproval of a proposed Regional Reliability Standard or Regional Variance to the Commission.

(b) Pursuant to Section 215(d)(3) of the Act, NERC shall rebuttably presume that a proposal from a Regional Entity organized on an Interconnection-wide basis for a Regional Reliability Standard or Regional Variance or modification thereof to be applicable on an Interconnection-wide basis is just, reasonable, and not unduly discriminatory or preferential, and in the public interest. Any person challenging such proposal from the Texas RE shall have the burden of proof. NERC shall not find that this presumption has been rebutted except based upon substantial evidence that has been disclosed to, and been subject to comment by, the Texas RE during NERC's review of the proposal.

## **6. Enforcement.**

(a) In connection with its delegated authority pursuant to this Agreement, Texas RE shall enforce Reliability Standards (including Regional Reliability Standards and Regional Variances) within the geographic boundaries set forth in **Exhibit A** through the compliance enforcement program set forth in **Exhibit D**. NERC and Texas RE agree that this program meets all applicable requirements of the Act, Order 672 and the Commission's regulations, including, *inter alia*, the requirement for an audit program pursuant to Section 39.7(a) of the Commission's regulations, the assessment of penalties pursuant to Section 39.7(c) through 39.7(g) of the Commission's regulations and the requirements for due process. Texas RE may not change its compliance enforcement program set forth in **Exhibit D** absent NERC's approval, which shall not be unreasonably withheld or delayed. Subject to the rights and limitations of Sections 16 and 17 of this Agreement, Texas RE agrees to comply with the NERC Rules in implementing this program.

(b) Texas RE shall report promptly to NERC any self-reported violation or investigation of a violation or an alleged violation of a Reliability Standard and its eventual disposition. Such report shall include the owner's, operator's, or user's name, which Reliability Standard or Reliability Standards were violated or allegedly violated, when the violation or alleged violation occurred, other pertinent facts about the violation including circumstances surrounding the violation with any known risk to the bulk power system, when the violation was or will be mitigated, the name of a person knowledgeable about the violation or alleged violation

to serve as a point of contact with the Commission, and any other information required by NERC compliance program procedures. NERC shall promptly forward such report to the Commission. NERC and Texas RE shall cooperate in filing such periodic summary reports as the Commission shall from time to time direct on violations of Reliability Standards and summary analyses of such violations.

(c) Each violation or alleged violation shall be treated as nonpublic until the matter is filed with the Commission as a notice of penalty or resolved by an admission that the owner, operator, or user of the bulk power system violated a Reliability Standard or by a settlement or other negotiated disposition. However, any hearing conducted by the Public Utility Commission of Texas (PUCT) concerning an alleged violation in the ERCOT power region shall be conducted as a public hearing and any evidence or other submissions concerning the hearing, except for information that is confidential or privileged under law, shall be publicly available. Following the hearing, the PUCT shall issue its recommendation on the appropriate resolution of the allegations in a written document that will be publicly available. Notwithstanding the foregoing, the disposition of each violation or alleged violation that relates to a Cybersecurity Incident or that would jeopardize the security of the bulk power system if publicly disclosed shall be nonpublic unless the Commission directs otherwise.

(d) All appeals of penalties imposed by Texas RE shall be filed with NERC, in accordance with the NERC Rules.

(e) Texas RE shall maintain the capability to conduct investigations of potential violations of Reliability Standards and to conduct such investigations in a confidential manner.

(f) Texas RE shall maintain a program of proactive enforcement audits including procedures for spot-checks of self-reported compliance and periodic audits of all responsible entities as defined in **Exhibit D**.

(g) As part of its compliance enforcement program, Texas RE shall maintain a conflict of interest policy that assures the integrity of such program and the independence of the compliance program staff from those subject to enforcement actions.

(h) As often as NERC deems necessary, but no less than every three years, NERC shall review Texas RE's compliance enforcement program to ensure that: (i) the program meets all applicable legal requirements; (ii) actual practices reflect the requirements; and (iii) the program administered pursuant to the Delegated Authority promotes consistent interpretations

across North America of Reliability Standards and comparable levels of sanctions and penalties to violations of Reliability Standards constituting comparable levels of threat to reliability of the bulk power system.

(i) Texas RE shall modify its compliance enforcement program as needed to reflect additions to, deletions from, or modifications of Reliability Standards and, subject to the rights and limitations of Sections 16 and 17 of this Agreement, shall modify its compliance enforcement program as needed: (i) to reflect amendments to the NERC Rules; (ii) to comply with NERC directives resulting from the review of compliance enforcement programs as provided in Section 6(h) of this Agreement; or (iii) to resolve a conflict with a function, rule, order, tariff, rate schedule, or agreement accepted, approved, or ordered by the Commission.

(j) NERC shall conduct a review with the Regional Entities that provides for the exchange of information on practices, experiences, and lessons learned in the implementation of compliance enforcement programs.

**7. Delegation-Related Services.** NERC will engage Texas RE on its behalf to carry out certain of its activities that are in furtherance of its responsibilities as the ERO under the Act or in support of delegated functions, as specified in the NERC Rules and listed on **Exhibit E**.

**8. Funding.** Texas RE and NERC shall ensure that the delegated functions and related activities listed on **Exhibit E** have reasonable and adequate funding and resources by undertaking the following:

(a) NERC shall fund Texas RE activities necessary for Texas RE to carry out its Delegated Authority under this Agreement, including the functions listed on **Exhibit E**, and shall not impose any obligation or requirement regarding Delegated Authority upon Texas RE without providing appropriate funding to carry out such mandates;

(b) Texas RE and NERC agree that costs of carrying out Texas RE's responsibilities under the Delegation Agreement will be equitably allocated among end users within the geographic boundaries described in **Exhibit A** and recovered through a formula based on net-energy-for load or through such other formula as is proposed by Texas RE and approved by NERC and the Commission. If Texas RE proposes to use a formula other than net energy for load beginning in the following year, Texas RE shall submit the proposed formula to NERC in

sufficient time that NERC may review and approve the proposed formula and file it with the Commission for approval by May 15, and the proposed formula shall be effective for the following year if approved by the Commission on or before the date the Commission approves the annual business plan and budget submitted by NERC and Texas RE to the Commission pursuant to 18 C.F.R. §39.4, for such year.

(c) NERC will ensure that the costs for its responsibilities are first allocated fairly among the interconnections and regions according to the applicability of this work to those interconnections and regions, and then equitably among the end users of the applicable interconnections and regions as appropriate. Allocation on a net energy for load basis will be presumed to satisfy this equitability requirement.

(d) NERC shall provide Texas RE with the form for budget submittal no later than April 30 of the prior year.

(e) Texas RE shall submit its annual budget for carrying out its Delegated Authority functions and related activities listed on **Exhibit E**, as well as all other Texas RE activities and funding to NERC no later than June 1 of the prior fiscal year such that NERC may submit its budget to the Commission 130 days in advance of the beginning of each fiscal year. The Texas RE budget submission shall include supporting materials, including Texas RE's complete business plan and organization chart, explaining the proposed collection of all dues, fees and charges, and the proposed expenditure of funds collected in sufficient detail to justify the requested funding collection and budget expenditures, as well as the budget, supporting materials, and proposed allocation and method of collection for the costs of any approved regional advisory body. NERC shall develop, in consultation with the Regional Entities, a reasonable and consistent system of accounts, with a level of detail and record keeping comparable to the Commission's Uniform System of Accounts and sufficient to allow the Commission to compare each Commission-approved NERC fiscal year budget with the actual results at the NERC and Regional Entity level. Texas RE shall follow NERC's prescribed system of accounts. NERC shall make an informational filing with the Commission describing any such waiver it permits and providing an explanation supporting the permitted departure.

(f) Texas RE's funding system shall include reasonable reserve funding for unforeseen and extraordinary expenses and other contingencies, consistent with generally accepted accounting principles.



(g) NERC shall review and approve Texas RE's budget for meeting its responsibilities under the Delegation Agreement.

(h) Texas RE shall submit unaudited quarterly interim financial statements in form provided by NERC no later than 20 days after the end of the fiscal quarter (March 31, June 30, September 30, and December 31).

(i) Texas RE shall submit audited financial statements annually including supporting materials in a form provided by NERC no later than 150 days after the end of the fiscal year.

(j) NERC shall have the right to review from time to time, in reasonable intervals but no less than every three years, the financial records of Texas RE in order to ensure that the documentation fairly represents in all material respects appropriate funding under this Agreement.

(k) **Exhibit E** to this Agreement sets forth the mechanism through which Texas RE shall offset penalty monies it receives (other than penalty monies received from an operational function or division or affiliated entity) against its next year's annual budget for carrying out functions under this Agreement, and the mechanism by which Texas RE shall transmit to NERC any penalty monies received from an operational function or division or affiliated entity of Texas RE.

**9. Assignment.** This Agreement may be assigned by either Party only with the prior written consent of the other, which consent shall be granted or withheld in such non-assigning Party's sole discretion, subject to approval by the Commission. Any assignment under this Agreement shall not relieve a Party of its obligations, nor shall a Party's obligations be enlarged, in whole or in part, by reason thereof. Texas RE may not delegate in whole or in part its Delegated Authority to any other entity; provided, however, that nothing in this provision shall prohibit Texas RE from contracting with other entities to assist it in carrying out its Delegated Authority, provided Texas RE retains control and responsibility for such Delegated Authority.

**10. Default and Cure.** Upon a Breach, the non-breaching Party shall give written notice of such Breach to the breaching Party (the "Default Notice"). Subject to a suspension of the following deadlines as specified below, the breaching Party shall have thirty (30) calendar days from receipt of the Default Notice within which to cure such Breach; provided however, that if

such Breach is not capable of cure within thirty (30) calendar days, the breaching Party shall commence such cure within thirty (30) calendar days after notice and continuously and diligently complete such cure within ninety (90) calendar days from receipt of the Default Notice; and, if cured within such time, the Breach specified in such notice shall cease to exist. Subject to the limitation specified in the following sentence, if a Breach is not cured as provided in this article, or if a Breach is not capable of being cured within the period provided for herein, the nonbreaching Party shall have the right to declare a default and terminate this Agreement by written notice at any time until cure occurs, and be relieved of any further obligation hereunder. The deadlines for cure and the right to declare a default and terminate this Agreement shall be suspended during the pendency of any efforts or proceedings in accordance with Section 17 of this Agreement to resolve a dispute as to whether a Breach has occurred. The provisions of this article will survive termination of this Agreement.

#### **11. Term and Termination.**

(a) This Agreement shall become effective on \_\_\_\_\_, 2010, pursuant to the \_\_\_\_\_, 2010 order of the Federal Energy Regulatory Commission (\_\_\_ FERC \_\_\_\_).

(b) The initial term of the Agreement shall be from the effective date until May 2, 2011. So long as Texas RE continues to meet all applicable statutory and regulatory requirements necessary to maintain its eligibility for delegation, this Agreement may be renewed for another five (5) year term. If this Agreement is not renewed or becomes subject to termination for any reason, the Parties shall work to ensure a transition of Texas RE's Delegated Authority to NERC or to another eligible entity. The termination of this Agreement shall not take effect until such transition has been effected, unless the transition period exceeds one year, at which time Texas RE may unilaterally terminate.

(c) If any provision of this Agreement, or the application thereof to any person, entity or circumstance, is held by a court or regulatory authority of competent jurisdiction to be invalid, void, or unenforceable, or if a modification or condition to this Agreement is imposed by a regulatory authority exercising jurisdiction over this Agreement, the Parties shall endeavor in good faith to negotiate such amendment or amendments to this Agreement as will restore the relative benefits and obligations of the signatories under this Agreement immediately prior to such holding, modification or condition. If either Party finds such holding, modification or

condition unacceptable and the Parties are unable to renegotiate a mutually acceptable resolution, either Party may unilaterally terminate this Agreement. Such termination shall be effective one year following written notice by either Party to the other Party and to the Commission, or at such other time as may be mutually agreed by Texas RE and NERC.

(d) Notwithstanding any termination of this Agreement, provisions contained in Limitation of Liability (Section 12), No Third Party Beneficiaries (Section 13) and Confidentiality (Section 14) shall survive this Agreement in accordance with their terms until sixty (60) days following the expiration of any applicable statute of limitations.

**12. Limitation of Liability.** Texas RE and NERC agree not to sue each other or their directors, officers, employees, and persons serving on their committees and subgroups based on any act or omission of any of the foregoing in the performance of duties pursuant to this Agreement or in conducting activities under the authority of Section 215 of the Act, other than seeking a review of such action or inaction by the Commission. NERC and Texas RE shall not be liable to one another for any damages whatsoever, including without limitation, direct, indirect, incidental, special, multiple, consequential (including attorneys' fees and litigation costs), exemplary, or punitive damages arising out of or resulting from any act or omission associated with the performance of the Texas RE's or NERC's responsibilities under this Agreement or in conducting activities under the authority of Section 215 of the Act, except to the extent that the Texas RE or NERC is found liable for gross negligence or intentional misconduct, in which case Texas RE or NERC shall not be liable for any indirect, incidental, special, multiple, consequential (including without limitation attorneys' fees and litigation costs), exemplary, or punitive damages.

**13. No Third Party Beneficiaries.** Nothing in this Agreement shall be construed to create any duty to, any standard of care with reference to, or any liability to any third party.

**14. Confidentiality.** During the course of the Parties' performance under this Agreement, a Party may receive Confidential Information, as defined in Section 1500 of NERC's Rules of Procedure. Except as set forth herein, the Parties agree to keep in confidence and not to copy, disclose, or distribute any Confidential Information or any part thereof, without the prior written

permission of the issuing Party, unless disclosure is required by subpoena, law, or other directive of a court, administrative agency, or arbitration panel, in which event the recipient hereby agrees to provide the Party that provided the Confidential Information with prompt notice of such request or requirement in order to enable such issuing Party to (a) seek an appropriate protective order or other remedy, (b) consult with the recipient with respect to taking steps to resist or narrow the scope of such request or legal process, or (c) waive compliance, in whole or in part, with the terms of this Section. In the event a protective order or other remedy is not obtained or that issuing Party waives compliance with the provisions, the recipient agrees to furnish only that portion of the Confidential Information which the recipient's counsel advises is legally required and to exercise best efforts to obtain assurance that confidential treatment will be accorded to such Confidential Information. In addition, each Party shall ensure that its officers, trustees directors, employees, subcontractors and subcontractors' employees, and agents to whom Confidential Information is exposed are under obligations of confidentiality that are at least as restrictive as those contained herein. This confidentiality provision does not prohibit reporting and disclosure as directed by NERC, as set forth in Section 6 of this Agreement.

**15. Amendment.** Neither this Agreement nor any of the terms hereof, may be amended unless such amendment is made in writing, signed by the Parties, and filed with and approved by the Commission.

**16. Amendments to the NERC Rules.** NERC shall not adopt amendments to the NERC Rules that conflict with the rights, obligations, or programs of Texas RE under this Agreement without first obtaining the consent of Texas RE, which consent shall not be unreasonably withheld or delayed. To the extent Texas RE does not consent, NERC shall have the right to invoke the dispute resolution provisions of Section 17 and, if such effort fails to resolve the dispute, to petition the Commission to adopt the amendment to the NERC Rules. To the extent that the Commission issues an order amending or materially affecting the rights or obligations of Texas RE under this Agreement, Texas RE shall have the option, exercisable no later than 60 days after issuance of such order, to terminate this Agreement. Such termination shall be effective one year following written notice by Texas RE to NERC and the Commission, or at such other time as may be mutually agreed by Texas RE and NERC.

**17. Dispute Resolution.** In the event a dispute arises under this Agreement between NERC and Texas RE, representatives of the Parties with authority to settle the dispute shall meet and confer in good faith in an effort to resolve the dispute in a timely manner. In the event the designated representatives are unable to resolve the dispute within thirty (30) days or such other period as the Parties may agree upon, each Party shall have all rights to pursue all remedies, except as expressly limited by the terms of this Agreement. Neither Party shall have the right to pursue other remedies until the Dispute Resolution procedures of this Section 17 have been exhausted. This Section 17 shall not apply to enforcement actions against individual entities.

**18. Notice.** Whether expressly so stated or not, all notices, demands, requests, and other communications required or permitted by or provided for in this Agreement shall be given in writing to a Party at the address set forth below, or at such other address as a Party shall designate for itself in writing in accordance with this Section, and shall be delivered by hand or reputable overnight courier:

If to NERC:  
 North American Electric  
 Reliability Corporation  
 116-390 Village Blvd.  
 Princeton, NJ 08540-5721  
 Attn: \_\_\_\_\_  
 Facsimile: (609) 452-9550

If to Texas RE:  
 Texas Reliability Entity, Inc.  
 2700 Via Fortuna, Suite #225  
 Austin, Texas 78746  
 Attn: Larry Grimm,  
 Chief Executive Officer  
 Facsimile: (512) 225-7165

**19. Governing Law.** When not in conflict with or preempted by federal law, this Agreement will be governed by and construed in accordance with the laws of New Jersey without giving effect to the conflict of law principles thereof. The Parties recognize and agree not to contest the exclusive or primary jurisdiction of the Commission to interpret and apply this Agreement; provided however that if the Commission declines to exercise or is precluded from exercising jurisdiction of any action arising out of or concerning this Agreement, such action shall be brought in any state or federal court of competent jurisdiction in New Jersey. All Parties hereby consent to the jurisdiction of any state or federal court of competent jurisdiction in New Jersey

for the purpose of hearing and determining any action not heard and determined by the Commission.

**20. Headings.** The headings and captions in this Agreement are for convenience of reference only and shall not define, limit, or otherwise affect any of the terms or provisions hereof.

**21. Savings Clause.** Nothing in this Agreement shall be construed to preempt or limit any authority that Texas RE may have to adopt reliability requirements or take other actions to ensure reliability of the bulk power system within the geographic boundaries described in **Exhibit A** that are outside the authority delegated from NERC, as long as such reliability requirements and actions are not inconsistent with Reliability Standards applicable to the region described in **Exhibit A** and do not result in a lessening of reliability outside the region described in **Exhibit A**.

**22. Entire Agreement.** This Agreement constitutes the entire agreement, and supersedes all prior agreements and understandings, both written and oral, among the parties with respect to the subject matter of this Agreement.

**24. Execution of Counterparts.** This Agreement may be executed in counterparts and each shall have the same force and effect as the original.

**NOW THEREFORE**, the parties have caused this Agreement to be executed by its duly authorized representatives, effective as of the date first above written.

NORTH AMERICAN  
ELECTRIC RELIABILITY CORPORATION

TEXAS RELIABILITY ENTITY, INC

By: \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Name: Larry Grimm

Title: \_\_\_\_\_

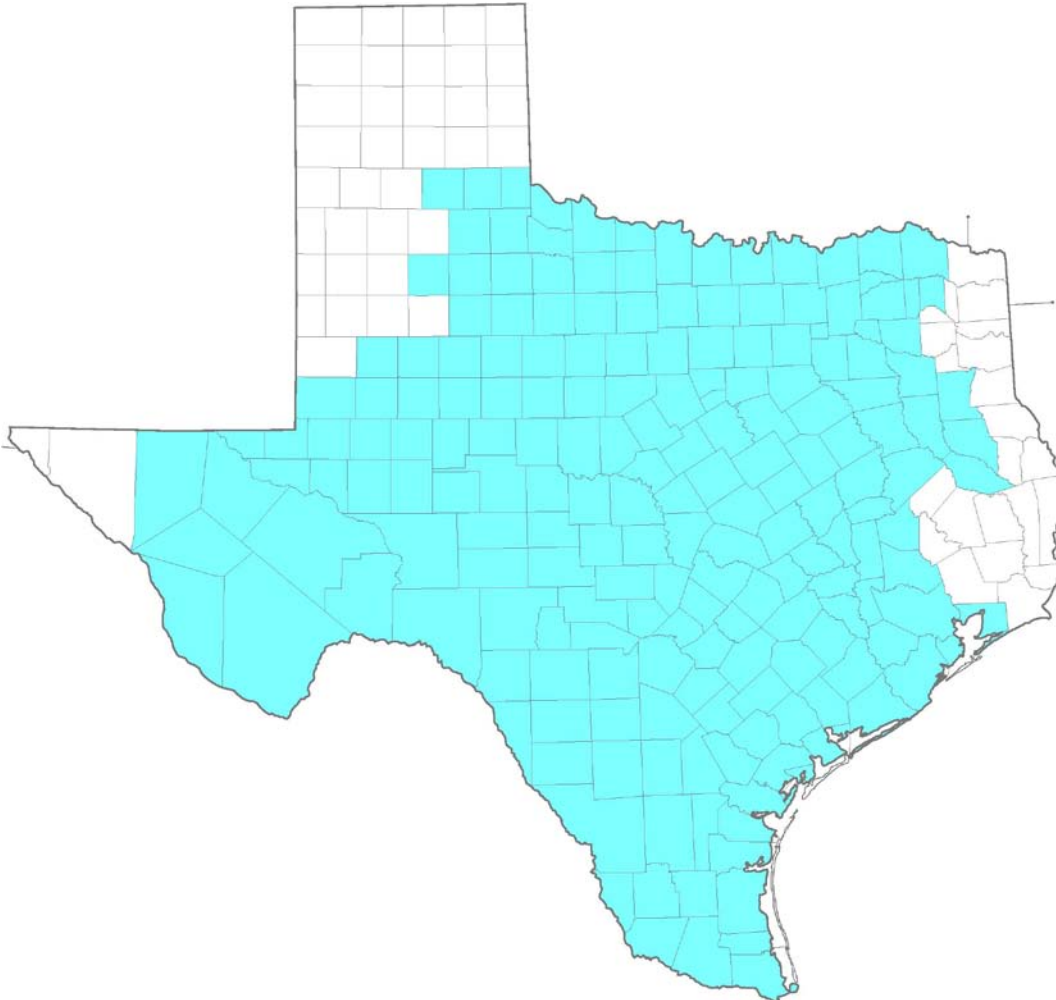
Title: Chief Executive Officer

Date: \_\_\_\_\_, 2010

Date: \_\_\_\_\_, 2010

**EXHIBIT A – REGIONAL BOUNDARIES**

The ERCOT Region is 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. The ERCOT Region does not interconnect synchronously across state lines to import or export power with neighboring reliability regions. The ERCOT geographic 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, as indicated on the map below.



## Exhibit B - Governance

Exhibit B shall set forth the Regional Entity's bylaws, which NERC agrees demonstrates that the Regional Entity meets the following criteria:

**CRITERION 1:** The Regional Entity shall be governed by an independent board, a balanced stakeholder board, or a combination independent and balanced stakeholder board. (Federal Power Act § 215(e)(4)(A), 18 C.F.R. § 39.8(c)(1), Order No. 672 at ¶ 727.)

**CRITERION 2:** The Regional Entity has established rules that assure its independence of the users and owners and operators of the bulk power system, while assuring fair stakeholder representation in the selection of its directors. Federal Power Act § 215(c)(2)(A) and (e)(4), 18 C.F.R. § 39.8(c)(2), Order No. 672 at ¶¶ 699, 700.)

**CRITERION 3:** If the Regional Entity has members, the Regional Entity has established rules that assure that its membership is open, that it charges no more than a nominal membership fee and agrees to waive the fee for good cause shown, and that membership is not a condition for participating in the development of or voting on proposed Regional Reliability Standards. (Federal Power Act § 215(c)(2)(A) and (e)(4), 18 C.F.R. § 39.8(c)(2), Order No. 672 at ¶¶ 170-173.)

**CRITERION 4:** The Regional Entity has established rules that assure balance in its decision-making committees and subordinate organizational structures and assure no two industry sectors can control any action and no one industry sector can veto any action. (Federal Power Act § 215(c)(2)(A) and (e)(4), 18 C.F.R. § 39.8(c)(2), Order No. 672 at ¶ 728.)

**CRITERION 5:** The Regional Entity has established rules that provide reasonable notice and opportunity for public comment, due process, openness, and balance of interests in exercising its duties. (Federal Power Act § 215(c)(2)(D) and (e)(4), 18 C.F.R. § 39.8(c)(2).)



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

(A Texas Non-Profit Corporation)

Approved on \_\_\_\_\_, 2010

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## ARTICLE I. DEFINITIONS

**Section 1. Definitions.** The capitalized terms used in these Bylaws of Texas Reliability 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 or having 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) “Initial Director” means a Director named in the Certificate of Formation and seated for formation of the Corporation.

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

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

(o) “OPUC” means the Texas Office of Public Utility Counsel.

(p) “Regional Entity” means an entity with a Delegation Agreement with NERC, as ERO, including the following organizations, in addition to Texas Reliability 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).

(q) “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.

(r) “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)).

(s) “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.

(t) “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.

(u) “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 Business Organizations Code.

**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 only 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, 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 and Distribution:** An entity that is registered with NERC as a Transmission Owner (TO), Transmission Planner (TP), Transmission Service Provider (TSP), Distribution Provider (DP), and/or Transmission Operator (TOP) and is not a Cooperative or Municipal Utility.

(c) **Cooperative:** 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 and is registered with NERC for at least one reliability function.

(d) **Municipal Utility:** A municipally owned utility as defined in PURA §11.003 and is registered with NERC for at least one reliability 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 reliability 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 of 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 reliability function.

(e) A Member must continue to vote in the same Sector for a minimum of the remainder of the fiscal year in which it becomes a Member 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 which 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 of the Corporation, 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 OPUC (or another employee of OPUC designated by Texas Public 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 (the "Management Director"); (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 collectively referred to herein as "Affiliated Directors." Each Director, including the Affiliated Directors and 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, including 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 Directors named as Initial Directors will serve only until the first membership meeting of the Corporation at which Independent Directors are elected. If an Initial Director is qualified to be an Independent Director and elected by the membership, such Director's term as an Initial Director shall not be counted for purposes of term limits. For the originally elected Independent Directors, two positions will have three year terms, one position will have a two year term, 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.

(c) Selection.

(1) Except for the selection of the 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. Except for the original Nominating Committee appointed by the Initial Directors ("Initial Nominating Committee"), the Nominating Committee shall consist of all Independent Directors except those whose terms expire during the current year and are seeking re-election and Affiliated Directors and such other persons with such qualifications as the Board shall specify (provided that such other persons may not vote), provided that the Independent Directors shall constitute a majority of the voting members of the Nominating Committee. The Initial Nominating Committee will consist of the Initial Directors except the Management Director (as defined in Article IV, Section 3), and at least two other persons selected by these Initial Directors to represent the interests of the Membership. The PUCT Chair may choose to participate on the Nominating Committee. If any Nominating Committee should have only two eligible Independent Directors for any reason, the requirement that Independent Directors must constitute a majority of the voting members will be removed to allow both Affiliated Directors to participate on the Nominating Committee. 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).

(2) 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.

(3) 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.**

(a) 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 as follows:

(1) For an Independent Director, by the election of a new Independent Director at the next annual election of Directors to fill the remainder, if any, of the term of the departed Independent 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 Independent Director.

(2) For the Management Director, by the appointment of a new CEO or interim CEO to fill the vacancy.

(3) For an ex officio Director, by the appointment of a new PUCT Chair or Texas Public Counsel by whomever had the right to appoint such Director.

(4) For an Affiliated Director, by the election of a new chair or vice chair, as applicable, by the Member Representative Committee.

(b) 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 any voting 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 Directors, 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 to elect 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.**

(a) 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.

(b) Except as otherwise expressly provided in the Corporation's Certificate of Formation, these Bylaws, or applicable law, Members shall vote by Sector and each Sector shall have one vote.

(c) 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, during, 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.**

The Board consisting of the Initial Directors ("Initial Board") may conduct only organizational business of the corporation, including but not limited to approving these Bylaws, authorizing the opening of a bank account, appointing officers, approving the Delegation Agreement and reviewing and approving the Corporation's business plan and budget. The quorum necessary for transaction of business by the Initial Board shall be a majority of the Initial Directors, either in person or by proxy, at meetings at which a quorum is present. Thereafter, 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 voting Directors in person or by proxy and at least three Independent Directors, and (ii) actions by the Board shall be deemed 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 but in no case less than four votes.

**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 and at least ten (10) business days prior to the scheduled meeting; provided however that the Board may meet on urgent matters on such shorter notice, not less than two (2) hours, as the person(s) calling such meeting may deem necessary for appropriate for urgent matters (emergency conditions threatening health or safety or a reasonably unforeseen situation). 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, during, 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 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 meeting held in accordance with Article VI 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 ("CEO").** 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.

**Section 5. Vice Presidents.** The CEO may select such other Corporate officers as he or she deems appropriate, subject to Board approval. Any such officer shall perform such other duties and possess such 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. 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 and may not concurrently serve on the Board of ERCOT ISO. 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 may be 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, 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 plan and hold quarterly meetings, at a time and place determined by the Member Representatives Committee, normally shortly before the regular meetings of the Board, 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 Representatives on 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 the presence, in person or by proxy, of two-thirds of the voting Representatives on the Member Representatives Committee entitled to attend. 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 an employee of the Member Representative as a proxy if both the Member Representative and the Sector Alternate are unable to attend a Members Representative Committee meeting. 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.

**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 the members of 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 members to such 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 sufficient 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 including 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 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, 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 action of the Membership, as set forth below. 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. These Bylaws may be altered, amended, or repealed as follows:

(a) Any Director or Member suggesting amendments to these Bylaws must submit a proposal of the amendment, including any necessary supporting documents, to the CEO.

(b) The CEO shall place the proposal on the agenda for a Board meeting in the time and manner prescribed by the Board and within 95 days of the request.

(c) If the proposal is approved by an act of the Board as set forth in Article VI, Section 3, the Board shall place the proposal on the agenda of the next Annual Meeting of the Corporate Members unless the Board in its discretion calls a Special Meeting of the Corporate Members to vote on the proposal or determines to seek Membership approval without a meeting as provided in Article V, Section 4.

(d) If the proposal is not approved by the Board, the Members of the Corporation may call a meeting, pursuant to Article V, Section 1(b), for the purpose of voting on a proposal not approved by the Board. Any such proposal must be approved by a vote of five of the six Sectors at a meeting of Members called for that purpose or by written consent of five 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 V, Section 2.

### **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 is in the Corporation's best interests, and is on terms no less favorable to the Corporation than could be obtained in an arms-length transaction. 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. Engaging in 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 C – Regional Standard Development Procedure**

### **COMMON ATTRIBUTE 1**

Proposed regional reliability standards shall be subject to approval by NERC, as the electric reliability organization, and by FERC before becoming mandatory and enforceable under Section 215 of the FPA. No regional reliability standard shall be effective within the Texas Reliability Entity, Inc. ("Texas RE") area unless filed by NERC with FERC and approved by FERC.

Texas RE's regional standard development procedure or other governing documents contain the following language relative to this Common Attribute:

See Texas RE Standards Development Process (Process) – Introduction, 4th ¶:

Proposed Texas RE-Specific Standards shall be subject to approval by NERC, as the electric reliability organization, and by FERC before becoming mandatory and enforceable under Section 215 of the FPA. No Standard shall be effective within the Texas RE area unless filed by NERC with FERC and approved by FERC.

### **COMMON ATTRIBUTE 2**

Texas RE regional reliability standards shall provide for as much uniformity as possible with reliability standards across the interconnected bulk power system of the North American continent. A Texas RE reliability standard shall be more stringent than a continent-wide reliability standard, including a regional difference that addresses matters that the continent-wide reliability standard does not, or shall be a regional difference necessitated by a physical difference in the bulk power system. A regional reliability standard that satisfies the statutory and regulatory criteria for approval of proposed North American reliability standards, and that is more stringent than a continent-wide reliability standard, would generally be acceptable.

Texas RE's regional standard development procedure or other governing documents contain the following language relative to this Common Attribute:

See TRE Process – Introduction, 5th ¶:

Texas RE-Specific Standards shall provide for as much uniformity as possible with reliability standards across the interconnected bulk power system of the North American continent. A Texas RE-Specific Standard shall be more stringent than a continent-wide reliability standard, including a regional difference that addresses matters that the continent-wide reliability standard does not, or shall be a regional difference necessitated by a physical difference in the bulk power system. A Texas RE-Specific Standard that satisfies the statutory and regulatory criteria for approval of proposed North American reliability standards,

and that is more stringent than a continent-wide reliability standard, would generally be acceptable.

### **COMMON ATTRIBUTE 3**

Texas RE regional reliability standards, when approved by FERC, shall be made part of the body of NERC reliability standards and shall be enforced upon all applicable bulk power system owners, operators, and users within the Texas RE area, regardless of membership in the region.

Texas RE's regional standard development procedure or other governing documents contain the following language relative to this Common Attribute:

See Texas RE Process – Introduction, 6th ¶:

Texas RE-Specific Standards, when approved by FERC, shall be made part of the body of NERC reliability standards and shall be enforced upon all applicable bulk power system owners, operators, and users within the Texas RE area, regardless of membership in the region.

### **COMMON ATTRIBUTE 4**

**Requester** — The requester is the sponsor of the regional reliability standard request may assist in the development of the standard. Any member of Texas RE, or group within Texas RE shall be allowed to request that a regional reliability standard be developed, modified, or withdrawn. Additionally, any entity (person, organization, company, government agency, individual, etc.) that is directly and materially affected by the reliability of the bulk power system in the Texas RE area shall be allowed to request a regional reliability standard be developed, modified, or withdrawn.

Texas RE's regional standard development procedure or other governing documents contain the following language relative to this Common Attribute:

See Texas RE Process – Roles in the Texas RE Reliability Standards Development Process, 1st ¶ - Originator:

**Originator** - Any person, acting as a representative of an organization which is directly and materially affected by the operation of the ERCOT region BPS, is allowed to request a Standard be developed or an existing Standard modified, or deleted, by creating a Standards Authorization Request (SAR) as described in Appendix B to this document.

### **COMMON ATTRIBUTE 5**

**[Standards or other named] committee** — The Texas RE [standards] committee manages the standards development process. The [standards] committee will consider



which requests for new or revised standards shall be assigned for development (or existing standards considered for deletion). The [standards] committee will advise the Texas RE board on standards presented for adoption.

Texas RE's regional standard development procedure or other governing documents contain the following language relative to this Common Attribute:

See Texas RE Process – Section IV – Roles in the Texas RE Reliability Standards Development Process – 5th ¶ - Reliability Standards:

**Reliability Standards Committee (RSC)** – A balanced committee comprised of the six (6) Texas RE Standard Development Sectors. The RSC will consist of two representatives from each Sector (except that Sectors with only one member may only have one representative), as elected by the Sector, and the RSC requires a quorum of at least one representative from at least two-thirds (2/3) of the Sectors to take action. The RSC in coordination with the Reliability Standards Manager will review, participate in, and manage the Texas RE Regional Standards Development Process, and develop Texas RE Regional Standards on a schedule as directed by NERC and as needed per the reliability related needs of the ERCOT Region. Where necessary or appropriate, the RSC will coordinate the development of Texas RE Regional Standards and Regional Variances with the development of national standards appearing in the NERC work plan, and the RSC will coordinate and submit comments as a group, to the extent feasible. The RSC will also review FERC Orders pertaining to standards and standards development activities to ensure directives are addressed in regional standard development.

## **COMMON ATTRIBUTE 6**

**[Registered ballot body]** — The registered ballot body comprises all entities or individuals that a) qualify for one of the stakeholder segments; are registered with Texas RE as potential ballot participants in the voting on standards; and are current with any designated fees. Each member of the registered ballot body is eligible to vote on standards. [Each standard action has its own ballot pool formed of interested members of the registered ballot body. Each ballot pool comprises those members of the registered ballot body that respond to a pre-ballot survey for that particular standard action indicating their desire to participate in such a ballot pool.] The representation model of the registered ballot body is provided in Appendix A.]

Texas RE's regional standard development procedure or other governing documents contain the following language relative to this Common Attribute:

See Texas RE Process – Section IV - Roles in the Texas RE Reliability Standards Development Process – 3rd ¶:

**Registered ballot body** — The Registered Ballot Body is comprised of all entities or individuals (whether or not they are Texas RE corporate members) that are ERCOT region BPS owners, operators, and users and qualify for one of

the below-listed Texas RE Standards Development Sectors, and are registered with the Texas RE as potential ballot participants.

### **COMMON ATTRIBUTE 7**

Texas RE will coordinate with NERC such that the acknowledgement of receipt of a standard request identified in step 1, notice of comment posting period identified in step 4, and notice for vote identified in step 5 below are concurrently posted on both the Texas RE and NERC websites.

Texas RE's regional standard development procedure or other governing documents contain the following language relative to this Common Attribute:

See Texas RE Process – Texas RE Reliability Standards Development Process, Section V. B. Regional Reliability Standards Development Process Steps – 1st ¶:

Texas RE will coordinate with NERC such that the acknowledgement of receipt of a Regional Standard request identified in Step 1, notice of comment posting period identified in Step 4, and notice for vote identified in Step 5 below are concurrently posted on both the Texas RE and NERC websites.

### **COMMON ATTRIBUTE 8**

An acceptable standard request shall contain a description of the proposed regional reliability standard subject matter containing sufficiently descriptive detail to clearly define the purpose, scope, impacted parties, and other relevant information of the proposed standard.

Texas RE's regional standard development procedure or other governing documents contain the following language relative to this Common Attribute:

See Texas RE Process – Texas RE Reliability Standards Development Process, Section V. B. Regional Reliability Standards Development Process Steps, Step 1 – 3rd ¶ & Appendix C:

An acceptable SAR contains a description of the proposed Regional Standard subject matter containing sufficiently descriptive detail to clearly define the purpose, scope, impacted parties, and other relevant information of the proposed Regional Standard.

### **COMMON ATTRIBUTE 9**

Within [no greater than 60] days of receipt of a completed standard request, the [standards] committee shall determine the disposition of the standard request.

Texas RE's regional standard development procedure or other governing documents contain the following language relative to this Common Attribute:

See Texas RE Process – Texas RE Reliability Standards Development Process, Section V. B. Regional Reliability Standards Development Process Steps, Step 1 – 5th ¶:

The RSM [Reliability Standards Manager] will post all adequately completed SARs on the Texas RE Website for public viewing and comment. This initial comment period shall be 15 days. After this initial comment period, the RSM will then forward the SAR to the RSC for its consideration at the next regularly scheduled meeting of the RSC. Within 60 days of receipt of an adequately completed SAR that has been through the initial 15-day comment period, the RSC shall determine the disposition of the SAR and, if the RSC deems necessary, direct the RSM to post for review the revised SAR again for review and comment for another 15-day period.

### **COMMON ATTRIBUTE 10**

The [standards] committee may take one of the following actions:

- Accept the standard request as a candidate for development of a new standard, revision of an existing standard, or deletion of an existing standard. The [standards] committee may, at its discretion, expand or narrow the scope of the standard request under consideration. The [standards] committee shall prioritize the development of standard in relation to other proposed standards, as may be required based on the volume of requests and resources.
- Reject the standard request. If the [standards] committee rejects a standard request, a written explanation for rejection will be delivered to the requester within [no greater than 30] days of the decision.
- Remand the standard request back to the requester for additional work. The standards process manager will make reasonable efforts to assist the requester in addressing the deficiencies identified by the [standards] committee. The requester may then resubmit the modified standard request using the process above. The requester may choose to withdraw the standard request from further consideration prior to acceptance by the [standards] committee.

Texas RE's regional standard development procedure or other governing documents contain the following language relative to this Common Attribute:

See Texas RE Process – Texas RE Reliability Standards Development Process, Section V. B. Regional Reliability Standards Development Process Steps, Step 1 – 6th ¶:

The disposition decision and decision process shall use the normal “business rules and procedures” of the RSC then in effect. The RSC may vote to take one of the following actions:

- Accept the SAR as a candidate for development of a new Regional Standard, revision of an existing Regional Standard, or deletion of an existing Regional Standard. The RSC may, in its sole discretion, expand or narrow the scope of the SAR under consideration. The RSC shall prioritize the development of SARs as may be required based on the number of SARs under development at any time.
- Reject the SAR. If the RSC rejects a SAR, a written explanation for rejection will be delivered to the Originator within 30 days of the decision, and the Texas RE BOD will also be notified with such explanation. The Texas RE BOD may, at its discretion, direct the RSC to reconsider any SAR that has been rejected.
- Remand the SAR back to the Originator for additional work. The Reliability Standards Manager will make reasonable efforts to assist the Originator in addressing the deficiencies identified by the RSC. The Originator may then resubmit the modified SAR using the process above. The Originator may choose to withdraw the SAR from further consideration prior to re-submittal to the RSC.

### **COMMON ATTRIBUTE 11**

Any standard request that is accepted by the [standards] committee for development of a standard (or modification or deletion of an existing standard) shall be posted for public viewing on the Texas RE website within [no greater than 30] days of acceptance by the committee.

Texas RE's regional standard development procedure or other governing documents contain the following language relative to this Common Attribute:

See Texas RE Process – Texas RE Reliability Standards Development Process, Section V., B. Regional Reliability Standards Development Process Steps, Step 1 – 7th ¶:

Any SAR that is accepted by the RSC for development of a Regional Standard (or modification or deletion of an existing Regional Standard) shall be posted for public viewing on the Texas RE Website, and their status will be updated as appropriate. .

### **COMMON ATTRIBUTE 12**

The standards process manager shall submit the proposed members of the drafting team to the [standards] committee. The [standards] committee shall approve the drafting team membership within 60 days of accepting a standard request for development, modifying the recommendations of the standards process manager as the committee deems appropriate, and assign development of the proposed standard to the drafting team.

Texas RE's regional standard development procedure or other governing documents contain the following language relative to this Common Attribute:

See Texas RE Process – Texas RE Reliability Standards Development Process, Section V., B. Regional Reliability Standards Development Process Steps, Step 2 – 3rd ¶:

The Reliability Standards Manager shall submit the proposed list of names of the SDT to the RSC. The RSC will either accept the recommendations of the Reliability Standards Manager or modify the SDT slate, as it deems appropriate within 60 days of accepting a SAR for development.

### **COMMON ATTRIBUTE 13**

At the direction from the [standards] committee, the standards process manager shall facilitate the posting of the draft standard on the Texas RE website, along with a draft implementation plan and supporting documents, for a no less than a [30]-day comment period. The standards process manager shall provide notice to Texas RE stakeholders and other potentially interested entities, both within and outside of the Texas RE area, of the posting using communication procedures then currently in effect or by other means as deemed appropriate.

Texas RE's regional standard development procedure or other governing documents contain the following language relative to this Common Attribute:

See Texas RE Process – Texas RE Reliability Standards Development Process, Section V., B. Regional Reliability Standards Development Process Steps, Step 4 – 1st ¶:

At the direction from the RSC, the Reliability Standards Manager shall post the draft Regional Standard on the Texas RE Website, along with a draft implementation plan and supporting documents, for a 30-day comment period. The Reliability Standards Manager shall give notice of the posting to all potentially interested entities inside or outside of the ERCOT region of which Texas RE is aware. The Reliability Standards Manager will give notice using the typical communication procedures in effect or by other means as deemed appropriate.

### **COMMON ATTRIBUTE 14**

The drafting team shall prepare a summary of the comments received and the changes made to the proposed standard as a result of these comments. The drafting team shall summarize comments that were rejected by the drafting team and the reason(s) that these comments were rejected, in part or whole. The summary, along with a response to each comment received will be posted on the Texas RE website no later than the next posting of the proposed standard.

Texas RE's regional standard development procedure or other governing documents contain the following language relative to this Common Attribute:

See Texas RE Process – Texas RE Reliability Standards Development Process Section V, B. Regional Reliability Standards Development Process Steps, Step 4 – 3rd ¶:

The SDT shall prepare a “modification report” summarizing the comments received, the team’s responses to these comments, and the changes made to the draft standard as a result of these comments. The modification report shall also summarize comments that were rejected by the SDT and the reason(s) that these comments were rejected, in part or whole. The RSM shall post responses to all comments will be posted on the Texas RE Website no later than the next posting of the revised draft.

### **COMMON ATTRIBUTE 15**

Upon recommendation of the drafting team, and if the [standards] committee concurs that all of the requirements for development of the standard have been met, the standards process manager shall post the proposed standard and implementation plan for ballot and shall announce the vote to approve the standard, including when the vote will be conducted and the method for voting. Once the notice for a vote has been issued, no substantive modifications may be made to the proposed standard unless the revisions are posted and a new notice of the vote is issued.

Texas RE's regional standard development procedure or other governing documents contain the following language relative to this Common Attribute:

See Texas RE Process – Texas RE Reliability Standards Development Process, Section V., B. Regional Reliability Standards Development Process Steps, Step 5 – 1st ¶:

Upon recommendation of the Standards Drafting Team, and if the RSC concurs that all of the requirements for development of the standard have been met, the Reliability Standards Manager shall post the proposed standard and implementation plan for ballot on the Texas RE Website. The Reliability Standards Manager shall announce the vote to approve the standard, including when the vote will be conducted and the method for voting. Once the notice for a vote has been issued, no substantive modifications may be made to the proposed standard unless the revisions are posted and a new notice of the vote is issued.

### **COMMON ATTRIBUTE 16**

The standards process manager shall schedule a vote by the Texas RE [registered ballot body/[standards] committee]. The vote shall commence no sooner than [15] days and no later than [30] days following the issuance of the notice for the vote.

Texas RE's regional standard development procedure or other governing documents contain the following language relative to this Common Attribute:

See Texas RE Process – Texas RE Reliability Standards Development Process, Section V., B. Regional Reliability Standards Development Process Steps, Step 5 – 2nd ¶:

The Reliability Standards Manager will schedule a vote among the Registered Ballot Pool, which is to be scheduled to commence no sooner than 15 days and no later than 30 days following this posting.

### **COMMON ATTRIBUTE 17**

The Texas RE registered ballot body shall be able to vote on the proposed standard during a period of [not less than 10] days.

Texas RE's regional standard development procedure or other governing documents contain the following language relative to this Common Attribute:

See Texas RE Process – Texas RE Reliability Standards Development Process, Section V., B. Regional Reliability Standards Development Process Steps, Step 5 – 4th ¶:

The Texas RE registered ballot body shall be able to vote on the proposed standard during a 15-day period.

### **COMMON ATTRIBUTE 18**

All members of Texas RE are eligible to participate in voting on proposed new standards, standard revisions or standard deletions. [Alternatively: Each standard action requires formation of a ballot pool of interested members of the registered ballot body.]

Texas RE's regional standard development procedure or other governing documents contain the following language relative to this Common Attribute:

See Texas RE Process – Texas RE Reliability Standards Development Process, B. Regional Reliability Standards Development Process Steps, Step 5, –fifth ¶:

Voting is an advisory to the Texas RE BOD. The voting shall be composed of only the votes from the Registered Ballot Pool members who have responded within the 15-day voting period. Votes may be accompanied by comments explaining the vote, but are not required. All comments shall be responded to

and posted to the Texas RE Website prior to going to the RSC or Texas RE BOD.

### **COMMON ATTRIBUTE 19**

Approval of the proposed regional reliability standard shall require a [two thirds] majority in the affirmative (affirmative votes divided by the sum of affirmative and negative votes). Abstentions and non-responses shall not count toward the results, except that abstentions may be used in the determination of a quorum. A quorum shall mean [XX%] of the members of the [registered ballot body/ballot pool] submitted a ballot.

Texas RE's regional standard development procedure or other governing documents contain the following language relative to this Common Attribute:

See Texas RE Process – Texas RE Reliability Standards Development Process, Section V., B. Regional Reliability Standards Development Process Steps, Step 5 – 6th ¶ and Section V., B, Step 6A:

At least one (1) representative from four (4) of the six (6) Sectors must vote to constitute a quorum. Each Sector shall have two (2) Sector votes. If a draft Regional Standard receives 2/3 or greater affirmative votes during the 15-day voting period, the RSC will forward the Regional Standard to the Texas RE BOD for action (Step 7).

### **COMMON ATTRIBUTE 20**

Under no circumstances may the board substantively modify the proposed regional reliability standard.

Texas RE's regional standard development procedure or other governing documents contain the following language relative to this Common Attribute:

See Texas RE Process – Texas RE Reliability Standards Development Process, Section V., B. Regional Reliability Standards Development Process Steps, Step 7 – 3rd ¶:

Under no circumstances may the Texas RE board substantively modify the proposed Texas RE Regional Standard.

### **COMMON ATTRIBUTE 21**

Once a regional reliability standard is approved by the board, the standard will be submitted to NERC for approval and filing with FERC.



Texas RE's regional standard development procedure or other governing documents contain the following language relative to this Common Attribute:

See Texas RE Process – Texas RE Reliability Standards Development Process, Section V., B. Regional Reliability Standards Development Process Steps, Step 7 – 4th ¶:

Once a Regional Standard is approved by the Texas RE BOD, the standard will be submitted to NERC for approval and filing with FERC.

## **COMMON ATTRIBUTE 22**

- **Open** - Participation in the development of a regional reliability standard shall be open to all organizations that are directly and materially affected by the Texas RE bulk power system reliability. There shall be no undue financial barriers to participation. Participation shall not be conditioned upon membership in Texas RE, and shall not be unreasonably restricted on the basis of technical qualifications or other such requirements. Meetings of drafting teams shall be open to the Texas RE members and others.

Texas RE regional standard development procedure or other governing documents contain the following language relative to this Common Attribute:

See Texas RE Process – Appendix B, I. Principles, – 3rd ¶ - Open:

- **Open** - Participation in the development of a Regional Standard shall be open to all organizations that are directly and materially affected by ERCOT bulk power system reliability. There shall be no undue financial barriers to participation. Participation shall not be conditioned upon membership in ERCOT, and shall not be unreasonably restricted on the basis of technical qualifications or other such requirements. Meetings of drafting teams shall be open to ERCOT members and others.

## **COMMON ATTRIBUTE 23**

- **Balanced** - The Texas RE standards development process strives to have an appropriate balance of interests and shall not be dominated by any two interest categories and no single interest category shall be able to defeat a matter.

Texas REs regional standard development procedure or other governing documents contain the following language relative to this Common Attribute:

See Texas RE Process – Appendix B, I. Principles, – 3rd ¶ - Balanced:

- **Balanced** - The Texas RE Standards Development Process strives to have an appropriate balance of interests and shall not be dominated by

any two interest categories and no single interest category shall be able to defeat a matter.

#### **COMMON ATTRIBUTE 24**

- **Inclusive** — Any entity (person, organization, company, government agency, individual, etc.) with a direct and material interest in the bulk power system in the Texas RE area shall have a right to participate by: a) expressing a position and its basis, b) having that position considered, and c) having the right to appeal.

Texas RE's regional standard development procedure or other governing documents contain the following language relative to this Common Attribute:

See Texas RE Process – Appendix B, I. Principles, – 3rd ¶ - Inclusive:

- **Inclusive** — Any entity (person, organization, company, government agency, individual, etc.) with a direct and material interest in the ERCOT Bulk Power System in the Texas RE area shall have a right to participate by: a) expressing a position and its basis, b) having that position considered, and c) having the right to appeal.

#### **COMMON ATTRIBUTE 25**

- **Fair due process** — The regional reliability standards development procedure shall provide for reasonable notice and opportunity for public comment. At a minimum, the procedure shall include public notice of the intent to develop a standard, a public comment period on the proposed standard, due consideration of those public comments, and a ballot of interested stakeholders.

Texas RE's regional standard development procedure or other governing documents contain the following language relative to this Common Attribute:

See Texas RE Process – Appendix B, I. Principles, – 3rd ¶ - Fair due process:

- **Fair due process** — The Texas RE Standards Development Process shall provide for reasonable notice and opportunity for public comment. At a minimum, the procedure shall include public notice of the intent to develop a standard, a public comment period on the proposed standard, due consideration of those public comments, and a ballot of interested stakeholders.

#### **COMMON ATTRIBUTE 26**

- **Transparent** — All actions material to the development of regional reliability standards shall be transparent. All standards development meetings shall be open and publicly noticed on the regional entity's Web site.

Texas RE's regional standard development procedure or other governing documents contain the following language relative to this Common Attribute:

See Texas RE Process – Appendix B, I. Principles, – 3rd ¶ - Transparent:

- **Transparent** — All actions material to the development of regional reliability standards shall be transparent. All standards development meetings shall be open and publicly noticed on RTexas RE's Web site.

### **COMMON ATTRIBUTE 27**

- Does not unnecessarily delay development of the proposed reliability standard.

Texas RE's regional standard development procedure or other governing documents contain the following language relative to this Common Attribute:

See Texas RE Process – Appendix B, I. Principles, – 3rd ¶ - Last bullet:

- Does not unnecessarily delay development of the proposed Regional Standard.

### **COMMON ATTRIBUTE 28**

Each standard shall enable or support one or more of the reliability principles, thereby ensuring that each standard serves a purpose in support of the reliability of the regional bulk power system. Each standard shall also be consistent with all of the reliability principles, thereby ensuring that no standard undermines reliability through an unintended consequence.

Texas RE's regional standard development procedure or other governing documents contain the following language relative to this Common Attribute:

See Texas RE Process – Appendix B, I. Principles, – 5th ¶:

Each Regional Standard shall enable or support one or more of the reliability principles, thereby ensuring that each Regional Standard serves a purpose in support of the reliability of the ERCOT bulk power system. Each Regional Standard shall also be consistent with all of the reliability principles, thereby ensuring that no Regional Standard undermines reliability through an unintended consequence.

### **COMMON ATTRIBUTE 29**

While reliability standards are intended to promote reliability, they must at the same time accommodate competitive electricity markets. Reliability is a necessity for electricity

markets, and robust electricity markets can support reliability. Recognizing that bulk power system reliability and electricity markets are inseparable and mutually interdependent, all regional reliability standards shall be consistent with NERC's market interface principles. Consideration of the market interface principles is intended to ensure that standards are written such that they achieve their reliability objective without causing undue restrictions or adverse impacts on competitive electricity markets.

Texas RE's regional standard development procedure or other governing documents contain the following language relative to this Common Attribute:

See Texas RE Process – Appendix B, I. Principles, – 6th ¶:

While reliability standards are intended to promote reliability, they must at the same time accommodate competitive electricity markets. Reliability is a necessity for electricity markets, and robust electricity markets can support reliability. Recognizing that bulk power system reliability and electricity markets are inseparable and mutually interdependent, all Regional Standards shall be consistent with NERC's market interface principles. Consideration of the market interface principles is intended to ensure that standards are written such that they achieve their reliability objective without causing undue restrictions or adverse impacts on competitive electricity markets.

### **COMMON ATTRIBUTE 30**

To ensure uniformity of regional reliability standards, a regional reliability standard shall consist of the elements identified in this section of the procedure. These elements are intended to apply a systematic discipline in the development and revision of standards. This discipline is necessary to achieving standards that are measurable, enforceable, and consistent.

Texas RE's regional standard development procedure or other governing documents contain the following language relative to this Common Attribute:

See Texas RE Process – Appendix B, II. Regional Reliability Standard Characteristics and Elements, b. Elements of a Regional Reliability Standard – 1st ¶:

To ensure uniformity of regional reliability standards, a Regional Reliability Standard shall consist of the elements identified in this section of the procedure. These elements are intended to apply a systematic discipline in the development and revision of standards. This discipline is necessary to achieving standards that are measurable, enforceable, and consistent.

### **COMMON ATTRIBUTE 31**

All mandatory requirements of a regional reliability standard shall be within the standard. Supporting documents to aid in the implementation of a standard may be referenced by the standard but are not part of the standard itself.

Texas RE's regional standard development procedure or other governing documents contain the following language relative to this Common Attribute:

See Texas RE Process – Appendix B, II. Regional Reliability Standard Characteristics and Elements, b. Elements of a Regional Reliability Standard – 2nd ¶:

All mandatory requirements of a regional reliability standard shall be within the standard. Supporting documents to aid in the implementation of a standard may be referenced by the standard but are not part of the standard itself.

### **COMMON ATTRIBUTE 32**

<b>Applicability</b>	<p>Clear identification of the functional classes of entities responsible for complying with the standard, noting any specific additions or exceptions.</p> <p>If not applicable to the entire Texas RE area, then a clear identification of the portion of the bulk power system to which the standard applies. Any limitation on the applicability of the standard based on electric facility requirements should be described.</p>
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Texas RE's regional standard development procedure or other governing documents contain the following language relative to this Common Attribute:

See Texas RE Process – Appendix B, II. Regional Reliability Standard Characteristics and Elements, a., Applicability:

<b>Applicability</b>	<p>Each Regional Standard Clearly identifies the functional classes of entities responsible for complying with the standard, with any specific additions or exceptions noted.</p> <p>Such functional classes include: Reliability Coordinators, Balancing Authorities, Transmission Operators, Transmission Owners, Generator Operators, Generator Owners, Interchange Authorities, Transmission Service Providers, Planning Authorities, Transmission Planners, Resource Planners, Load-Serving Entities, Purchasing-Selling Entities, and Distribution Providers. Each Regional Standard identifies the geographic applicability of the standard.</p> <p>Each Regional Standard identifies the geographic applicability of the standard. A standard may also identify any limitations on the applicability of the standard based on electric facility characteristics.</p>
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**COMMON ATTRIBUTE 33**

<b>Measure(s)</b>	Each requirement shall be addressed by one or more measures. Measures are used to assess performance and outcomes for the purpose of determining compliance with the requirements stated above. Each measure will identify to whom the measure applies and the expected level of performance or outcomes required demonstrating compliance. Each measure shall be tangible, practical, and as objective as is practical. It is important to realize that measures are proxies to assess required performance or outcomes. Achieving the measure should be a necessary and sufficient indicator that the requirement was met. Each measure shall clearly refer to the requirement(s) to which it applies.
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Texas RE's regional standard development procedure or other governing documents contain the following language relative to this Common Attribute:

See Texas RE Process – Appendix B, II. Regional Reliability Standard Characteristics and Elements, b. Elements of a Regional Reliability Standard – Table 1 - Measures(s):

<b>Measure(s)</b>	Each requirement shall be addressed by one or more measures. Measures are used to assess performance and outcomes for the purpose of determining compliance with the requirements stated above. Each measure will identify to whom the measure applies and the expected level of performance or outcomes required demonstrating compliance. Each measure shall be tangible, practical, and as objective as is practical. It is important to realize that measures are proxies to assess required performance or outcomes. Achieving the measure should be a necessary and sufficient indicator that the requirement was met. Each measure shall clearly refer to the requirement(s) to which it applies.
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**COMMON ATTRIBUTE 34**

<b>Compliance Monitoring Process</b>	<p>Defines for each measure:</p> <ul style="list-style-type: none"> <li>• The specific data or information that is required to measure performance or outcomes.</li> <li>• The entity that is responsible for providing the data or information for measuring performance or outcomes.</li> <li>• The process that will be used to evaluate data or information for the purpose of assessing performance or outcomes.</li> <li>• The entity that is responsible for evaluating data or information to assess performance or outcomes.</li> </ul>
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	<ul style="list-style-type: none"> <li>• The time period in which performance or outcomes is measured, evaluated, and then reset.</li> <li>• Measurement data retention requirements and assignment of responsibility for data archiving.</li> </ul>
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Texas RE's regional standard development procedure or other governing documents contain the following language relative to this Common Attribute:

See Texas RE Process – Appendix B, II. Regional Reliability Standard Characteristics and Elements, b. Elements of a Regional Reliability Standard – Table 2 – Compliance Monitoring Process:

<b>Compliance Monitoring Process</b>	<p>Defines for each measure:</p> <ul style="list-style-type: none"> <li>• The specific data or information that is required to measure performance or outcomes.</li> <li>• The entity that is responsible for providing the data or information for measuring performance or outcomes.</li> <li>• The process that will be used to evaluate data or information for the purpose of assessing performance or outcomes.</li> <li>• The entity that is responsible for evaluating data or information to assess performance or outcomes.</li> <li>• The time period in which performance or outcomes is measured, evaluated, and then reset.</li> <li>• Measurement data retention requirements and assignment of responsibility for data archiving.</li> </ul>
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**November 30, 2009**

**Texas Reliability Entity  
Standards Development Process**

**Appendix to Exhibit C to the  
Delegation Agreement  
Between NERC and Texas Reliability Entity**



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## **I. Introduction**

This document defines the fair and open process for adoption, approval, revision, and reaffirmation, of a Regional Reliability Standard (Regional Standard) for the ERCOT Region by Texas Reliability Entity, Inc. (Texas RE). Regional Standards provide for the reliable regional and sub-regional planning and operation of the Bulk-Power System (BPS), consistent with Good Utility Practice within a Regional Entity's (RE's) geographical footprint.

The process for obtaining a Texas RE Regional Variance to a NERC Reliability Standard shall be the same as the process for obtaining a Regional Standard. Throughout this document, where the term Regional Standard is used, the same process will be applied to a Regional Variance.

Due process is the key to ensuring that Regional Standards are developed in an environment that is equitable, accessible and responsive to the requirements of all interested and affected parties. An open and fair process ensures that all interested and affected parties have an opportunity to participate in a Regional Standard's development.

Any entity (person, organization, company, government agency, individual, etc.) with a direct and material interest in the BPS has a right to participate by: a) expressing a position and its basis, b) having that position considered, and c) having the right to appeal.

Proposed Regional Standards shall be subject to approval by North American Electric Reliability Corporation (NERC), as the electric reliability organization, and by the Federal Energy Regulatory Commission (FERC) before becoming mandatory and enforceable under Section 215 of the FPA. No Regional Standard shall be effective within the Texas RE area unless filed by NERC with FERC and approved by FERC.

Regional Standards shall provide for as much uniformity as possible with reliability standards across the interconnected BPS of the North American continent. A Regional Standard shall be more stringent than a continent-wide reliability standard, including a regional difference that addresses matters that the continent-wide reliability standard does not, or shall be a regional difference necessitated by a physical difference in the BPS. A Regional Standard that satisfies the statutory and regulatory criteria for approval of proposed North American reliability standards, and that is more stringent than a continent-wide reliability standard, would generally be acceptable.

Regional Standards, when approved by FERC, shall be made part of the body of NERC reliability standards and shall be enforced upon all applicable BPS owners, operators, and users within the Texas RE area, regardless of membership in the region.

## **II. Background**

The Texas RE may develop, through its own processes, separate Regional Standards that go beyond, add detail to, or implement NERC Reliability Standards; obtain a Regional Variance; or otherwise address issues that are not addressed in NERC Reliability Standards.

NERC Reliability Standards and Regional Standards are all to be included within the Texas RE's Compliance Program.

Regional Standards are developed consistent with the following philosophies according to the process defined within this document:

- Developed in a fair and open process that provides an opportunity for all interested parties to participate;
- Does not have an adverse impact on commerce that is not necessary for reliability;
- Provides a level of BPS reliability that is adequate to protect public health, safety, welfare, and national security and does not have a significant adverse impact on reliability; and
- Based on a justifiable difference between regions or between sub-regions within the Regional geographic area.

The NERC Board of Trustees has adopted reliability principles and market interface principles to define the purpose, scope, and nature of reliability standards. As these principles are fundamental to reliability and the market interface, these principles provide a constant beacon to guide the development of reliability standards. The NERC Board of Trustees may modify these principles from time to time, as necessary, to adapt its vision for reliability standards. Persons and committees that are responsible for the Texas RE Standards Process shall consider these NERC Principles in the execution of those duties.

NERC Reliability Standards are based on certain reliability principles that define the foundation of reliability for the North American BPS. Each Regional Standard shall enable or support one or more of the reliability principles, thereby ensuring that each Regional Standard serves a purpose in support of reliability of the North American BPS. Each Regional Standard shall also be consistent with all of the reliability principles, thereby ensuring that no Regional Standard undermines reliability through an unintended consequence.

While NERC Reliability Standards are intended to promote reliability, they must at the same time accommodate competitive electricity markets. Reliability is a necessity for electricity markets, and robust electricity markets can support reliability. Recognizing that BPS reliability and electricity markets are inseparable and mutually interdependent, all Regional Standards shall be consistent with the market interface principles. Consideration of the market interface principles is intended to ensure that Regional Standards are written such that they achieve their reliability objective without causing undue restrictions or adverse impacts on competitive electricity markets.

### **III. Regional Standards Definition**

A NERC Reliability Standard defines certain obligations or requirements of entities that operate, plan, and use the BPS of North America. The obligations or requirements must be material to reliability and measurable. Each obligation and requirement shall support one or more of the stated reliability principles and shall be consistent with all of the stated reliability and market interface principles.

Texas RE may develop, through its own processes: (1) Regional Standards that go beyond, add detail to, or implement NERC Reliability Standards or that cover matters not addressed in NERC Reliability Standards, and (2) Regional Variances that allow an alternative approach to meeting the same reliability objective as the NERC Reliability Standard and are typically necessitated by physical differences.

#### IV. Roles in the Texas RE Regional Standards Development Process

**Originator** – Any person, acting as a representative of an organization that is directly and materially affected by the operation of the ERCOT region BPS is allowed to request that a Regional Standard be developed or an existing Regional Standard modified, or deleted, by creating a Regional Standards Authorization Request (SAR) as described in Appendix B to this document.

**Texas RE Board of Directors (Texas RE BOD)** – The Texas RE BOD shall act on any proposed Regional Standard that has gone through the process. Once the Regional Standard is approved by FERC, compliance with the Regional Standard will be enforced consistent with the terms of the Regional Standard.

**Registered Ballot Body (RBB)** – The Registered Ballot Body is comprised of all entities or individuals (whether or not they are Texas RE corporate members) that are ERCOT region BPS owners, operators, and users and qualify for one of the below-listed Texas RE Standards Development Sectors, and are registered with the Texas RE as potential ballot participants.

**Registered Ballot Pool (RBP)** – Each Regional Standard has its own ballot pool formed of interested members of the Registered Ballot Body. Through the voting process, the RBP will ensure that the need for and technical merits of a proposed Regional Standard are appropriately considered. The RBP will also ensure that appropriate consideration of views and objections are received during the development process.

**Reliability Standards Committee (RSC)** – A balanced committee comprised of entities representing the six Texas RE Standard Development Sectors. The RSC will consist of two representatives from each Sector (except that Sectors with only one member may only have one representative), as elected by the Sector, and the RSC requires a quorum of at least one representative from at least two-thirds (2/3) of the Sectors to take action. The RSC in coordination with the Reliability Standards Manager will review, participate in, and manage the Texas RE Regional Standards Development Process, and develop Texas RE Regional Standards on a schedule as directed by NERC and as needed per the reliability related needs of the ERCOT Region. Where necessary or appropriate, the RSC will coordinate the development of Texas RE Regional Standards and Regional Variances with the development of national standards appearing in the NERC work plan, and the RSC will coordinate and submit comments as a group, to the extent feasible. The RSC will also review FERC Orders pertaining to standards and standards development activities to ensure directives are addressed in regional standard development.

**Reliability Standards Manager (RSM)** – A Texas RE employee assigned the task of ensuring that the development, revision or deletion of Regional Standards is in accordance with this document. The RSM works with the RSC to ensure the integrity of the process and consistency of quality and completeness of the Regional Standards. The RSM manages the Regional Standards Development Process, and coordinates and facilitates all actions contained in all steps in the process including the management of the Standard Drafting Teams and the facilitation of RSC meetings.

**Reliability Standards Staff** – Employees of the Texas RE that work with or for the Reliability Standards Manager.

**Standard Drafting Team (SDT)** – A team of technical experts, assigned by the RSC, and typically includes a Texas RE employee and the Originator, assigned the task of developing a proposed Regional Standard based upon an approved SAR using the Regional Standard Development Process contained in this document.

**Texas RE Standards Development Sectors (Sectors)** – The six (6) Texas RE Standards Development Sectors are defined as follows:

- **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)
- **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).
- **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.
- **Municipal Utility:** A municipally owned utility as defined in PURA §11.003 and is registered with NERC for at least one registered function.
- **Generation:** An entity that is registered with NERC as a Generator Owner (GO) or Generator Operator (GOP).
- **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, and any entity with a direct and material interest in the ERCOT region BPS that is not eligible for membership in any other Sector.

## **V. Texas RE Regional Standards Development Process**

### **A. Assumptions and Prerequisites**

The process for developing and approving Standards is generally based on the procedures of the American National Standards Institute (ANSI) and other standards-setting organizations in the United States and Canada. The Regional Standards development process has the following characteristics:

- **Due process** – Any person representing an organization with a direct and material interest has a right to participate by:
  - a) Expressing an opinion and its basis,
  - b) Having that position considered, and
  - c) Appealing any negative decision
- **Openness** – Participation is open to all organizations that are directly and materially affected by ERCOT region's BPS reliability. There shall be no undue financial barriers to

participation. Participation shall not be conditioned upon membership in Texas RE, and shall not be unreasonably restricted on the basis of technical qualifications or other such requirements. Meetings of SDTs are open to all interested parties. All proposed SARs and Regional Standards are posted for comment on the Texas RE Website.

- **Balance** – The Texas RE Standards Development Process strives to have an appropriate balance of interests and shall not be dominated by any single interest category.

## **B. Regional Standards Development Process Steps**

**Note:** The term “days” below refers to calendar days.

Texas RE will coordinate with NERC such that the acknowledgement of receipt of a Regional Standard request identified in Step 1, notice of comment posting period identified in Step 4, and notice for vote identified in Step 5 below are concurrently posted on both the Texas RE and NERC websites.

### ***Step 1 – Development of a Standards Authorization Request (SAR) to Develop, Revise, or Delete a Regional Standard***

Any entity (Originator) that is directly or materially impacted by the operation of the BPS (including all users, owners, and operators of the BPS and regardless of whether the entity is a Texas RE member) within the geographical footprint of Texas RE may request, via a submittal of a Standard Authorization Request (SAR) form, the development, modification, or deletion of a Regional Standard or Regional Variance.

Any such request shall be submitted to the Texas RE RSM, or his or her designee in electronic format. The SAR form may be downloaded from the Texas RE Website.

An acceptable SAR contains a description of the proposed Regional Standard subject matter containing sufficiently descriptive detail to clearly define the purpose, scope, impacted parties, and other relevant information of the proposed Regional Standard.

The RSM will verify that the submitted SAR form has been adequately completed. The RSM may offer the Originator suggestions regarding changes and/or improvements to enhance clarity of the Originator’s intent and objectives. The Originator is free to accept or reject these suggestions. Within 15 days the RSM will electronically acknowledge receipt of the SAR.

The RSM will post all adequately completed SARs on the Texas RE Website for public viewing and comment. This initial SAR comment period shall be 15 days. After this initial comment period, the RSM will then forward the SAR to the RSC for its consideration at the next regularly scheduled meeting of the RSC. Within 60 days of receipt of an adequately completed SAR that has been through the initial 15-day comment period, the RSC shall determine the disposition of the SAR and, if the RSC deems necessary, direct the RSM to post the revised SAR again for review and comment for another 15-day period.

The disposition decision process shall use the normal “business rules and procedures” of the RSC then in effect. The RSC may vote to take one of the following actions:



- Accept the SAR as a candidate for development of a new Regional Standard, revision of an existing Regional Standard, or deletion of an existing Regional Standard. The RSC may, in its sole discretion, expand or narrow the scope of the SAR under consideration. The RSC shall prioritize the development of SARs as may be required based on the number of SARs under development at any time.
- Reject the SAR. If the RSC rejects a SAR, a written explanation for rejection will be delivered to the Originator within 30 days of the decision, and the Texas RE BOD will also be notified with such explanation. The Texas RE BOD may, at its discretion, direct the RSC to reconsider any SAR that has been rejected.
- Remand the SAR back to the Originator for additional work. The RSM will make reasonable efforts to assist the Originator in addressing the deficiencies identified by the RSC. The Originator may then resubmit the modified SAR using the process above. The Originator may choose to withdraw the SAR from further consideration prior to re-submittal to the RSC.

Any SAR that is accepted by the RSC for development of a Regional Standard (or modification or deletion of an existing Regional Standard) shall be posted for public viewing on the Texas RE Website, and their status will be updated as appropriate.

Any documentation of the deliberations of the RSC concerning SARs shall be made available according to normal “business rules and procedures” of the RSC then in effect.

Texas RE Staff shall submit a written report to the Texas RE BOD on a periodic basis (at least quarterly at regularly scheduled Texas RE BOD Meetings) showing the status of all SARs that have been brought to the RSC for consideration.

## ***Step 2 – Formation of the Standard Drafting Team and Declaration of Milestone Date***

Upon acceptance by the RSC of a SAR for development of a new Regional Standard (or modification or deletion of an existing Regional Standard), the RSC shall direct the RSM to assemble a qualified balanced slate for the SDT. The RSM will solicit drafting team nominees by announcing the opening of nominations to the stakeholders in the region. The SDT shall consist of a group of people who collectively have the necessary technical expertise and work process skills to draft the standard being requested in the SAR. The RSM shall recommend to the RSC a slate of ad-hoc individuals or a pre-existing task force, work group, or similar group for the SDT. The membership of the SDT shall not include more than one individual from any one entity.

The RSM will manage the SDT to ensure that the Texas RE Standards Development Process is followed, and that the team membership receives all necessary administrative support. This support typically includes a Texas RE staff member and the Originator if he/she chooses to participate. The RSM may develop additional guidelines to assist the SDT, but as a general rule, the RSM will follow the then-current NERC SDT Guidelines and associated NERC SDT procedures in the management of the regional SDTs. The RSC shall appoint the SDT interim chair (should not be a Texas RE staff person). The SDT will elect the permanent Chair and Vice-chair at its first meeting.

The RSM shall submit the proposed list of names of the SDT to the RSC. The RSC will either accept the recommendations of the RSM or modify the SDT slate, as it deems appropriate within 60 days of accepting a SAR for development.

### ***Step 3 – Work and Work Product of the Standard Drafting Team***

The RSM will collaborate with the SDT to develop a work plan including the establishment of milestones for completing critical elements. This plan shall be delivered and reported to the RSC, and based upon this work plan, the RSC shall declare a preliminary date on which a completed draft Regional Standard and associated supporting documentation will be available for comment.

The SDT is to meet, either in person or via electronic means (such as Web Ex) as necessary, establish sub-work teams or groups (made up of members of the SDT) as necessary, and performs other activities to address the parameters of the SAR and the milestone date(s) established

The work product of the SDT will consist of the following:

- A draft Regional Standard consistent with the SAR on which it was based.
- An assessment of the impact of the SAR on neighboring regions, and appropriate input from the neighboring regions if the SAR is determined to impact any neighboring region.
- An implementation plan, including the nature, extent and duration of field-testing, if any.
- Identification of any existing Regional Standard (or other regional criteria, protocol, or rule) that may be deleted, in part or whole, or otherwise impacted by the implementation of the draft Regional Standard.
- Technical reports and/or work papers that provide technical support for the draft Regional Standard under consideration.
- The perceived reliability impact should the Regional Standard be approved.

Upon completion of these tasks, the SDT shall submit these documents to the RSC, which will verify that the proposed Regional Standard is consistent with the SAR on which it was developed.

The SDT shall regularly (at least once each month) report to and inform the RSC of its progress in meeting the timely completion of the draft Regional Standard. The SDT may request of the RSC, at any point in the Regional Standard Development Process, and change in the scope of the SAR.

The RSC may, at any time, exercise its authority over the Regional Standards Development Process by directing the SDT to move to Step 4 (below) and post the current work product for comment. Any interested entity (including the Originator and the RSM) that contends that the SDT is not effectively progressing on a draft standard or variance may notify the RSC. If any entity contends that the RSC has not taken timely action regarding any requested standard, the entity may file a written complaint with the RSM, who will notify the RSC. If the RSC cannot resolve the complaint within sixty days, the complaining entity may request that its complaint be included on the RSM's report to the Texas RE BOD.



#### ***Step 4 – Comment Posting Period***

At the direction from the RSC, the RSM shall post the draft Regional Standard on the Texas RE Website, along with a draft implementation plan and supporting documents, for a 30-day public comment period. The RSM shall also give notice of the posting to all potentially interested entities inside or outside of the ERCOT region of which Texas RE is aware. The RSM will give notice using the typical communication procedures in effect or other means as deemed appropriate.

Within 30 days of the conclusion of the 30-day comment posting period, the SDT shall convene and consider changes to the draft Regional Standard, the implementation plan, and/or supporting technical documents based upon comments received. The SDT shall also prepare a formal written response to every comment received. The SDT may then elect to return to Step 3 to revise the draft Regional Standard, implementation plan, and/or supporting technical documentation.

The SDT shall prepare a “modification report” summarizing the comments received, the team’s responses to the comments, and the changes made to the draft standard as a result of these comments. The modification report shall also summarize comments that were rejected by the SDT and the reason(s) that these comments were rejected, in part or whole. The RSM shall post responses to all comments on the Texas RE Website no later than the next posting of the revised draft standard.

#### ***Step 5 – Posting for Voting by the Registered Ballot Pool***

Upon recommendation of the SDT, and if the RSC concurs that all of the requirements for development of the standard have been met, the RSM shall post the proposed standard and implementation plan for ballot on the Texas RE Website. The RSM shall also announce the vote to approve the standard, including when the vote will be conducted and the method for voting. Once the notice for a vote has been issued, no substantive modifications may be made to the proposed standard unless the revisions are posted and a new notice of the vote is issued.

The RSM will schedule a vote among the Registered Ballot Pool, which is to be scheduled to commence no sooner than 15 days and no later than 30 days following this posting.

The RSM shall send a notice to every entity in the Registered Ballot Body (RBB) to notify them of an opportunity to become a part of the Registered Ballot Pool for this Regional Standard or a Regional Variance. This notice should precede the start of the ballot by at least 30 days. The purpose of this notice is to establish a ballot pool to participate in the consensus development process and ballot the proposed action. All members of the Registered Ballot Body are eligible to participate in voting on proposed new Regional Standards, Regional Standard revisions, or Regional Standard deletions. There shall be one person designated as the primary RBB representative of each entity. Those members of the RBB that sign up for the Ballot Pool become that pool.

The Texas RE Registered Ballot Pool shall be able to vote on the proposed standard during a 15-day period. Votes shall be submitted electronically, or through other means as approved by the RSC.

Voting is an advisory to the Texas RE BOD. The voting results shall be composed of only the votes from the Registered Ballot Pool members who have responded within the 15-day voting period. Votes may be accompanied by comments explaining the vote, but are not required. All comments shall be responded to and posted to the Texas RE Website prior to going to the RSC or Texas RE BOD.

At least one (1) representative from four (4) of the six (6) Sectors must vote to constitute a quorum. Each Sector shall have two (2) Sector votes.

***Step 6A – Registered Ballot Pool Voting Receives 2/3 or Greater Affirmative Votes of the Texas RE Sectors***

If a draft Regional Standard receives 2/3 or greater affirmative votes during the 15-day voting period, the RSC will forward the Regional Standard to the Texas RE BOD for action (Step 7).

***Step 6B – Membership Voting Does Not Receive 2/3 Affirmative Votes of the Texas RE Sectors***

If a draft Regional Standard does not receive 2/3 or greater affirmative votes during the 15-day voting period, the RSC may:

- Revise the SAR on which the draft Regional Standard was based and remand the development work back to the original SDT or a newly appointed SDT. The resulting draft Regional Standard and/or implementation plan shall be posted for a second voting period. The RSC may require a second comment period prior to a second voting period. The second posting of the draft Regional Standard, implementation plan, and supporting documentation shall be within 60 days of the RSC action.
  - If a draft Regional Standard receives 2/3 or greater affirmative votes during the second voting period, the RSC will forward to the Texas RE BOD for action (Step 7).
  - If a draft Regional Standard does not receive 2/3 or greater affirmative votes during the second voting period, the RSC will refer the draft Regional Standard and implementation plan to the Texas RE BOD. The RSC may also submit an assessment, opinion, and recommendations to the Texas RE BOD (Step 7).
- Direct the existing SDT to reconsider or modify certain aspects of the draft Regional Standard and/or implementation plan. The resulting draft Regional Standard and/or implementation plan shall be posted for a second voting period. The RSC may require a second comment period prior to the second voting period. The second posting of the draft Regional Standard, implementation plan, and supporting documentation shall be within 60 days of the RSC action.
  - If a draft Regional Standard receives 2/3 or greater affirmative votes on the second voting period, the RSC will forward it to the Texas RE BOD for action (Step 7).
  - If a draft Regional Standard does not receive 2/3 or greater affirmative votes on the second voting period, the RSC will refer the draft Regional Standard and

implementation plan to the Texas RE BOD. The RSC may also submit an assessment, opinion, and recommendations to the Texas RE BOD (Step 7).

### ***Step 7 – Action by the Texas RE Board of Directors***

A proposed Regional Standard submitted to the Texas RE BOD for action shall be publicly posted at least 10 days prior to action by the Texas RE BOD. At a regular or special meeting, the Texas RE BOD shall consider adoption of the draft Regional Standard. The Texas RE BOD shall be provided with an “informational package” which includes:

- The draft Regional Standard and any modification or deletion of other related existing Regional Standard(s)
- Implementation Plan (including recommending field testing and effective dates)
- Technical Documentation supporting the draft Regional Standard
- A summary of the vote and summary of the comments and responses that accompanied the votes.

The Texas RE BOD will consider the results of the voting and dissenting opinions. The Texas RE BOD will consider any advice offered by the RSC and may:

- Approve the proposed Regional Standard;
- Remand the proposed Regional Standard to the RSC with comments and instructions; or
- Disapprove the proposed Regional Standard without recourse.

Under no circumstances may the Texas RE BOD substantively modify the proposed Regional Standard.

Once a Regional Standard is approved by the Texas RE BOD, the standard will be submitted to NERC for approval and filing with FERC.

### ***Step 8 – Implementation of a Regional Standard***

Upon approval of a draft Regional Standard by the Texas RE BOD, the RSM will notify the membership of such action of the Texas RE BOD through the normal and customary membership communication procedures and processes then in effect. The RSM will take whatever steps are necessary to have a Regional Standard reviewed and/or approved by NERC or any successor organization.

### ***C. Regional Standards Integration***

Once the Regional Standard is approved by FERC, the RSM shall notify the stakeholders of the effective date. The RSM will also notify the Texas RE Compliance Staff for integration into the Texas RE Compliance Monitoring and Enforcement Program.

## **Appendix A – Stakeholder Representation**

The Texas RE stakeholder representation for Regional Standards development is as follows:

### **I. Reliability Standards Committee (RSC)**

The Reliability Standards Committee (RSC), comprised of two representatives (except for Sectors with only one member, which will have only one representative) from each of the six Texas RE Standards Development Sectors (System Coordination and Planning; Transmission; Generation; Cooperative or River Authority Utility; Municipal Utility; Load-Serving and Marketing), is to provide balanced decision-making and due process for Regional Standards and Regional Variances. The RSC will receive, consider, and vote upon requests for new or revised Regional Standards and Regional Variances. The RSC requires a quorum of at least one representative from at least two-thirds of the Sectors.

The RSC will consider any requests for Regional Standards or Regional Variances from parties that are directly and materially affected by the operation of the ERCOT Region BPS that have first been submitted to the RSM for initial review.

### **II. Texas RE Board of Directors (BOD)**

Texas RE is a Texas non-profit corporation that is governed by a combination independent and balanced stakeholder board. The Texas RE Board of Directors (BOD) includes the following directors:

- Four independent directors who are independent of any ERCOT region market participant and any NERC registered entity and are nominated and elected in accordance with the requirements and procedures specified in the Texas RE Bylaws;
- Two directors from different Sectors who are selected by the Texas RE Member Representatives Committee as its chair and vice chair;
- CEO of Texas RE (as ex officio non-voting Director); and
- Chairman of the Public Utility Commission of Texas (PUCT) or another PUCT Commissioner designated by the Chairman (as ex officio non-voting Director); and
- Texas Public Counsel from the Office of Public Utility Counsel (OPUC) or another employee of OPUC designated by Public Counsel (as ex officio non-voting Director).

### **III. Registered Ballot Body (RBB)**

A Registered Ballot Body (RBB) will be comprised of representatives from all the Sectors, to provide balanced decision-making on Regional Standards and Regional Variances. The RBB is eligible to vote on all proposed new or revised Regional Standards or Regional Variances. The RBB requires a quorum of at least one vote from at least two-thirds of the Sectors. At all meetings, each Sector shall have one (1) Sector vote, and each voting entity is entitled to only one vote. Each voting entity participating in the vote, shall receive an equal fraction of its Sector's vote. A Registered Ballot Pool (RBP) will be formed for each proposed Regional Standard or Regional Variance and will be a subset of the RBB. The RBP will vote on a particular standard action.

## **Appendix B – Principles, Characteristics, and Special Procedures**

### **I. Principles**

Due process is the key to ensuring that regional reliability standards are developed in an environment that is equitable, accessible and responsive to the requirements of all interested and affected parties. An open and fair process ensures that all interested and affected parties have an opportunity to participate in the development of a standard.

The Texas RE develops Regional Standards with due consideration of the following principles, in accordance with the steps outlined in this procedure. The process must ensure that any Regional Standard is technically sound and the technical specifications proposed would achieve a valuable reliability objective.

The standards development process has the following characteristics:

- **Open** – Participation in the development of a Regional Standard shall be open to all organizations that are directly and materially affected by ERCOT BPS reliability. There shall be no undue financial barriers to participation. Participation shall not be conditioned upon membership in ERCOT, and shall not be unreasonably restricted on the basis of technical qualifications or other such requirements. Meetings of drafting teams shall be open to ERCOT members and others.
- **Balanced** – The Texas RE Standards Development Process strives to have an appropriate balance of interests and shall not be dominated by any two interest categories and no single interest category shall be able to defeat a matter.
- **Inclusive** – Any entity (person, organization, company, government agency, individual, etc.) with a direct and material interest in the ERCOT BPS in the Texas RE area shall have a right to participate by: a) expressing a position and its basis, b) having that position considered, and c) having the right to appeal.
- **Fair due process** – The Texas RE Standards Development Process shall provide for reasonable notice and opportunity for public comment. At a minimum, the procedure shall include public notice of the intent to develop a standard, a public comment period on the proposed standard, due consideration of those public comments, and a ballot of interested stakeholders.
- **Transparent** – All actions material to the development of regional reliability standards shall be transparent. All standards development meetings shall be open and publicly noticed on the Texas RE Website.
- Does not unnecessarily delay development of the proposed Regional Standard.

NERC has adopted reliability principles and market interface principles to define the purpose, scope, and nature of reliability standards. These principles are to be used to guide the development of reliability standards, including regional reliability standards. The NERC Board of Trustees may modify these principles from time to time, as necessary, to adapt its vision for reliability standards.

Each Regional Standard shall enable or support one or more of the reliability principles, thereby ensuring that each Regional Standard serves a purpose in support of the reliability of the ERCOT BPS. Each Regional Standard shall also be consistent with all of the reliability principles, thereby ensuring that no Regional Standard undermines reliability through an unintended consequence.

While reliability standards are intended to promote reliability, they must at the same time accommodate competitive electricity markets. Reliability is a necessity for electricity markets, and robust electricity markets can support reliability. Recognizing that BPS reliability and electricity markets are inseparable and mutually interdependent, all Regional Standards shall be consistent with NERC's market interface principles. Consideration of the market interface principles is intended to ensure that standards are written such that they achieve their reliability objective without causing undue restrictions or adverse impacts on competitive electricity markets.

## **II. Regional Standard Characteristics and Elements**

### **a. Characteristics of a Regional Standard**

The following characteristics describe objectives to be considered in the development of Regional Standards:

1. **Applicability** – Each Regional Standard clearly identifies the functional classes of entities responsible for complying with the standard, with any specific additions or exceptions noted. Such functional classes include: Reliability Coordinators, Balancing Authorities, Transmission Operators, Transmission Owners, Generator Operators, Generator Owners, Interchange Authorities, Transmission Service Providers, Planning Authorities, Transmission Planners, Resource Planners, Load-Serving Entities, Purchasing-Selling Entities, and Distribution Providers. Each Regional Standard identifies the geographic applicability of the standard. A standard may also identify any limitations on the applicability of the standard based on electric facility characteristics.
2. **Reliability Objectives** – Each Regional Standard has a clear statement of purpose that describes how the standard contributes to the reliability of the ERCOT BPS.
3. **Requirement or Outcome** – Each Regional Standard states one or more requirements, which if achieved by the applicable entities, will provide for a reliable BPS, consistent with good utility practices and the public interest.
4. **Measurability** – Each performance requirement is stated so as to be objectively measurable by a third party with knowledge or expertise in the area addressed by that requirement. Each performance requirement has one or more associated measures used to objectively evaluate compliance with the requirement. If performance can be practically measured quantitatively, metrics are provided to determine satisfactory performance.
5. **Technical Basis in Engineering and Operations** — Each Regional Standard is based upon sound engineering and operating judgment, analysis, or experience, as determined by expert practitioners in that particular field.



6. **Completeness** — Each Regional Standard is complete and self-contained. Supporting references may be provided with standards, but they are not part of the standard and do not impose mandatory requirements.
7. **Clear Language** — Each Regional Standard is stated using clear and unambiguous language. Responsible entities, using reasonable judgment and in keeping with good utility practice, are able to arrive at a consistent understanding of the required performance.
8. **Practicality** — Each Regional Standard establishes requirements that can be practically implemented by the assigned responsible entities within the specified effective date and thereafter.
9. **Consistent Terminology** — To the extent possible, Regional Standards use a set of standard terms and definitions that are approved through the regional standards development procedure.

Although Regional Standards have a common format and process, several types of standards may exist, each with a different approach to measurement:

- **Technical standards** are related to the provision, maintenance, operation, or state of electric systems, and will likely contain measures of physical parameters that are technical in nature.
- **Performance standards** are related to the actions of entities providing for or impacting the reliability of the BPS, and will likely contain measures of the results of such actions or qualities of performance of such actions.
- **Preparedness standards** are related to the actions of entities to be prepared for conditions that are unlikely to occur, but are nonetheless critical to reliability, and will likely contain measures of such preparations or the state of preparedness.

#### **b. Elements of a Regional Standard**

To ensure uniformity of regional reliability standards, a Regional Standard shall consist of the elements identified in this section of the procedure. These elements are intended to apply a systematic discipline in the development and revision of standards. This discipline is necessary to achieving standards that are measurable, enforceable, and consistent.

All mandatory requirements of a regional reliability standard shall be within the standard. Supporting documents to aid in the implementation of a standard may be referenced by the standard but are not part of the standard itself.

**Table 1 – Performance Elements of a Regional Standard**

<b>Identification Number</b>	A unique identification number assigned in accordance with an administrative classification system to facilitate tracking and reference.
<b>Title</b>	A brief, descriptive phrase identifying the topic of the standard.
<b>Applicability</b>	Clear identification of the functional classes of entities responsible for

	complying with the standard, noting any specific additions or exceptions. If not applicable to the entire Texas RE area, then a clear identification of the portion of the BPS to which the standard applies. Any limitation on the applicability of the standard based on electric facility requirements should be described.
<b>Effective Date and Status</b>	The effective date of the standard or, prior to approval of the standard, the proposed effective date.
<b>Purpose</b>	The purpose of the standard. The purpose shall explicitly state what outcome will be achieved or is expected by this standard.
<b>Requirement(s)</b>	Explicitly stated technical, performance, and preparedness requirements. Each requirement identifies what entity is responsible and what action is to be performed or what outcome is to be achieved. Each statement in the requirements section shall be a statement for which compliance is mandatory.
<b>Measure(s)</b>	Each requirement shall be addressed by one or more measures. Measures are used to assess performance and outcomes for the purpose of determining compliance with the requirements stated above. Each measure will identify to whom the measure applies and the expected level of performance or outcomes required demonstrating compliance. Each measure shall be tangible, practical, and as objective as is practical. It is important to realize that measures are proxies to assess required performance or outcomes. Achieving the measure should be a necessary and sufficient indicator that the requirement was met. Each measure shall clearly refer to the requirement(s) to which it applies.

**Table 2 – Compliance Elements of a Regional Standard**

<b>Compliance Monitoring Process</b>	<p>Defines for each measure:</p> <ul style="list-style-type: none"> <li>• The specific data or information that is required to measure performance or outcomes.</li> <li>• The entity that is responsible for providing the data or information for measuring performance or outcomes.</li> <li>• The process that will be used to evaluate data or information for the purpose of assessing performance or outcomes.</li> <li>• The entity that is responsible for evaluating data or information to assess performance or outcomes.</li> <li>• The time period in which performance or outcomes is measured, evaluated, and then reset.</li> <li>• Measurement data retention requirements and assignment of responsibility for data archiving.</li> </ul>
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**Table 3 – Supporting Information Elements**

<b>Interpretation</b>	Any interpretation of regional reliability standard that is developed and approved in accordance with Section VI “Interpretation of Regional Standards” in Appendix B of this procedure, to expound on the application of the standard for unusual or unique situations or to provide clarifications.
<b>Implementation Plan</b>	Each regional reliability standard shall have an associated implementation plan describing the effective date of the standard or effective dates if there is a phased implementation. The implementation plan may also describe the implementation of the standard in the compliance program and other considerations in the initial use of the standard, such as necessary tools, training, etc. The implementation plan must be posted for at least one public comment period and is approved as part of the ballot of the standard.
<b>Supporting References</b>	<p>This section references related documents that support reasons for, or otherwise provide additional information related to the regional reliability standard. Examples include, but are not limited to:</p> <ul style="list-style-type: none"> <li>• Glossary of terms</li> <li>• Developmental history of the standard and prior versions</li> <li>• Notes pertaining to implementation or compliance</li> <li>• Regional Standard references</li> <li>• Regional Standard supplements</li> <li>• Procedures</li> <li>• Practices</li> <li>• Training references</li> <li>• Technical references</li> <li>• White papers</li> <li>• Internet links to related information</li> </ul>

### **III. Maintenance of the Texas RE Regional Standards Development Process**

Significant changes to this process which are not made as part of a Texas RE request for an amendment to the Delegation Agreement shall begin with the preparation of a SAR and be addressed using the same procedure as a request to add, modify, or delete a Regional Standard.

The RSC has the authority to make ‘minor’ changes to this process as deemed appropriate by the RSC and subject to the RSC voting practices and procedures then in effect. The RSM, on behalf of the RSC, shall promptly notify the Texas RE BOD of such changes to this process for their review and concurrence at the next Texas RE BOD meeting.

### **IV. Maintenance of Regional Standards**

The RSM shall ensure that each Regional Standard is reviewed at least once every five years from the effective date of the Standard or the latest revision to the Regional Standard, whichever is the later. The review process shall be conducted by soliciting comments from the stakeholders. If no changes are warranted, the RSM shall recommend to the Texas RE BOD

that the Regional Standard be reaffirmed. If the review indicates a need to revise or delete a Regional Standard, a SAR shall be prepared and submitted in accordance with the standards development process contained in this process.

## **V. Urgent Action**

Under certain conditions, the RSC may designate a proposed Regional Standard or revision to a standard as requiring urgent action. Urgent action may be appropriate when a delay in implementing a proposed standard or revision could materially impact reliability of the BPS. The RSC must use its judgment carefully to ensure an urgent action is truly necessary and not simply an expedient way to change or implement a Regional Standard.

An originator shall prepare a SAR and a draft of the proposed standard and submit to the RSM. The standard request must include a justification for urgent action. The RSM submits the request to the RSC for its consideration. If the RSC designates the requested standard or revision as an urgent action item, then the RSM shall immediately post the draft for pre-ballot review. This posting requires a minimum 30-day posting period before the ballot and applies the same voting procedure as detailed in Step 6.

Any Regional Standard approved as an urgent action shall have a termination date specified that shall not exceed one year from the approval date. Should there be a need to make the standard permanent the standard would be required to go through the full Regional Standard Development Process. All urgent action standards require Texas RE BOD, NERC, and FERC approval, as outlined for standards in the regular process.

Urgent actions that expire may be renewed using the urgent action process again, in the event a permanent standard is not adopted. In determining whether to authorize an urgent action standard for a renewal ballot, the RSC shall consider the impact of the standard on the reliability of the BPS and whether expeditious progress is being made toward a permanent replacement standard. The RSC shall not authorize a renewal ballot if there is insufficient progress toward adopting a permanent replacement standard or if the RSC lacks confidence that a reasonable completion date is achievable. The intent is to ensure that an urgent action standard does not in effect take on a degree of permanence due to the lack of an expeditious effort to develop a permanent replacement standard. With these principles, there is no predetermined limit on the number of times an urgent action may be renewed. However, each urgent action standard renewal shall be effective only upon approval by the Texas RE BOD, and approval by applicable governmental authorities.

Any person or entity, including the drafting team working on a permanent replacement standard, may at any time submit a standard request proposing that an urgent action standard become a permanent standard by following the full standards process.

## **VI. Interpretations of Regional Standards**

All persons who are directly and materially affected by ERCOT's BPS reliability shall be permitted to request an interpretation of a Regional Standard or Regional Variance (collectively referred to as Regional Standard). The person requesting an interpretation shall send a request to the RSM electronically using the Interpretation Request Form explaining the specific circumstances surrounding the request and what clarifications are required as applied to those circumstances. The request should indicate the material impact to the requesting party or others caused by the lack of clarity or a possibly incorrect interpretation of the standard.

The RSM shall assemble a team with the relevant expertise to address the clarification. The Interpretation Drafting Team (IDT) typically consists of members from the original SDT. The RSM shall submit the proposed list of names of the IDT to the RSC. The RSC will either accept the recommendations of the RSM or modify the IDT slate.

As soon as practical (not more than 45 days), the team will meet to draft a written interpretation to the Regional Standard addressing the issues raised. Once the IDT has completed a draft interpretation to the Regional Standard addressing only the issues raised, the team will forward the draft interpretation to the RSM. The RSM will forward the draft interpretation to the Texas RE Chief Compliance Officer. The Chief Compliance Officer shall assess if the inclusion of the interpretation lessens the measurability of the Regional Standard. Barring receipt of an opinion from the Chief Compliance Officer within 21 days, that the interpretation lessens measurability or is not technically appropriate for the Regional Standard, the RSM shall forward the interpretation to the RSC. The RSC shall determine if the interpretation is consistent with the Regional Standard. The RSM, on behalf of the RSC, shall forward the interpretation to the Texas RE BOD for informational purposes as being appended to the approved Regional Standard.

Note: In the event that the Chief Executive Officer determines that measurability is lessened, the Chief Executive Officer shall provide an explanation of his/her reasoning to the RSM and IDT for inclusion in a subsequent reversion. In either case, the IDT and RSM will continue to re-circulate the interpretation as stated above.

The interpretation shall stand until such time as the Regional Standard is revised through the normal process, at which time the Regional Standard will be modified to incorporate the clarifications provided by the interpretation.

## **VII. Appeals**

Persons who have directly and materially affected interests and who have been or will be adversely affected by any substantive or procedural action or inaction related to the development, approval, revision, reaffirmation, or withdrawal of a Regional Standard shall have the right to appeal. This Appeals Process applies only to this Regional Standards Process.

The burden of proof to show adverse effect shall be on the appellant. Appeals shall be made within 30 days of the date of the action purported to cause the adverse effect, except appeals for inaction, which may be made at any time. In all cases, the request for appeal must be made prior to the next step in the process.

The final decisions of any appeal shall be documented in writing and made public.

The Appeals Process provides two levels, with the goal of expeditiously resolving the issue to the satisfaction of the participants:

### ***Level 1 Appeal***

Level 1 is the required first step in the appeals process. The appellant submits a complaint in writing to the RSM that describes the substantive or procedural action or inaction associated with Regional Standard or the Regional Standards Process. The appellant describes in the complaint the actual or potential adverse impact to the appellant. Assisted by any necessary staff and committee resources, the RSM shall prepare a written response addressed to the appellant as soon as practical, but not more than 45 days after receipt of the complaint. If the appellant accepts the response as a satisfactory resolution of the issue, both the complaint and response will be made a part of the public record associated with the Regional Standard.

### ***Level 2 Appeal***

If after the Level 1 Appeal the appellant remains unsatisfied with the resolution, as indicated by the appellant in writing to the RSM, the RSM shall convene a Level 2 Appeals Panel. This panel shall consist of five members total appointed by the Texas RE BOD. In all cases, Level 2 Appeals Panel Members shall have no direct affiliation with the participants in the appeal.

The RSM shall post the complaint and other relevant materials and provide at least 30 days notice of the meeting of the Level 2 Appeals Panel. In addition to the appellant, any person that is directly and materially affected by the substantive or procedural action or inaction referenced in the complaint shall be heard by the panel. The panel shall not consider any expansion of the scope of the appeal that was not presented in the Level 1 Appeal. The panel may in its decision find for the appellant and remand the issue to the RSC with a statement of the issues and facts in regard to which fair and equitable action was not taken. The panel may find against the appellant with a specific statement of the facts that demonstrate fair and equitable treatment of the appellant and the appellant's objections. The panel may not, however, revise, approve, disapprove, or adopt a Regional Standard. The actions of the Level 2 Appeals Panel shall be publicly posted.

In addition to the foregoing, a procedural objection that has not been resolved may be submitted to Texas RE BOD for consideration at the time the Texas RE BOD decides whether to adopt a particular Regional Standard. The objection must be in writing, signed by an officer of the objecting entity, and contain a concise statement of the relief requested and a clear demonstration of the facts that justify that relief. The objection must be filed no later than 30 days after the announcement of the vote on the Regional Standard in question.

## **Appendix C – Regional Standard Authorization Request Form**

The tables below provide a representative example of information in a Regional Standard Authorization Request (SAR). The RSM shall be responsible for implementing and maintaining the applicable form as needed to support the information requirements of the Texas RE Standards Process. The latest version of the form will be downloadable from the Texas RE's Standards Development Web page.

### **Standard Authorization Request**

#### **Texas RE to complete**

ID
Authorized for Posting
Authorized for Development

Title of Proposed Regional Standard:
Request Date:

#### **SAR Originator Information**

<b>Name:</b>	SAR Type (Check one box.)	
Company:	<input type="checkbox"/>	New Regional Standard
Telephone:	<input type="checkbox"/>	Revision to Existing Regional Standard
Fax:	<input type="checkbox"/>	Withdrawal of Existing Regional Standard
Email:	<input type="checkbox"/>	Urgent Action

**Purpose** (Describe the purpose of the proposed regional reliability standard – what the standard will achieve in support of reliability.)

**Industry Need** (Provide a detailed statement justifying the need for the proposed regional reliability standard, along with any supporting documentation.)

**Brief Description** (Describe the proposed regional reliability standard in sufficient detail to clearly define the scope in a manner that can be easily understood by others.)

### Reliability Functions

<b>The Regional Standard will Apply to the Following Functions</b> <i>(Check all applicable boxes.)</i>		
<input type="checkbox"/>	Reliability Coordinator	The entity that is the highest level of authority who is responsible for the reliable operation of the BPS, has the Wide Area view of the BPS, and has the operating tools, processes and procedures, including the authority to prevent or mitigate emergency operating situations in both next-day analysis and real-time operations. The Reliability Coordinator has the purview that is broad enough to enable the calculation of Interconnection Reliability Operating Limits, which may be based on the operating parameters of transmission systems beyond any Transmission Operator's vision.
<input type="checkbox"/>	Balancing Authority	The responsible entity that integrates resource plans ahead of time, maintains load-interchange-generation balance within a Balancing Authority Area, and supports Interconnection frequency in real time.
<input type="checkbox"/>	Interchange Authority	Authorizes valid and balanced Interchange Schedules.
<input type="checkbox"/>	Planning Authority	The responsible entity that coordinates and integrates transmission facility and service plans, resource plans, and protection systems.
<input type="checkbox"/>	Transmission Service Provider	The entity that administers the transmission tariff and provides Transmission Service to Transmission Customers under applicable transmission service agreements.
<input type="checkbox"/>	Transmission Owner	The entity that owns and maintains transmission facilities.
<input type="checkbox"/>	Transmission Operator	The entity responsible for the reliability of its "local" transmission system, and that operates or directs the operations of the transmission facilities.
<input type="checkbox"/>	Transmission Planner	The entity that develops a long-term (generally one year and beyond) plan for the reliability (adequacy) of the interconnected bulk power transmission systems within its portion of the Planning Authority Area.
<input type="checkbox"/>	Resource Planner	The entity that develops a long-term (generally one year and beyond) plan for the resource adequacy of specific loads (customer demand and energy requirements) within a Planning Authority Area.
<input type="checkbox"/>	Generator Operator	The entity that operates generating unit(s) and performs the functions of supplying energy and Interconnected Operations Services.
<input type="checkbox"/>	Generator Owner	Entity that owns and maintains generating units.
<input type="checkbox"/>	Purchasing-Selling Entity	The entity that purchases or sells, and takes title to, energy, capacity, and Interconnected Operations Services. Purchasing-Selling Entities may be affiliated or unaffiliated merchants and may or may not own generating facilities.

<input type="checkbox"/>	Distribution Provider	Provides and operates the “wires” between the transmission system and the customer.
<input type="checkbox"/>	Load-Serving Entity	Secures energy and transmission service (and related Interconnected Operations Services) to serve the electrical demand and energy requirements of its end-use customers.

### Reliability and Market Interface Principles

<b>Applicable Reliability Principles</b> <i>(Check all boxes that apply.)</i>	
<input type="checkbox"/>	1. Interconnected BPSs shall be planned and operated in a coordinated manner to perform reliably under normal and abnormal conditions as defined in the NERC Standards.
<input type="checkbox"/>	2. The frequency and voltage of interconnected BPSs shall be controlled within defined limits through the balancing of real and reactive power supply and demand.
<input type="checkbox"/>	3. Information necessary for the planning and operation of interconnected BPSs shall be made available to those entities responsible for planning and operating the systems reliably.
<input type="checkbox"/>	4. Plans for emergency operation and system restoration of interconnected BPSs shall be developed, coordinated, maintained, and implemented.
<input type="checkbox"/>	5. Facilities for communication, monitoring, and control shall be provided, used, and maintained for the reliability of interconnected BPSs.
<input type="checkbox"/>	6. Personnel responsible for planning and operating interconnected BPSs shall be trained, qualified, and have the responsibility and authority to implement actions.
<input type="checkbox"/>	7. The security of the interconnected BPSs shall be assessed, monitored, and maintained on a wide-area basis.
<b>Does the proposed Regional Standard comply with all of the following Market Interface Principles?</b> <i>(Select ‘yes’ or ‘no’ from the drop-down box.)</i>	
Recognizing that reliability is an Common Attribute of a robust North American economy:	
1.	A reliability standard shall not give any market participant an unfair competitive advantage. Yes
2.	A reliability standard shall neither mandate nor prohibit any specific market structure. Yes
3.	A reliability standard shall not preclude market solutions to achieving compliance with that standard. Yes
4.	A reliability standard shall not require the public disclosure of commercially sensitive information. All market participants shall have equal opportunity to access commercially non-sensitive information that is required for compliance with reliability standards. Yes

**Detailed Description** (Provide enough detail so that an independent entity familiar with the industry could draft a standard based on this description.)



### Related Standards

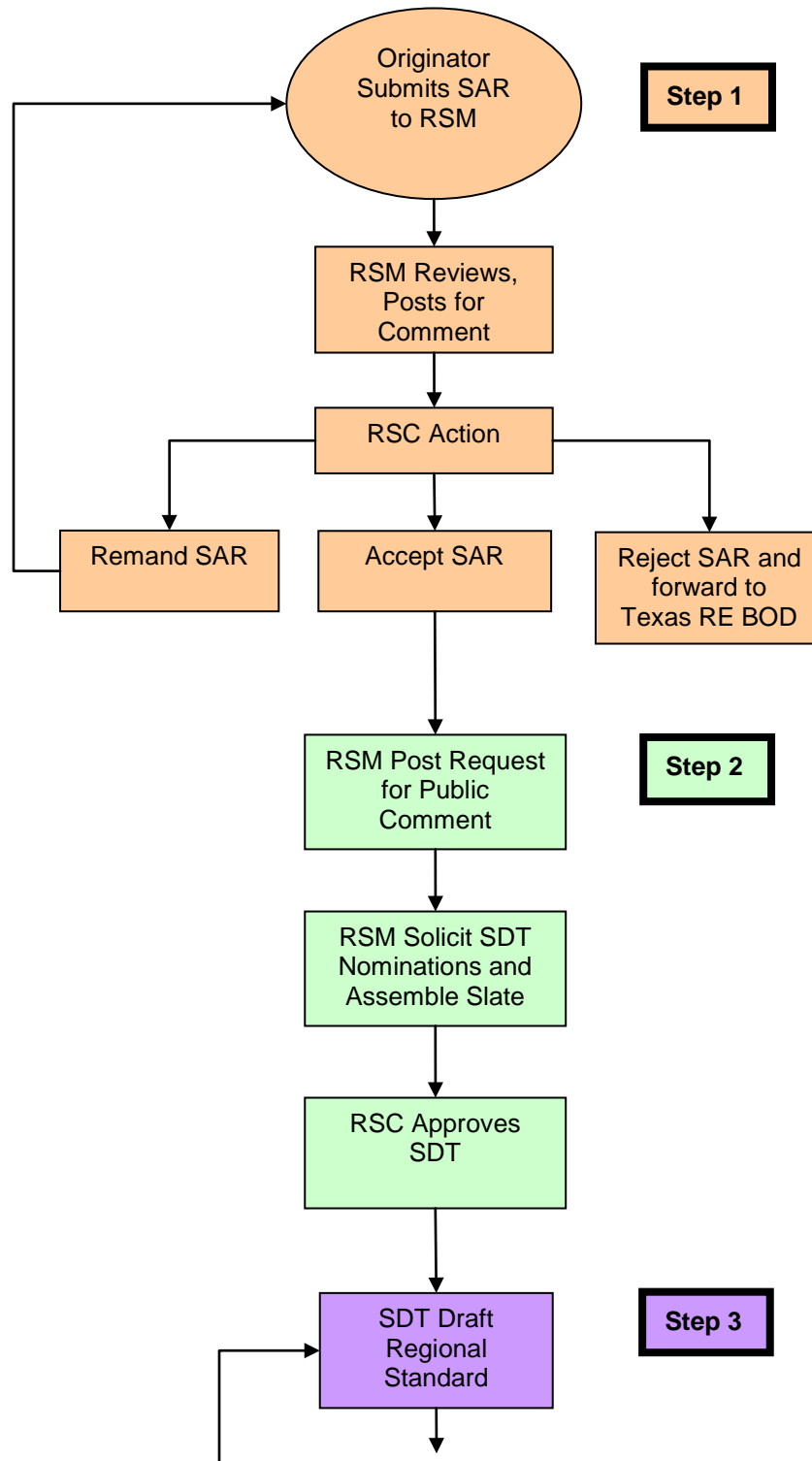
Standard No.	Explanation

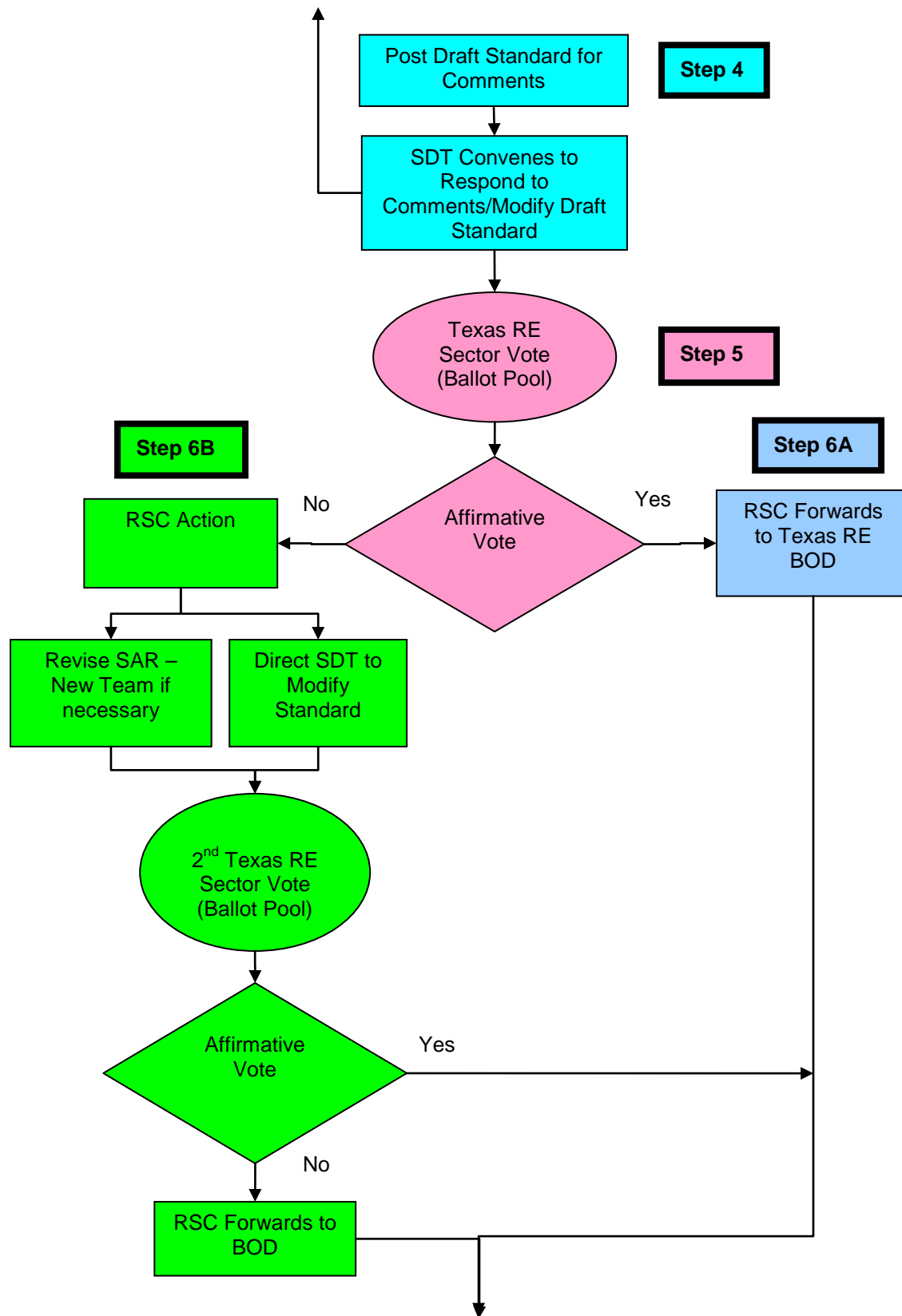
### Related SARs

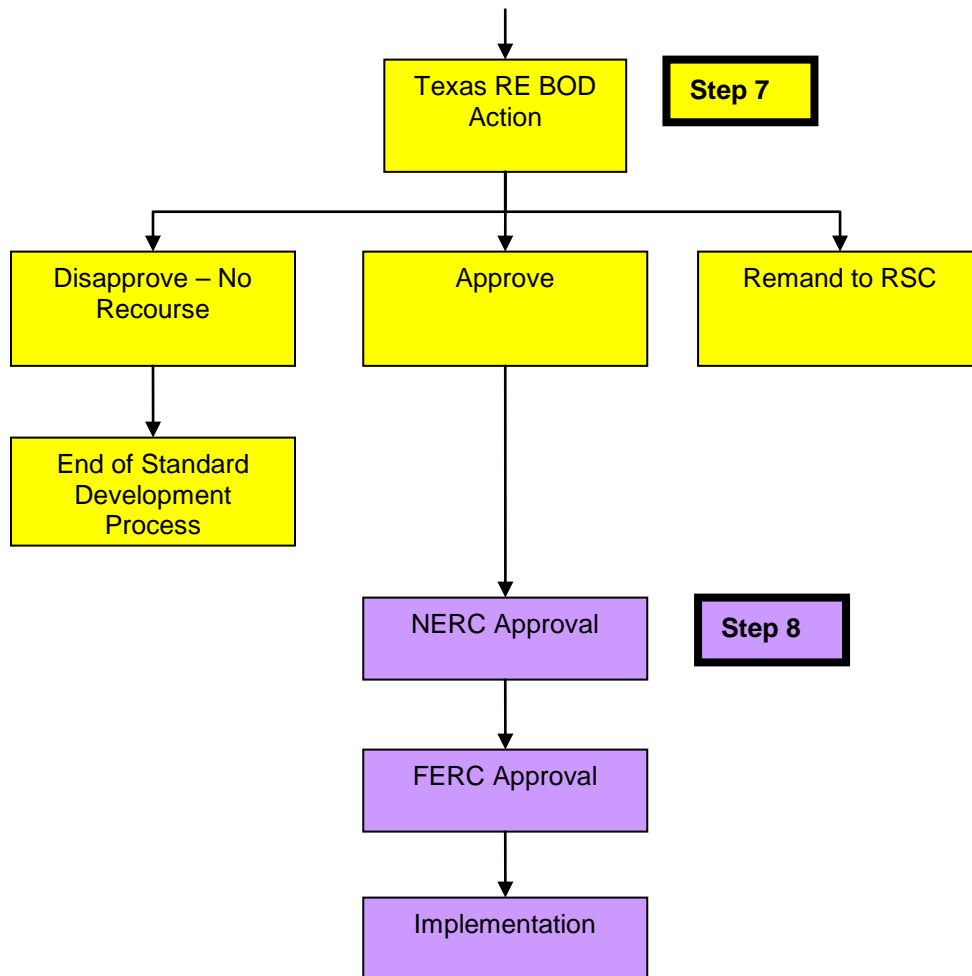
SAR ID	Explanation



## **Appendix D – Texas RE Standards Development Process Diagram**







## EXHIBIT D – COMPLIANCE MONITORING AND ENFORCEMENT PROGRAM

### 1.0 REGIONAL COMPLIANCE MONITORING AND ENFORCEMENT PROGRAM

#### 1.1 Obligations of Texas Reliability Entity

The Texas Reliability Entity, Inc. (Texas RE), will implement the NERC Compliance Monitoring and Enforcement Program (Appendix 4C to the NERC Rules of Procedure (NERC CMEP)) to monitor and enforce compliance with Reliability Standards by the owners, operators, and users within Texas RE's geographic boundaries set forth on **Exhibit A** of this Agreement, subject to any deviations from the NERC Compliance Monitoring and Enforcement Program described in Section 1.2 below (the "Compliance Program").

#### 1.2 Deviations from the NERC Compliance Monitoring and Enforcement Program

**A. Hearing Body.** Texas RE will use the Public Utility Commission of Texas (PUCT) as its Hearing Body, and the PUCT (as Hearing Body) will issue recommendations to the Texas RE Board of Directors or a compliance committee of the Board of Directors ("Board") which will make final decisions following regional hearings of compliance matters. The PUCT has extensive experience in conducting contested case hearings and other adjudicatory proceedings in a manner that assures due process of law to all participants. Texas RE intends to rely upon the PUCT's experience and expertise in conducting the hearing process under the Delegation Agreement. Texas RE believes that it is more efficient and cost-effective to use existing PUCT procedures than to attempt to establish a redundant hearing process within Texas RE. The PUCT is uniquely well-positioned to perform this function for the ERCOT Region since electric utilities operating in the ERCOT Region do not synchronously interconnect with electric utilities operating outside of Texas, and ERCOT market participants have experience in participating in PUCT proceedings.

**B. Public Hearings.** The PUCT as Hearing Body will hold public hearings on all matters referred to it by the Texas RE for hearing and recommendation. The PUCT's performance of Hearing Body responsibilities is fully consistent with the NERC Rules of Procedure and with Section 39.7 of FERC Order 672, with the exception of Section 39.7(b)(4), which requires "[e]ach violation or alleged violation [to] be treated as nonpublic until the matter is filed with [FERC] as a notice of penalty or resolved by an admission ... or by a settlement or other negotiated disposition." Because the PUCT is a "governmental body" under the Texas Open Meetings Act (Texas Government Code § 551.002), the PUCT is required to conduct any deliberations and render a decision in a meeting that is open to the public. The Texas Open Meetings Act also requires that any evidence or other submissions concerning a PUCT hearing, except for information that is confidential or privileged under law, be publicly available. Texas Attorney General opinions have determined that the need to consider confidential information does not justify conducting a closed meeting or executive session. Although PUCT hearings, including those contemplated under this Exhibit D, are conducted as open meetings, steps are taken to prevent the disclosure of confidential information during the hearing process. Direct testimony in such cases is generally presented in written question and

answer format, with any confidential information redacted, filed under seal and provided to parties pursuant to a protective order. In hearings conducted under these rules, the Hearing Body shall use best efforts to avoid the inadvertent disclosure of confidential information. The Presiding Officer may use the following methods to protect confidential information, in addition to the entry of an appropriate protective order: (1) Requiring the aggregation of confidential information aggregated to eliminate its confidentiality; (2) Permitting or requiring the redaction of testimony where the non-public information is not material to the merits; (3) Closing the public hearings on a temporary basis to those not bound under the terms of any case-specific protective order in place while the specific, confidential data is the subject of testimony or argument; and (4) other reasonable means in the discretion of the Presiding Officer.

Under the Texas Public Utility Regulatory Act (PURA) §39.151(j), market participants in the ERCOT market are required to comply with all scheduling, operating, planning, reliability, and settlement policies, rules, guidelines, and procedures ERCOT establishes. The PUCT is given authority to enforce this obligation through the imposition of penalties, revocation of certifications or other means. In any enforcement proceeding under PURA, PUCT deliberations are conducted in an open meeting in accordance with the procedures outlined above. ERCOT is thus unlike other power regions that may be implementing an enforcement mechanism for the first time. The history of public availability of this information in the ERCOT power region argues in favor of the continued public availability of information considered in enforcement hearings the PUCT conducts as Hearing Body for the Texas RE.

Moreover, elsewhere in Order No. 672, FERC stated that: “If the ERO or a Regional Entity wishes to conduct a public investigation, enforcement audit or permit interventions when determining whether to impose a penalty, the ERO or the Regional Entity must receive advance authorization from the Commission.”<sup>1</sup>

In response to the request by Texas RE’s predecessor to be permitted to hold public hearings as outlined herein, FERC issued *In the matter of Delegation Agreement Between the North American Electric Reliability Corporation and Texas Regional Entity, a division of ERCOT*, Docket No. RR07-1-000, *Order Accepting ERO Compliance Filing, Accepting ERO/Regional Entity Delegation Agreements and Accepting Regional Entity 2007 Business Plans*, 119 FERC 61,060 at ¶253 (Issued April 19, 2007)(Delegation Agreement Acceptance Order). The Delegation Agreement Acceptance Order provides for open hearings as requested.

**C. Hearing Administration.** PUCT, as Hearing Body, is authorized to hear cases and render its recommendations through the PUCT Commissioners. The Hearing Body is authorized to use the PUCT staff of Administrative Law Judges (ALJs) and other trained employees to establish the procedures and timelines that will be followed in the regional hearings, including the conduct of hearings and the preparation of draft recommendations. These presiding officers will not, however, have any authority to issue a final recommendation on any alleged violation. The ALJs and staff may preside over hearings before the PUCT, may establish the procedural schedule for these proceedings, take evidence, prepare a draft recommendation, and perform all tasks

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<sup>1</sup> Order 672, ¶511.

delegated from the PUCT, except the final rendition and approval of the final recommendation to be provided to the Board.

**D. Detailed Hearing Procedures.** The details of the Texas Reliability Entity Regional Hearing Process are attached hereto as **Attachment 1 and Attachment 2**. **Attachment 1** consists of a summary of the NERC CMEP procedures that must be altered to accommodate Texas RE's request to have the PUCT act as its Hearing Body. **Attachment 1** is a summary of necessary revisions to Attachment 2 of the CMEP, and together with **Attachment 2** hereto and the incorporated PUCT Chapter 22 Procedural Rules, provides the details of the regional hearing process Texas RE has adopted.

In addition to the requested modifications to procedures set forth in Attachment 2 of the CMEP, Texas RE also varies from Section 5.5 of the main body of the CMEP, allowing the Board's decision (instead of the hearing body's decision) be appealed to NERC. This language is contained as subsection 9.2 of **Attachment 1**: "The Registered Entity may appeal the Board's decision to NERC, as provided for in NERC Rules of Procedure, Sections 407.3 and 410."

**E. Regional Hearing of Compliance Matters.** Texas RE shall establish the PUCT as the hearing body, with authority to conduct compliance hearings in which a Registered Entity may contest a finding of alleged violation, proposed penalty or sanction, or a proposed mitigation plan. The PUCT will issue a final recommendation to the Board rather than a final order.

### **1.3 Other Decision-Making Bodies.**

Texas RE will not use other decision-making bodies within its compliance program.

## **ATTACHMENT 1 TO EXHIBIT D – TEXAS RE REGIONAL HEARING PROCESS**

### **1.0 Designation of Hearing Body**

All formal compliance hearings shall be held before the Compliance Enforcement Authority's Hearing Body. The Hearing Body shall be the Public Utility Commission of Texas. All hearings shall be conducted under the hearing procedures set forth in Attachment 2 to Exhibit D ("Attachment 2—Rules of Procedure"), supplementing this Attachment 1. As set forth in Attachment 2— Rules of Procedure, the Hearing Body may delegate any hearing-related task to a Presiding Officer, except for the issuance of the final recommendation.

The Compliance Enforcement Authority shall initiate the hearing process following the completion of the Notice of Alleged Violation and proposed sanction and registered entity response processes in accordance with Section 5.1 of the North American Electric Reliability Corporation ("NERC") Compliance Monitoring and Enforcement Program ("NERC CMEP"), as set forth below.

Following the filing of a proceeding contesting an Alleged Violation or a Remedial Action Directive, no person shall engage in ex parte communications with the Hearing Body, including without limitation any appointed Presiding Officer, concerning the matter in dispute until the written decision of the Board of Directors or a compliance committee of the Board of Directors ("Board") is issued pursuant to Section 9.1 is appealed or the deadline for filing an appeal has passed; provided, however, that: (a) a member of the Hearing Body or the Presiding Officer may communicate ex parte with another member of the Hearing Body unless prohibited by other law, and (b) a member of the Hearing Body or the Presiding Officer may communicate ex parte with a Commission employee who has not participated in a hearing in the case for the purpose of using the special skills or knowledge of the agency and its staff in evaluating the evidence.

The Hearing Body may rule on all procedural and discovery matters pursuant to Attachment 2—Rules of Procedure.

The Hearing Body may delegate to a single commissioner, a hearings examiner, or an administrative law judge (a "Presiding Officer") the authority to establish the procedures and dates for the presentation of all materials concerning the alleged violation and the power to hear evidence and to issue a draft recommendation, but the Hearing Body may not delegate its authority to issue a final recommendation on the alleged violation to the Board of the Compliance Enforcement Authority.

In accordance with Attachment 2—Rules of Procedure, the Hearing Body may provide for additional procedures as it deems necessary to effectively carry out a compliance hearing. To the extent permitted by law, any provision in this Attachment 1 may be waived, suspended, or modified by the Presiding Officer or the Hearing Body, as defined in Attachment 2—Rules of Procedure §1.1.5, for good cause shown, either upon the Presiding Officer's or the Hearing Body's own motion or upon the motion of any Party.

## **2.0 Recusal of Member of Hearing Body**

A Hearing Body member, Presiding Officer, or Technical Advisor shall recuse himself or herself if participation in the enforcement proceeding would violate the Compliance Enforcement Authority's Conflict of Interest or Code of Conduct policy.

The Registered Entity may raise an objection to any member of the Hearing Body, a Presiding Officer or Technical Advisor on grounds of a conflict of interest or the existence of other circumstances that could interfere with the that person's impartial performance of his or her duties. Such objections must be provided in writing and filed reasonably in advance of the start of the hearing and the Presiding Officer shall make a decision on the objection promptly. Upon request of the Registered Entity, the Hearing Body (without participation of the Hearing Body member, Presiding Officer, or Technical Advisor) may review the determination and, if so, shall issue a decision on the objection promptly.

## **3.0 Authorized Representatives**

Both the Compliance Enforcement Authority and the Registered Entity shall submit to the Hearing Body the names of the persons authorized to represent them in the Hearing Process pursuant to Attachment 2—Rules of Procedure. Such persons shall be officers or equivalents of the Regional Entity and the Registered Entity that have the authority to act on behalf of the Regional Entity and the Registered Entity, respectively. In addition, a party shall advise the Hearing Body and the other party if the party will be represented by legal counsel.

## **4.0 Statement of Alleged Violation and Response by Registered Entity**

The Registered Entity shall initiate the compliance hearing process in accordance with Section 5.1 of the NERC CMEP and Attachment 2—Rules of Procedure by filing with the Hearing Body Clerk a statement or complaint contesting the written Notice of Alleged Violation and proposed sanction and serving a copy upon the Compliance Enforcement Authority. Specifically, the Registered Entity shall file with the Hearing Body (with service of copies upon the Compliance Enforcement Authority) a written statement of reasons why the Alleged Violation is in error or a written statement of reasons why the proposed penalty or sanction is inappropriate (if applicable in the particular case), along with copies of all documents relied on by the Registered Entity to support its position. If the dispute involves a Registered Entity's proposed mitigation plan ("Registered Entity's Mitigation Proposal") that has not been accepted by the Compliance Enforcement Authority, the Registered Entity may initiate the hearing process by filing a request for hearing with the Hearing Body Clerk and serving a copy upon the Compliance Enforcement Authority.

Within five (5) business days after the request for review of the Alleged Violation, penalty, or mitigation plan or Remedial Action Directive is filed, the Compliance Enforcement Authority's designated representative shall file with the Hearing Body (with copies to the Registered Entity) a copy of the written Notice of the Alleged Violation and proposed sanction that was originally provided to the Registered Entity, along with copies of any non-privileged or non-exempt documents gathered and reviewed by the Compliance Enforcement Authority in the course of determining an Alleged Violation has occurred and in determining the proposed sanction or penalty.

If the hearing involves the question of whether a Registered Entity's Mitigation Proposal



should be accepted, within twenty (20) days after the request for review of the Alleged Violation, penalty, or mitigation plan or Remedial Action Directive is filed, the Compliance Enforcement Authority shall file a report stating why the Registered Entity's Mitigation Proposal was not accepted. If the hearing involves a Registered Entity's Mitigation Proposal, the Registered Entity shall file its proposed Mitigation Plan and supporting information stating why the Mitigation Plan should be accepted within thirty (30) days after the date the request for review of the Alleged Violation, penalty, or mitigation plan or Remedial Action Directive is filed.

## **5.0 Setting of Hearings and Conferences**

The Hearing Body shall set a date for an initial conference within thirty (30) days after the date the request for review of the Alleged Violation, penalty, or mitigation plan or Remedial Action Directive is filed. At the initial conference, the Hearing Body shall establish specific procedures for the hearing including (1) any procedures for exchange of additional documents, (2) any written testimony, (3) the hearing date(s), and (4) dates for any briefs. Subject to Section 6.0 and the Attachment 2—Rules of Procedure, each party shall be entitled to (1) present the testimony of witnesses, (2) cross-examination of opposing witnesses, (3) make an oral presentation of position, and (4) file a written post-hearing brief.

The Hearing Body may hold additional conferences. All notices of conferences and hearings shall set forth the date, time and place of hearing. The Hearing Body shall issue a written order setting forth the agreements and rulings made at each conference.

By agreement of the parties or order of the Hearing Body, any conference or hearing may be conducted via teleconference, except that, subject to section 6.0 of this hearing process, witnesses shall personally appear at the hearing.

All prehearing conferences and hearings shall be open to the public, except when the use of a closed meeting is authorized by Texas law.

## **6.0 Conduct of Hearing**

The hearing will be conducted under the provisions of this section 6.0 and the Attachment 2— Rules of Procedure.

The hearing need not be held on consecutive days, and shall be held at the offices of the Hearing Body unless the Hearing Body decides on a different location after consulting with the parties.

The party requesting transcription of the hearing, the Registered Entity or Compliance Enforcement Authority, will arrange and pay for transcription of the hearing.

The Hearing Body shall direct the direct testimony of any witnesses be in written form in accordance with Attachment 2— Rules of Procedure. All witnesses shall be required to appear in person, unless waived by the parties and the Hearing Body. Motions shall be made and decided, evidence shall be presented, and a record shall be made in accordance with Attachment 2— Rules of Procedure.

## **7.0 Submission of Post-Hearing Briefs**

The parties may submit post-hearing briefs on a schedule established by the Hearing Body pursuant to Attachment 2— Rules of Procedure. The parties may, and on request of the Hearing Body shall, submit proposed findings of fact and conclusions of law.

## **8.0 Record of the Compliance Hearing**

If applicable, copies of the following documents shall be maintained by the Hearing Body as the record of the hearing process:

- (1) The written notice that a request for review of the Alleged Violation, penalty, or mitigation plan or Remedial Action Directive has been filed with the Hearing Body Clerk;
- (2) The Notice of Alleged Violation and sanction issued by the Compliance Enforcement Authority and the response filed by the Registered Entity, including in each case all attachments thereto and documents provided therewith;
- (3) If the hearing involves a Registered Entity's Mitigation Proposal, (a) the Registered Entity's Mitigation Proposal and supporting information as to why the Registered Entity's Mitigation Proposal should be accepted and (b) the report of the Compliance Enforcement Authority stating why the Registrant's Mitigation Proposal was not accepted;
- (4) Any requests for recusal of a member of the Hearing Body, a Presiding Officer, or a Technical Advisor, and any responses to such requests;
- (5) All motions, notices and responses filed by the parties during the hearing process;
- (6) All documents that set forth or that summarize any ex parte communications;
- (7) All notices and rulings issued by the Hearing Body during the hearing process;
- (8) All interlocutory orders;
- (9) All written testimony and all exhibits received into evidence;
- (10) All written testimony and documentary exhibits that were proffered but not admitted into evidence;
- (11) Any transcript(s);
- (12) The parties' post-hearing briefs, any exceptions to the draft recommendation, any motions for reconsideration or rehearing, and any other post-decision briefing or motion;
- (13) The draft recommendation of the Presiding Officer, if any; and
- (14) The final recommendation of the Hearing Body.

## **9.0 Timing of Written Recommendation to the Board**

The Hearing Body shall issue its written final recommendation to the Board within thirty (30) days following the submission of post-hearing briefs, or, if briefing is waived, following the conclusion of the hearing. The Hearing Body may in its discretion extend the time for the issuance of the written final recommendation to the Board for up to an additional sixty (60) days. The written final recommendation shall state the opinion of the Hearing Body with respect to Alleged Violations of Reliability Standards and proposed penalties or sanctions at issue in the hearing. If the hearing involves a Registered Entity's Mitigation Proposal, the written final recommendation shall either

propose acceptance or rejection of the Registered Entity's Mitigation Proposal. If the proposed Registered Entity's Mitigation Proposal is recommended for rejection, the Hearing Body may specify the provisions of an alternative plan of mitigation that the Registered Entity should be required to implement. The written final recommendation shall explain the reasons for the Hearing Body's conclusions and cite the testimony and exhibits relied on by the Hearing Body in reaching its opinions. Copies of the written final recommendation shall be served electronically and by certified mail on the Registered Entity and on the Compliance Enforcement Authority's designated representative at the time it is issued to the Board.

### **9.1 Written Decision by the Board**

The Board shall issue its written decision accepting, rejecting or modifying the Hearing Body's recommendation, within twenty (20) business days following the issuance of the Hearing Body's written final recommendation. The Board may extend the date for issuance of its written decision for an additional twenty (20) business days in its sole discretion. The Board's written decision shall state the conclusion of the Board with respect to Alleged Violations of Reliability Standards and proposed penalties or sanctions at issue in the hearing. If the hearing involves a Registered Entity's Mitigation Proposal, the written decision shall either accept or reject the Registered Entity's Mitigation Proposal. If the proposed Registered Entity's Mitigation Proposal is rejected, the Board may specify the provisions of the Registered Entity's Mitigation Proposal that the Registered Entity should be required to implement, together with other mitigation measures the Board shall require. The written decision shall explain the reasons for the Board's conclusions and cite the testimony and exhibits relied on by the Board in reaching its conclusions. Copies of the written decision shall be served electronically and by certified mail on the Registered Entity, on the Compliance Enforcement Authority's designated representative, and on the Hearing Body.

### **9.2 NERC Appeal Process**

The Registered Entity may appeal an adverse decision of the Board to NERC, as provided for in NERC Rules of Procedure, Sections 407.3 and 410.

## **10.0 Expedited Hearing Process for Disputes Concerning Remedial Action Directives**

A Registered Entity that disputes a Remedial Action Directive issued by a Compliance Enforcement Authority may request an expedited hearing. To facilitate the expedited hearing, the Compliance Enforcement Authority may request that the Hearing Body convene for purposes of the expedited hearing process. The following expedited procedures shall be followed:

- (1) The Registered Entity shall file its written response the Remedial Action Directive and request for emergency hearing with the Hearing Body, with a copy to the Compliance Enforcement Authority's designated representative within two (2) business days after receipt of the Remedial Action Directive. The Hearing Body may appoint a Presiding Officer to conduct all proceedings under this Section 10.0, except for the issuance of a final recommendation to the Board.
- (2) The Hearing Body shall be convened for purposes of a prehearing, and if requested, for interim relief, not less than two (2) nor more than five (5) business days after receipt of the Registered Entity's request for a hearing.

- (3) The Hearing Body shall conduct a hearing on the matter, in person or by teleconference, within thirty (30) days after the Hearing Body is convened. At the hearing, the Compliance Enforcement Authority shall explain why the Remedial Action Directive should be complied with, and the Registered Entity shall explain why the Remedial Action Directive is not necessary or should be modified.
- (4) The Hearing Body shall issue a summary written recommendation to the Board within twenty (20) business days following the hearing, stating whether the Registered Entity should or should not be required to comply with the Remedial Action Directive and identifying any modifications to the directive that it finds appropriate.
- (5) The Board shall issue a summary written decision within ten (10) business days following the Hearing Body's issuance of its summary written recommendation, stating whether the Registered Entity shall or shall not be required to comply with the Remedial Action Directive and identifying any modifications to the directive that it finds appropriate.
- (6) If the Board's summary written decision concludes that the Registered Entity is required to comply with the Remedial Action Directive or any modification to such directive (including adjustments to the timetable for implementation), the Registered Entity shall be required to begin implementing the Remedial Action Directive upon receipt of the summary written decision, if it has not already implemented the Remedial Action Directive.
- (7) Within thirty (30) days following issuance of its summary written decision, the Board shall issue a full written decision regarding the Remedial Action Directive to the requirements of Section 9.0, above, that may be appealed consistent with Section 9.2.
- (8) This Section 10.0 provides procedures for the expeditious determination of the propriety of a contested Remedial Action Directive. Nothing in this Section shall be read to impair the Compliance Enforcement Authority's authority to issue a Notice of Alleged Violation and proposed sanction on alleged violations of standards addressed by a Remedial Action Directive or on other alleged violations occurring contemporaneously with the Remedial Action Directive or at any other time using the non-expedited procedures of this Attachment 1 or Attachment 2— Rules of Procedure.

## ATTACHMENT 2 TO EXHIBIT D – TEXAS RE RULES OF PROCEDURE

### 1.1 Applicability, Definitions and Interpretation

#### 1.1.1 Procedure Governed

The provisions set forth in this Attachment 2 to the Texas Reliability Entity, Inc. (“Texas RE” or “Compliance Enforcement Authority”) (“Rules of Procedure”) shall apply to and govern practice and procedure before the Compliance Enforcement Authority and Hearing Board, as defined herein, in hearings in the ERCOT region of the United States conducted into (a) whether Registered Entities within the Compliance Enforcement Authority’s area of responsibility have violated Reliability Standards, and (b) if so, to determine the appropriate Mitigation Plans as well as any remedial actions, penalties or sanctions in accordance with the NERC *ERO Sanction Guidelines* and other applicable penalty guidelines approved by FERC pursuant to 18 C.F.R. Section 39.7(g)(2). Any hearing conducted pursuant to these Rules of Procedure shall be conducted before the Public Utility Commission of Texas (“Commission”), as is further provided herein.

#### 1.1.2 Deviations and Exceptions

- (a) To the extent permitted by law, any provision in these Rules of Procedure may be waived, suspended or modified by the Presiding Officer or the Hearing Body, as defined in Section 1.1.5, for good cause shown, either upon the Presiding Officer’s or the Hearing Body’s own motion or upon the motion of any Party.
- (b) Where an issue is not addressed by the terms of these Rules, the Hearing Body shall use the Chapter 22 Procedural Rules.
- (c) The following provisions of Chapter 22 shall not be applicable to proceedings brought under these Procedural Rules:
  - (1) P.U.C. PROC. R. § 22.32;
  - (2) P.U.C. PROC. R. § 22.33;
  - (3) P.U.C. PROC. R. § 22.35;
  - (4) P.U.C. PROC. R. §§ 22.51-22.54;
  - (5) P.U.C. PROC. R. § 22.56;
  - (6) P.U.C. PROC. R. § 22.71(j);
  - (7) P.U.C. PROC. R. §§ 22.102(a)(3), (4) and (c);
  - (8) P.U.C. PROC. R. §§ 22.103-22.105;
  - (9) P.U.C. PROC. R. §§ 22.125-22.126;
  - (10) P.U.C. PROC. R. § 22.202(e);
  - (11) P.U.C. PROC. R. §§ 22.206-22.207;
  - (12) P.U.C. PROC. R. §§ 22.241-22.246;
  - (13) P.U.C. PROC. R. §§ 22.251-22.252;
  - (14) P.U.C. PROC. R. § 22.263(d); and

(15) P.U.C. PROC. R. §§ 22.281-22.284.

(d) For purposes of this Attachment 2—Rules of Procedure, the following shall supplement the terms of a Chapter 22 Rule, as specified:

(1) P.U.C. PROC. R. § 22.31. The following subsection (d) shall be added:

“(d) The Hearing Body Clerk shall designate each proceeding brought under these rules as a docket.”

(2) P.U.C. PROC. R. § 22.72(e). The following sentence shall be added at the end of this subsection:

“A party or its authorized representative shall also provide in its signature block one or more electronic mail addresses to which service may be made.”

(3) P.U.C. PROC. R. § 22.74(b). The following sentence shall be added at the end of this subsection:

“(b) . . . Service may be made by electronic mail to the email address included in a signature block of a party or its authorized representative.

\* \* \*

“(4) Service by email shall be complete upon transmission of the communication from the electronic mail server of the serving party.”

(e) All proceedings filed under these rules shall be conducted under the Commission’s Chapter 22 Procedural Rules, as modified herein, but may not be referred to the State Office of Administrative Hearings.

### **1.1.3 Standards for Discretion**

The Hearing Body’s discretion under these Rules of Procedure shall be exercised to accomplish the following goals:

- (a) Integrity of the Fact-Finding Process - The principal goal of the hearing process is to assemble a complete factual record to serve as a basis for a correct and legally sustainable ruling, decision or order.
- (b) Fairness - Persons appearing in Compliance Enforcement Authority proceedings should be treated fairly. To this end, Parties should be given fair notice and opportunity to present explanations, factual information, documentation and legal argument. Action shall be taken as necessary to eliminate any disadvantage or prejudice to a Party that would otherwise result from another Party’s failure to act diligently and in good faith.
- (c) Independence - The hearing process should be tailored to protect against undue influence from any Person, Party or interest group.
- (d) Balanced Decision-Making - Decisions should be based solely on the facts and arguments of record in a proceeding and by individuals who satisfy the Compliance Enforcement Authority’s conflict of interest policy.

- (e) Impartiality - Persons appearing before the Hearing Body should not be subject to discriminatory or preferential treatment. Registered Entities should be treated consistently unless a reasonable basis is shown in any particular proceeding to depart from prior rulings, decisions or orders.
- (f) Expedition - Proceedings shall be brought to a conclusion as swiftly as is possible in keeping with the other goals of the hearing process.

#### **1.1.4 Interpretation**

- (a) These Rules of Procedure shall be interpreted in such a manner as will aid in effectuating the Standards for Discretion set forth in Section 1.1.3, and so as to require that all practices in connection with the hearings shall be just and reasonable.
- (b) Unless the context otherwise requires, the singular of a term used herein shall include the plural and the plural of a term shall include the singular.
- (c) To the extent that the text of a rule is inconsistent with its caption, the text of the rule shall control.

#### **1.1.5 Definitions**

- (a) Unless otherwise defined, as used in these Rules of Procedure (i) definitions in Section 1.1 of the NERC Compliance Monitoring and Enforcement Program shall apply, and (ii) the following terms shall have the following meanings:

“Board” means the Board of Directors of Texas Reliability Entity.

“Bulk-Power System,” for the purposes of these Rules of Procedure, has the meaning set forth in 16 U.S.C. §824o(a)(1).

“Chapter 22” or “Commission Procedural Rules” shall mean the Chapter 22 Procedural Rules of the Commission, 16 TEX. ADMIN. CODE ch. 22., and be cited as “P.U.C. PROC. R. § [].”

“Commission” means the Public Utility Commission of Texas.

“Compliance Enforcement Authority Clerk,” as designated by the Compliance Enforcement Authority.

“Compliance Enforcement Authority” means the Regional Entity, by and through its Chief Executive Officer.

“Compliance Enforcement Authority’s area of responsibility” means the Texas Reliability Entity’s corporate region.

“Critical Energy Infrastructure Information” means specific engineering, vulnerability, or detailed design information about proposed or existing critical infrastructure that: (i) relates details about the production, generation, transportation, transmission, or distribution of energy; (ii) could be useful to a person in planning an attack on critical infrastructure; and (iii) does not simply give the location of the critical infrastructure.

“Critical infrastructure” means existing and proposed systems and assets, whether physical or virtual, the incapacity or destruction of which would negatively affect security, economic security, public health or safety, or any combination of those matters.

“Cybersecurity Incident” means a malicious act or suspicious event that disrupts, or was an attempt to disrupt, the operation of those programmable electronic devices and communications networks including hardware, software, and data that are essential to the Reliable Operation of the Bulk-Power System.

“ERO” means the Electric Reliability Organization, currently the North American Electric Reliability Corporation, or any successor organization, certified by FERC pursuant to 18 C.F.R. §39.3.

“FERC” means the Federal Energy Regulatory Commission.

“Filing Clerk” or “Hearing Body Clerk” means the Central Records filing clerk of the Public Utility Commission of Texas.

“Hearing Body” means the Public Utility Commission of Texas.

“Mitigation Plan” means an action plan developed by a Registered Entity to (i) correct a violation of a Reliability Standard and (ii) prevent reoccurrence of the violation. A Mitigation Plan is required when a Registered Entity violates a Reliability Standard as determined by any means including Compliance Enforcement Authority Decision, settlement agreement, or otherwise.

“Party” means any Person who is allowed or required to participate in a proceeding conducted pursuant to these Rules of Procedure. The term “Party” as used herein shall include the members of the Compliance Staff of the Compliance Enforcement Authority that participate in a proceeding.

“Penalty” as used herein includes all penalties and sanctions that may be imposed pursuant to 16 U.S.C. §824o-1 and applicable regulations, including but not limited to a monetary or non-monetary penalty; a limitation on an activity, function, operation or other appropriate sanction; or the addition of the Registered Entity to a reliability watch list composed of major violators. Penalties must be within the range set forth in the NERC *ERO Sanction Guidelines* approved by FERC pursuant to 18 C.F.R. Section 39.7(g)(2), and shall bear a reasonable relation to the seriousness of a Registered Entity’s violation and take into consideration any timely efforts made by the Registered Entity to remedy the violation.

“Person” means any individual, partnership, corporation, limited liability company, governmental body, association, joint stock company, public trust, organized group of persons, whether incorporated or not, or any other legal entity.

“Presiding Officer” or “Hearing Examiner” means an individual employed or contracted by the Hearing Body and designated by the Hearing Body to preside over hearings conducted pursuant to these Rules of Procedure.



“North American Electric Reliability Council” or “NERC” means North American Electric Reliability Corporation.

“Registered Entity” means each user, owner and operator of the Bulk-Power System within the United States that is required to register with the Regional Entity pursuant to 18 C.F.R. § 39.2.

“Regional Entity” means Texas Reliability Entity or Texas RE.

“Reliable Operation” has the meaning set forth in Section 215 of the Federal Power Act.

“Reliability Standards” means standards approved by FERC pursuant to Section 215 of the Federal Power Act and 18 C.F.R. Section 39.5, as such standards are authorized and in effect from time to time.

“Remedial Action Directive” means an action (other than a penalty or sanction) required that (1) is to bring a Registered Entity into compliance with a Reliability Standard or to avoid a Reliability Standard violation, and (2) is immediately necessary to protect the reliability of the Bulk Power System from an imminent threat of harm.

“Respondent” means the Registered Entity who is the subject of the Notice of Alleged Violation or contested Mitigation Plan that is the basis for the proceeding, whichever is applicable.

“Staff” or “Compliance Staff” means individuals employed or contracted by the Compliance Enforcement Authority who have the authority to make initial determinations of Registered Entities’ compliance with or violation of the Reliability Standards and associated Penalties and Mitigation Plans.

“Technical Advisor” means any Staff member, Hearing Body employee, third-party contractor, or industry stakeholder who satisfies the Compliance Enforcement Authority’s conflict of interest policy and is selected to assist in a proceeding by providing technical advice to the Presiding Officer and/or the Hearing Body.

- (b) For purposes of this Attachment 2--Rules of Procedure and in application to any proceeding brought under these rules, the following terms shall be substituted for the term used in a Chapter 22 rule:

“Administrative law judge” shall mean and refer to the defined term “Presiding Officer.”

“Central records” shall mean “Hearing Body Clerk.”

“Final order” shall mean “final recommendation.”

“Proposal for decision” shall mean “draft recommendation.”

“Public utility” shall mean “party.”

- (c) If a term is defined in this Attachment 2—Rules of Procedure and in Chapter 22, the meaning expressed herein shall prevail.

#### **1.1.6 Interventions Are Not Permitted**

The Respondent(s) and Compliance Staff shall be Parties to the proceeding. Unless otherwise authorized by FERC, no other Persons shall be permitted to intervene or otherwise become a Party to the proceeding.

#### **1.1.7. Proceedings Open to the Public**

All hearings, oral arguments, and meetings of the Hearing Body shall be open to the public, and every notice, ruling, order or any other issuance of the Presiding Officer or Hearing Body, and any transcript, made in any proceeding shall be publicly released unless a Party has requested that it be kept confidential in accordance with Texas law, and the Presiding Officer or Hearing Body determines that the information should not be released publicly.

#### **1.1.8 Numbering and Docketing System**

The Staff of the Compliance Enforcement Authority shall maintain a system of numbering proceedings before they are sent to the Hearing Body for a hearing under these procedures. A numbered proceeding shall be created within the Compliance Enforcement Authority upon the issuance of a notice of Alleged Violation. Unless NERC provides a different docketing system that will be used uniformly by the Compliance Enforcement Authority, proceeding numbers shall be assigned sequentially beginning with a two digit number that relates to the last two digits of the year in which the docket is initiated, followed by a dash ("-"), followed by the letters "[RE]", followed by a dash ("-"), followed by a four digit number that will be "0001" on January 1 of each calendar year and ascend sequentially until December 31 of the same calendar year. If the proceeding is not settled and becomes a contested matter before the Hearing Body, the Hearing Body's numbering and docketing system shall govern the tracking of such filings while under the Hearing Body's administration.

### **1.2 Hold Harmless**

A condition of a Party invoking these Rules of Procedure and participating in a hearing is that the Party agrees that the Compliance Enforcement Authority, including without limitation its members, board of directors or trustees, compliance committee, any other committees or subcommittees, Staff, contracted employees, attorneys and experts (outside or in-house), Hearing Body members, Presiding Officers and Technical Advisors, shall not be liable, and shall be held harmless against the consequences of, or any action or inaction arising out of, the hearing process, or of any agreement reached in resolution of a dispute or any failure to reach agreement as a result of a proceeding. This "hold harmless" provision does not extend to matters constituting gross negligence, intentional misconduct, or breach of confidentiality.

### **1.3 Initiation of the Hearing Process**

Except when contesting a Remedial Action Directive pursuant to section 1.5 of these Rules of Procedure, a Registered Entity may file a response or complaint with the Compliance Enforcement Authority and the Filing Clerk requesting a hearing if:

- (a) The Registered Entity contests a Notice of Alleged Violation as to the existence or scope of the alleged violation, the proposed Penalty, or both; or
- (b) The Registered Entity contests the Compliance Enforcement Authority's rejection of Registered Entity's Mitigation Proposal in whole or in part.

A Registered Entity must file its hearing request within forty (40) days after (i) the Registered Entity files its response to the notice of Alleged Violation; or (ii) the Compliance Staff submits to the Registered Entity its statement identifying a disagreement with the Registered Entity's Mitigation Proposal, whichever is applicable. If the Registered Entity does not file a hearing request within the time period set forth in this Section, then the Registered Entity will be deemed to have agreed and waived any objection to the proposed Penalty, the Alleged Violation or the Compliance Staff's stated position on the Registered Entity's Mitigation Proposal, whichever is applicable.

Either a notice of Alleged Violation issued to a Registered Entity or a Staff statement setting forth its disagreement with a Registered Entity's Mitigation Proposal shall clearly state that the Registered Entity has the option to contest the Alleged Violation, proposed Penalty, or both, or the Compliance Staff's position on the Registered Entity's Mitigation Proposal.

A Registered Entity shall attach to a request for hearing whichever of the following are applicable:

- (a) The Registered Entity's Self-Reporting of a violation;
- (b) The Notice of Alleged Violation and the Registered Entity's response thereto; or
- (c) The Registered Entity's Mitigation Proposal and the Compliance Staff's statement identifying its disagreement with the Registered Entity's Mitigation Proposal.

#### **1.4 General Hearing Procedure**

Except as otherwise specified in this Attachment 2—Rules of Procedure, the procedures and timelines set forth in Chapter 22 shall govern the conduct of a hearing arising under these rules.

##### **1.4.1 Hearing Body**

The Hearing Body, consisting of a quorum of the Commission, shall hear all proceedings brought under these Rules of Procedure, unless the Commission elects to delegate all or part of the proceeding to a Presiding Officer who is a member of the Commission Staff. The Hearing Body is vested with the exclusive authority to issue a final recommendation to the Board for the resolution of the issue(s) presented. The following procedures shall also apply:

- (a) The Hearing Body or any individual member thereof may, but is not required to, attend any prehearing conference, status hearing or evidentiary hearing, or to submit questions to the Presiding Officer to submit to a Party or any witness at any such hearing. No more than one member of the Hearing Body may be present for any prehearing conference, status hearing, or evidentiary hearing unless the Hearing Body has complied with the Open Meetings requirements of Texas law.
- (b) The Hearing Body shall resolve the issue(s) in every hearing through the issuance of a final recommendation to the Board. In issuing a final recommendation to the Board, the Hearing Body shall consider the Presiding Officer's draft recommendation but shall have the authority to

reject, modify or approve the draft recommendation in whole or in part in issuing its final recommendation.

#### **1.4.2 Technical Advisor**

The Presiding Officer or the Hearing Body may elect to use one or more Technical Advisors to assist in any proceeding. Such an election may be made at any time during the course of a proceeding. Any Staff member who serves as a Technical Advisor shall not have been involved in or consulted at any time in regard to any Compliance Staff investigation, initial determination of Alleged Violation or Penalty, or assessment of a Registered Entity's proposed Mitigation Plan that resulted in the proceeding in which technical advice would be rendered, and shall not otherwise participate in the proceeding on which such technical advice would be rendered.

If the Presiding Officer or Hearing Body uses a Technical Advisor to assist in any hearing, the Presiding Officer or Hearing Body shall disclose the identity, employment history and professional affiliations of the Technical Advisor within two (2) days of the Technical Advisor's assignment to the proceeding, and Parties to the hearing may raise objections to the Technical Advisor's participation within 10 business days of disclosure.

### **1.5 Initiation of Remedial Action Directive Hearing**

Staff may issue a Remedial Action Directive to a Registered Entity at any time, including during any proceeding related to an alleged violation of a Reliability Standard. The Compliance Enforcement Authority will notify NERC within two (2) days after its Staff issues a Remedial Action Directive.

The Registered Entity may contest the Remedial Action Directive in accordance with these Rules of Procedure and Delegation Agreement, Exhibit D, Attachment 1, §10, by filing a written notice with the Compliance Enforcement Authority that states that the Registered Entity contests the Remedial Action Directive and that the Registered Entity requests a Remedial Action Directive hearing. The Registered Entity shall attach a copy of the Remedial Action Directive to its written notice. The Registered Entity must provide such notice within two (2) business days following issuance of the Remedial Action Directive. If the Registered Entity does not give written notice to the Compliance Enforcement Authority within the required time period, the Registered Entity shall be deemed to have waived its right to contest the Remedial Action Directive.

The Registered Entity shall simultaneously file with the Hearing Body Clerk a copy of the notice that it is contesting the Remedial Action Directive.

The Hearing Body Clerk shall assign a docket number, and issue a Notice of Hearing that sets forth the date, time and place at which the hearing will convene.

## **Exhibit E — Funding**

### **1. Scope of activities funded through the ERO funding mechanism**

Texas Reliability Entity, Inc. ("Texas RE") shall include in its annual budget submission to the North American Electric Reliability Corporation ("NERC") amounts for costs it will incur in support of delegated activities and activities that are in furtherance of NERC's responsibilities as the ERO under the Act, as specified in the NERC Rules. These activities shall include:

- Reliability Standard Development (Section 300)
- Compliance Enforcement (Section 400)
- Organization Registration and Certification (Section 500)
- Reliability Assessment and Performance Analysis (Section 800) (including necessary data gathering activities)
- Training and Education (Section 900)
- Situational Awareness and Infrastructure Security (Section 1000)

### **2. Allocation of Costs**

Texas RE shall allocate its dues, fees, and other charges for its activities pursuant to the delegation agreement among all load-serving entities on the basis of net-energy-for load, unless a different method or methods of allocating and calculating such dues, fees, or charges has been submitted to and approved by NERC and the Commission, in accordance with Section 8(b) of the delegation agreement. Texas RE shall submit to NERC annually at the same time it submits its budget request a list of the load-serving entities within its geographic boundaries and their proportionate net-energy-for load or such other data or information as is necessary to allocate and calculate Texas RE's dues, fees, or charges under any other method of allocation or calculation that is to be used.

### **3. Collection of Funding**

(a) NERC, Texas RE, and Electric Reliability Council of Texas, Inc. ("ERCOT") have agreed that ERCOT shall act as the billing agent on behalf of NERC to bill and collect assessments for the costs of activities under the Act from load-serving entities, ERCOT Qualified Scheduling Entities ("QSEs"), or such other entities as agreed by NERC, Texas RE, and ERCOT. ERCOT and Texas RE agree that ERCOT shall: (i) issue all invoices to load-serving entities, QSEs, or other agreed entities in a prompt and timely manner after receipt from NERC of the information needed to issue the invoice; (ii) exercise commercially reasonable efforts to collect invoices that are not paid as of the due date(s); and (iii) transfer all funds collected to NERC quarterly, in a timely manner. Texas RE shall confirm that ERCOT complies with these obligations, and shall notify NERC promptly of any compliance failures.

NERC shall submit invoices on a quarterly basis to ERCOT covering the NERC and Texas RE budgets approved for collection for the ERCOT region. Within ten (10) business days after receiving this quarterly invoice, ERCOT will electronically transfer to NERC the amount reflected in the invoice, in immediately available funds, unless ERCOT has been unable to collect and does not reasonably believe it can collect such amount from load-serving entities, QSEs, or other agreed entities, after exercise of commercially reasonable efforts. On the same day as ERCOT makes each electronic transfer of funds to NERC, ERCOT will

send an e-mail to the Chief Financial Officer of NERC and the Chief Executive Officer of Texas RE either (i) confirming that the full invoiced amount has been electronically transmitted to NERC or (ii) stating that ERCOT is unable to collect the full amount of the NERC invoice and reasonably believes that it will not be able to collect the full amount of the NERC invoice from load-serving entities, QSEs, or other agreed entities after exercise of commercially reasonable efforts and confirming the amount that has been transmitted to NERC. In the event ERCOT is unable to transfer to NERC the full invoiced amount, ERCOT shall also send to NERC and Texas RE a listing of any load-serving entity, QSE or other agreed entity that has not fully paid its load ratio share and an itemization of the collections that ERCOT received, by entity and amount. ERCOT will maintain a detailed list of the entities from which payments were collected and the amount collected from each entity.

ERCOT and Texas RE agree that they shall not in any way use their position as billing or collection agent for NERC to attempt to influence NERC's policies or decisions on matters relating to adoption of reliability standards (including regional standards and differences), administration of the compliance monitoring and enforcement matters, determination and imposition of penalties and sanctions, budgeting matters including review and approval of Texas RE's budgets and business plans, or any other NERC decisions, including by issuing invoices, engaging in collection activities or transferring funds collected to NERC in an untimely manner or other than in accordance with this agreement. ERCOT's confirmation of its agreements as set forth in this Paragraph 3 is attached hereto as Attachment 1.

NERC shall pursue any non-payments and shall request assistance from applicable governmental authorities as necessary to secure collection.

(b) Upon approval of the annual funding requirements by applicable governmental authorities, NERC shall fund Texas RE's costs identified in Section 1 of this Exhibit E in four equal quarterly payments, within ten (10) business days after receiving the remittance from ERCOT.

#### **4. Application of Penalties**

All penalty monies received by Texas RE shall be applied as a general offset to the entity's budget requirements for U.S.-related activities under this Agreement for the subsequent fiscal year. Funds from financial penalties shall not be directly applied to any program maintained by the investigating entity.

#### **5. Description of Non-Statutory Activities**

In addition to its delegated activities and activities that are in furtherance of NERC's responsibilities as the ERO under the Act, as specified in Section 1 of this Exhibit E (such functions and activities referred to in this Section 5 as "statutory activities"), Texas RE will also perform the following other functions and activities (referred to in this Section 5 as "non-statutory activities") at least through December 31, 2010:

- Investigation of market participants' compliance with the ERCOT Protocols and Operating Guides which contain the Regional criteria for planning and operating reliable interconnected bulk electrical systems in the ERCOT region, and assistance or cooperation in enforcement of violations ("ERCOT Compliance Activities"), so long as the ERCOT Compliance Activities do not conflict with the statutory activities, including: (i) maintaining a record of all material occurrences of non-compliance with ERCOT procedures and tracking recurrence of such material occurrences of non-compliance; (ii) promptly providing information to and responding to questions from market participants to allow the market participant to understand and respond to alleged material occurrences of non-compliance with ERCOT procedures; (iii) maintaining a record of the resolutions of such material occurrences of non-

compliance and of corrective actions taken by the market participants in each instance; and (iv) informing the Public Utility Commission of Texas Staff immediately if the material occurrence of non-compliance is not resolved.

- Development of policies, processes, standards, and procedures to implement the ERCOT Compliance Activities.

Texas RE shall employ the following methods and procedures to (i) keep its funding mechanisms for its statutory activities separate from its funding mechanisms for its non-statutory activities, and (ii) record the costs and expense it incurs in the performance of its non-statutory functions separately from the costs and expense it incurs in the performance of its statutory functions:

- A. Texas RE segregates the funding for its statutory activities and non-statutory activities by recording the funding transactions in separate and distinct general ledger accounts, in accordance with Generally Accepted Accounting Principles.
- B. Texas RE utilizes and must maintain a time recording and expense management system under which employee time and expenses incurred in the conduct of non-statutory activities will be tracked to ensure that they are not funded by NERC remittances intended for the funding of statutory activities.
- C. Texas RE has adopted a detailed system of Account Codes, Department Codes and Activity Codes which are used in recording expenses. The Activity Codes are specific to statutory activities and non-statutory activities. The Texas RE Activity Codes are modeled on the NERC Functional Categories. Texas RE shall use Department Codes that are unique to Texas RE to record all costs and expenses incurred by Texas RE for statutory activities and non-statutory activities.
- D. Texas RE shall use Activity Codes to appropriately track its costs for statutory activities separately from its costs for non-statutory activities.
- E. Where employee time or an expense affects multiple activities, Texas RE will use an accurate basis of allocation of the time or expense between the activities being performed based on specific metrics, such as time tracking, data observations or total cost input. Total cost input relates the portion of the expense to the total expense to establish an appropriate method to allocate.

Texas RE shall provide its budget for such non-statutory activities to NERC at the same time that Texas RE submits its annual budget request to NERC pursuant to Section 1. Texas RE's budget for non-statutory activities that is provided to NERC shall contain a detailed list of Texas RE's non-statutory activities. Texas RE agrees that no costs of non-statutory activities are to be included in the calculation of Texas RE dues, fees, and other charges for its statutory activities pursuant to this Agreement.

## Attachment 1 to Exhibit E

## Confirmation of Electric Reliability Council of Texas, Inc.

Electric Reliability Council of Texas, Inc. (ERCOT), the Independent System Operator (ISO) for the ERCOT region, has agreed to act as the billing agent on behalf of NERC to bill and collect assessments for the costs of activities under Section 215(c) of the Federal Power Act from load-serving entities, Qualified Scheduling Entities (QSEs), or such other entities as agreed by North American Electric Reliability Corporation (NERC), Texas Reliability Entity, Inc. (Texas RE), and ERCOT. ERCOT agrees that ERCOT shall: (i) issue all invoices to load-serving entities, QSEs, or other agreed entities in a prompt and timely manner after receipt from NERC of the information needed to issue the invoice; (ii) exercise commercially reasonable efforts to collect invoices that are not paid as of the due date(s); and (iii) transfer all funds collected to NERC on a quarterly basis, in a timely manner.

On a quarterly basis, NERC will send ERCOT an invoice covering the NERC and Texas RE budgets approved for collection for the ERCOT region. Within ten (10) business days after receiving this invoice, ERCOT will electronically transfer to NERC, in immediately available funds, the amount reflected in the NERC invoice, unless ERCOT has been unable to collect and does not reasonably believe it will be able to collect this amount from load-serving entities, QSEs, or other agreed entities after exercise of commercially reasonable efforts. On the same day as ERCOT makes its electronic transfer of funds to NERC, ERCOT will send an e-mail to the Chief Financial Officer of NERC, copying the Texas RE Chief Executive Officer either (i) confirming that the full invoiced amount has been electronically transmitted to NERC; or, (ii) stating that ERCOT is unable to collect the full amount of the NERC invoice and reasonably believes that it will not be able to collect the full amount of the NERC invoice from load-serving entities, QSEs, or other agreed entities after exercising commercially reasonable efforts and confirming the amount that has been transmitted to NERC. In the event ERCOT is unable to transfer to NERC the full invoice amount, ERCOT shall also send to NERC and Texas RE a listing of any load-serving entity, QSE, or other agreed entity that has not paid its load ratio share and an itemization of the collections that ERCOT received by entity and amount. ERCOT shall maintain a detailed list of the entities from which payments are collected and the amount collected from each entity.

ERCOT agrees that it shall not in any way use its position as billing or collection agent for NERC to attempt to influence NERC's policies or decisions on matters relating to adoption of reliability standards (including regional standards and differences), administration of the compliance monitoring and enforcement matters, determination and imposition of penalties and sanctions, budgeting matters including review and approval of Texas RE's budgets and business plans, or any other NERC decisions, including by issuing invoices, engaging in collection activities or transferring funds collected to NERC in an untimely manner or other than in accordance with this agreement.

Electric Reliability Council of Texas, Inc.

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_



approved by the current Texas RE Board (particularly if the New Texas RE membership also formally approved the Bylaws). However, the NERC Board of Trustees requires that the Board of New Texas RE formally approve the Bylaws, new Amended Delegation Agreement, and Amended 2010 Business Plan and Budget of New Texas RE before NERC will approve and submit the documents to FERC for approval.

New Texas RE quickly needs to identify Initial Directors that will form the corporation and have at least one meeting to formally approve the New Texas RE Bylaws, New Delegation Agreement, and Amended 2010 Business Plan and Budget. Because New Texas RE Initial Directors will probably not qualify as Independent Directors, language was added to Article VI Section 3 to allow the Initial Board to conduct administrative business (including the approval of contracts and budgets) prior to having three Independent Directors.

In addition, because the Initial Directors will hold at least one meeting before Independent Directors were approved, language was added to Article IV Section 2(c) of the Bylaws to set forth the composition of the Initial Nominating Committee, as follows:

“The Initial Nominating Committee will consist of the Initial Directors except the Management Director (as defined in Article IV, Section 3), and at least two other persons selected by these Initial Directors to represent the interests of the Membership.”

Most of the other modifications to the Bylaws requested by NERC's counsel are primarily clarifications. If any additional modifications are requested or required by NERC or FERC at or after the December 7, 2009 pre-filing meeting, Texas RE staff will discuss these modifications with the Board at the December 14, 2009 meeting. No other requested modifications are known at this time.

#### B. Delegation Agreement Differences

The primary differences between the approved current Texas RE Amended and Restated Regional Delegation Agreement and the New Delegation Agreement are due to the governance changes that are set forth in the new Texas RE Bylaws. The primary changes are that New Texas RE is not affiliated with any registered entity and has different membership Sectors than current Texas RE. It also has a different group of hybrid directors.

The Hearing Process, which is included in Exhibit D and Attachments 1 and 2 to the New Delegation Agreement, has only been slightly modified to have the PUCT, as the hearing body, submit its recommendation to the New Texas RE board of directors (or a committee thereof), instead of to the New Texas RE CEO. The Standards Development Process (Exhibit C to the Delegation Agreement) has some intended efficiency improvements and it now includes the required quorums and voting mechanisms for the Standards Development Committee as well as the Ballot Body (which were previously included in procedure documents).

#### C. Initial Director Recommendation

Time is of the essence for the selection of Initial directors. In order for the NERC Board of Trustees to approve the New Texas RE Bylaws, New Delegation Agreement, and Amended 2010 Business Plan and Budget at or before its February 16, 2010 meeting (for filing with FERC near the end of February), the New Texas RE Initial Directors will need to be selected to form New Texas RE in early January, and the Initial Directors will need to schedule and hold a meeting before the end of January to approve the required documents and to establish a Nominating Committee to screen and select new Independent Directors.

It will likely not be possible to select three new Independent Directors to serve as the Initial Directors and meet the planned time schedule. Texas RE staff proposes that, subject to approval by NERC and by FERC staff at the pre-filing meeting, New Texas RE form the new corporation with the following four directors: Larry Grimm as the CEO of Texas RE and three current Texas RE Unaffiliated Directors. Texas RE staff suggests that the Board Chair, Advisory Committee Chair, and Miguel Espinosa, as the Director with financial expertise, be recommended to serve as the Initial Directors. If NERC or FERC do not allow current Directors to serve as the Initial Directors, Texas RE staff will locate different Initial Directors.

Texas RE respectfully requests that the Board approve the revised Bylaws, as set forth in Exhibit A, and the New Delegation Agreement, as set forth in Exhibit B, and recommend Initial Directors for New Texas RE.

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**Key Factors Influencing Issue:**

Desire to have the current Texas RE Board approve the revised Bylaws and New Delegation Agreement and to recommend formation Directors to allow Texas RE staff to have its required documents formally approved in time for the February NERC Board of Trustees meeting.

**Alternatives:**

- Approve the revised Bylaws and New Delegation Agreement
- Suggest modifications to the Bylaws or New Delegation Agreement
- Recommend Initial Directors

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**Conclusion/Recommendation:**

Texas RE respectfully requests that the Board (1) approve the revised Bylaws attached hereto as Exhibit A; (2) approve the New Texas RE Delegation Agreement attached hereto as Exhibit B; and (3) recommend Initial Directors for New Texas RE.

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 of Texas Regional Entity, a division of the Electric Reliability Council of Texas, Inc. (Board), 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 new corporation named Texas Reliability Entity, Inc. to become the successor regional entity for the ERCOT region; and

WHEREAS, the Board has determined it to be desirable and in the best interest of Texas Regional Entity to approve the Amended and Restated Regional Delegation Agreement between Texas Reliability Entity, Inc., and North American Electric Reliability Corporation (New Delegation Agreement), which is attached hereto as Exhibit B; and

WHEREAS, the Board agrees that it is in the best interest of Texas Regional Entity for the following individuals to serve as the formation directors or "Initial Directors" of Texas Reliability Entity, Inc.: (1) Larry Grimm as Chief Executive Officer; (2) \_\_\_\_\_; (3) \_\_\_\_\_; and (4) \_\_\_\_\_.

THEREFORE be it RESOLVED, that the Board hereby approves the Bylaws which are attached hereto as Exhibit A and incorporated herein for all purposes; and

Be it further RESOLVED, that the Board hereby approves the New Delegation Agreement which is attached hereto as Exhibit B and incorporated herein for all purposes; and

Be it further RESOLVED that the Board hereby recommends the following individuals to serve as the Initial Directors of Texas Reliability Entity, Inc.:

1. Larry Grimm as Chief Executive Officer;
2. \_\_\_\_\_;
3. \_\_\_\_\_; and
4. \_\_\_\_\_.

CORPORATE SECRETARY'S CERTIFICATE

I, Susan Vincent, Corporate Secretary of Texas Regional Entity, do hereby certify that, at the December 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

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

(A Texas Non-Profit Corporation)

Approved on \_\_\_\_\_, ~~2009~~2010

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## ARTICLE I. DEFINITIONS

**Section 1. Definitions.** The capitalized terms used in these Bylaws of Texas Regional Reliability 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 or having 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) “Initial Director” means a Director named in the Certificate of Formation and seated for formation of the Corporation.

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

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

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

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

(n)(o) “OPUC” means the Texas Office of Public Utility Counsel.

(o)(p) “Regional Entity” means an entity with a Delegation Agreement with NERC, as ERO, including the following organizations, in addition to Texas Regional Reliability 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).

(p)(q) “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.

(q)(r) “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)).

(r)(s) “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.

~~(s)~~(t) “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.

~~(t)~~(u) “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 Business Organizations Code.

**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 only 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 and Distribution:** An entity that is registered with NERC as a Transmission Owner (TO), Transmission Planner (TP), Transmission Service Provider (TSP), Distribution Provider (DP), and/or Transmission Operator (TOP)-) and is not a Cooperative or Municipal Utility.

(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 and~~ is registered with NERC for at least one registeredreliability function.

(d) **Municipal Utility:** A municipally owned utility as defined in PURA §11.003 and is registered with NERC for at least one registeredreliability 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~~reliability 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 of 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~~reliability function.

(e) A Member must continue to vote in the same Sector for a minimum of the remainder of the fiscal year in which it becomes a Member 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 which 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 of the Corporation, 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 OPUC (or another employee of OPUC designated by ~~the~~Texas Public 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; (the "Management Director"); (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 collectively referred to herein as "Affiliated Directors." Each Director ~~and, including the~~ Affiliated Director, Directors and 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, including 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 Directors named as Initial Directors, who are the Directors seated for formation of the Corporation, will serve only until the first membership meeting of the Corporation, at which Independent Directors are elected. If an Initial Director is qualified to be an Independent Director and elected by the membership, such Director's ~~initial~~ term as an Initial Director shall not be counted for purposes of term limits. For the originally elected Independent Directors, two positions will have three year terms, one position will have a two year term, 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.

(c) Selection.

(1) Except 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~~ Except for the original Nominating Committee appointed by the Initial Directors ("Initial Nominating Committee"), the Nominating Committee shall consist of all Independent Directors except those whose terms expire during the current year and are seeking re-election and Affiliated Directors and such other persons with such qualifications as the Board shall specify (provided that such other persons may not vote), provided that the Independent Directors shall constitute a majority of the voting members of the Nominating Committee. The Initial Nominating Committee will consist of the Initial Directors except the Management Director (as defined in Article IV, Section 3), and at least two other persons selected by these Initial Directors to represent the interests of the Membership. The PUCT Chair may choose to participate on the Nominating Committee. If any Nominating Committee should have only two eligible

Independent Directors for any reason, the requirement that Independent Directors must constitute a majority of the voting members will be removed to allow both Affiliated Directors to participate on the Nominating Committee. 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).

(2) 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.

(3) ~~Except for the selection of Independent Directors to serve as the Initial Directors, the~~ 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.**

(a) 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 as follows:~~

(1) ~~For an Independent Director, by the election of a new Independent~~ Director at the next annual election of Directors to fill the remainder, if any, of the term of the departed ~~Independent~~ Director. ~~Provided 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 ~~Independent~~ Director.



(2) For the Management Director, by the appointment of a new CEO or interim CEO to fill the vacancy.

(3) For an ex officio Director, by the appointment of a new PUCT Chair or Texas Public Counsel by whomever had the right to appoint such Director.

(4) For an Affiliated Director, by the election of a new chair or vice chair, as applicable, by the Member Representative Committee.

~~(a)~~(b) 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 any voting 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 5.~~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 Directors, 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 to elect 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.**

(a) 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.

(b) Except as otherwise expressly provided in the Corporation's Certificate of Formation, these Bylaws, or applicable law, Members shall vote by Sector and each Sector shall have one vote.

(c) 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, during, 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 The Board consisting of the Initial Directors ("Initial Board") may conduct only organizational business of the corporation, including but not limited to approving these Bylaws, authorizing the opening of a bank account, appointing officers, approving the Delegation Agreement and reviewing and approving the Corporation's business plan and budget. The quorum necessary for transaction of business by the Initial Board shall be a majority of the Initial Directors, either in person or by proxy, at meetings at which a quorum is present. Thereafter, 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 voting Directors in person or by proxy and at least three Independent Directors, and (ii) actions by the Board shall be deemed 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 but in no case less than four votes.

**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 and at least ten (10) business days prior to the scheduled meeting; provided however that the Board may meet on urgent matters on such shorter notice, not less than two (2) hours, as the person(s) calling such meeting may deem necessary for appropriate for urgent matters (emergency conditions threatening health or safety or a reasonably unforeseen situation). 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, during, 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 4~~ VI 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  ~~("CEO")~~.** 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.

**Section 5. Vice Presidents.** The CEO may select such other Corporate officers as he or she deems appropriate, subject to Board approval. Any such officer shall perform such other duties and possess such 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~~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. 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. 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 may be 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, 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 plan and hold quarterly meetings, at a time and place determined by the Member Representatives Committee, normally shortly before the regular meetings of the Board, 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 Representatives on 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~~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 the presence, in person or by proxy, of two-thirds of the voting Representatives on the Member Representatives Committee entitled to attend. ~~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 an employee of the Member Representative as a proxy if both the Member Representative and the Sector Alternate are unable to attend a Members Representative Committee meeting. ~~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.~~

**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 the members of 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 members to such 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 sufficient 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 including 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, 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 action of the Membership, as set forth below. 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. These Bylaws may be altered, amended, or repealed as follows:

(a) Any Director or ~~Corporate~~ Member suggesting amendments to these Bylaws must submit a proposal of the amendment, including any necessary supporting documents, to the CEO.

(b) The CEO shall place the proposal on the agenda for a Board meeting in the time and manner prescribed by the Board and within 95 days of the request.

(c) If the proposal is approved by an act of the Board as set forth in Article VI, Section 3, the Board shall place the proposal on the agenda of the next Annual Meeting of the Corporate Members unless the Board in its discretion calls a Special Meeting of the Corporate Members to vote on the proposal or determines to seek Membership approval without a meeting as provided in Article V, Section 4.

(d) If the proposal is not approved by the Board, the Members of the Corporation may call a meeting, pursuant to Article V, Section 1(b), for the purpose of voting on a proposal not approved by the Board. Any such proposal must be approved by a vote of five of the six Sectors at a meeting of Members called for that purpose or by written consent of five 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 V, Section 2.

## 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 is in the Corporation's best interests, and is on terms no less favorable to the Corporation than could be obtained in an arms-length transaction. 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. Engaging in 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.



**Date:** December 4, 2009  
**To:** Texas RE Board of Directors  
**From:** Larry Grimm, Texas RE CEO and CCO  
**Subject:** Approval of Amended 2010 Business Plan and Budget

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

**Agenda Item No.:** 5c

**Issue:**

Approval of Amended 2010 Business Plan & Budget.

**Background/History:**

On June 15, 2009 the Board approved the Texas Regional Entity (Texas RE) 2010 Business Plan and Budget. The Federal Energy Regulatory Commission (FERC) approved the Texas RE 2010 Business Plan and Budget (Approved Budget) on October 15, 2009. Texas Reliability Entity, Inc. (New Texas RE), the new legally separate corporation being formed to take over as successor regional entity for the ERCOT region, will have significant start-up costs and will have operational expenses that are higher than current Texas RE, because many of the administrative services were previously provided by Electric Reliability Council of Texas, Inc. (ERCOT ISO) at a lower cost.

Texas RE staff has prepared an Amended 2010 Business Plan and Budget, which is attached hereto as Exhibit A and is incorporated herein for all purposes, with the assumption that New Texas RE will be formed, approved as the successor regional entity, and will begin to perform the delegated functions under a new Amended and Restated Delegation Agreement on June 1, 2009. Original Texas RE will continue to perform the delegated functions under the Approved Budget until Implementation. FERC and North American Electric Reliability Corporation (NERC) require that a regional entity's annual budget be sufficient to enable the regional entity to fulfill its obligations under its Delegation Agreement with NERC and include a reasonable reserve funding for unforeseen and extraordinary expenses and other contingencies, consistent with Generally Accepted Accounting Principles.

The Amended 2010 Business Plan and Budget is increased by start-up costs of \$1,308,500, increased operational costs of \$1,012,610, and increased cash reserves of \$219,960, to a total of \$10,537,219 for Statutory and Non-Statutory activities, as follows:

	<b>Statutory</b>	<b>Non-Statutory</b>	<b>Total Combined</b>
Previously Approved 2010 Budget	\$ 6,842,377	\$ 1,153,772	\$ 7,996,149
Net New Operating Expenses	987,251	25,359	1,012,610
Net New Start Up Budget	1,308,500	-	1,308,500
Additional Cash Reserve	215,212	4,748	219,960
Total Additional Expenses	2,510,963	30,107	2,541,070
Proposed 2010 Budget	\$ 9,353,340	\$ 1,183,879	\$ 10,537,219
Funding per MWh*	\$ 0.0301	\$ 0.0038	\$ 0.0339
Increased Headcount	5.50	0.50	6.00

The primary reasons for the cost increase between the Approved Budget and the Amended 2010 Business Plan and Budget are:

1. Six (6) additional administrative employees to perform human resources, information technology, financial, legal, and membership administration services
2. Higher costs for information technology, accounting (payroll processing, internal audit), and benefit plan administration services
3. Start-up costs primarily for furniture, information technology equipment (computers, servers, telephone systems), software, and director search fees
4. Additional cash reserves to maintain the 75-day reserves

Texas RE requests that the Board approve the proposed Amended 2010 Business Plan and Budget.

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**Key Factors Influencing Issue:**

Texas RE must have adequate and sufficient funds in 2010 to:

- Properly complete all activities required by the Delegation Agreement with NERC
- Properly complete all Protocol and Operating Guide compliance responsibilities
- Have reasonable reserve funding for unforeseen and extraordinary expenses and other contingencies
- Transition Statutory and Non-Statutory activities to New Texas RE

**Alternatives:**

- Approve the Amended 2010 Business Plan & Budget
  - Suggest modifications to the proposed Amended 2010 Business Plan & Budget
- 

**Conclusion/Recommendation:**

Texas RE respectfully requests the Board approve the Amended 2010 Business Plan & Budget for New Texas RE, which is attached hereto as Exhibit A.

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., a Texas non-profit corporation, it desirable and in the best interest of Texas Regional Entity to approve the Amended 2010 Business Plan and Budget, which is attached hereto as Exhibit A and is incorporated herein for all purposes, for submission to North American Electric Reliability Corporation (NERC) and the Federal Energy Regulatory Commission (FERC);

THEREFORE be it RESOLVED, that the Board hereby approves the Amended 2010 Business Plan and Budget, which is attached hereto as Exhibit A.

CORPORATE SECRETARY'S CERTIFICATE

I, Susan Vincent, Corporate Secretary of Texas Regional Entity, do hereby certify that, at the December 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



## **Amended 2010 Business Plan and Budget**

**Texas Reliability Entity, Inc.,  
Successor to Texas Regional Entity,  
A Division of Electric Reliability Council of Texas, Inc.**

**Approved by:  
XXXXXXX**

**Submitted:**

December \_\_, 2009

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## Introduction

Total Texas RE Resources				
(in whole dollars)				
	2010 Budget	U.S.	Canada	Mexico
Statutory FTEs	39.50			
Non-statutory FTEs	6.50			
Total FTEs	46.00			
Statutory Expenses	\$9,216,393	\$9,216,393		
Non-statutory Expenses	\$1,149,132	\$1,149,132		
Total Expenses	\$10,365,525	\$10,365,525		
Statutory Funding	\$9,353,340	\$9,353,340		
Non-statutory(Member) Funding	\$1,183,879	\$1,183,879		
Total Funding	\$10,537,219	\$10,537,219		
NEL	310,856,852	310,856,852		
NEL %	100%	100%		

### Organizational Overview

Texas Reliability Entity, Inc. (Texas RE) is a new Texas non-profit corporation which was created to become the successor to the Texas Regional Entity division of Electric Reliability Council of Texas, Inc. (ERCOT ISO), which has an approved Regional Delegation Agreement with the North American Reliability Corporation (NERC) for the ERCOT region. The purpose of Texas RE is to become the regional entity for the ERCOT region and to preserve and enhance reliability across the ERCOT region by encouraging a culture of compliance among all users, owners, and operators of the Bulk-Power System (BPS).

The ERCOT region is the geographic area located within the State of Texas that operates under the jurisdiction of the Public Utility Commission of Texas (PUCT) and is not synchronously interconnected with any electric utilities operating outside of Texas. The ERCOT region includes approximately 200,000 square miles and 85% of Texas load.

In May 2007, the Texas Regional Entity division of ERCOT ISO (Original Texas RE) executed its Delegation Agreement with NERC, the Electric Reliability Organization (ERO) certified by the Federal Energy Regulatory Commission (FERC), pursuant to Section 215(c) of the Federal Power Act (FPA). In response to subsequent orders by the Commission, Original Texas RE and NERC signed Amended and Restated Delegation Agreements on March 28, 2008 and January 3, 2009.

In the May 2007 Delegation Agreement and the March 28, 2008 and January 3, 2009 Amended and Restated Delegation Agreements (collectively "the Original Delegation Agreement"), NERC delegated to Original Texas RE certain responsibilities and authorities of a regional entity as

defined in the FPA, regulations adopted by the Commission (including but not limited to Order Nos. 672 and 672-A in Docket No. RM05-30-000), and other directives of the Commission, including the authority to propose, develop, monitor, assess, and enforce reliability standards and regional standards and variances within the ERCOT region, in accordance with the NERC Rules of Procedure (ROP). These activities under the Original Delegation Agreement and the proposed new Delegation Agreement for Texas RE are referred to herein as Statutory activities.

Texas RE seeks, concurrently with the filing of this 2010 Amended Business Plan and Budget, to be approved as a regional entity and take over the performance of the Statutory activities under a new or amended Delegation Agreement with NERC ("Delegation Agreement"). Texas RE intends to begin its performance of the delegated activities as a successor to Original Texas RE after FERC approves the Delegation Agreement and this proposed 2010 Amended Business Plan and Budget, plus a subsequent implementation period of approximately sixty (60) days. The date upon which Texas RE begins to perform under the Delegation Agreement (and Original Texas RE does not perform under the Original Delegation Agreement) is referred to herein as the "Implementation."

Beginning with the Implementation, in addition to the Statutory activities, Texas RE will also monitor, investigate, audit, and report on compliance with the ERCOT region reliability-based Protocols and Operating Guides (Protocols) for the PUCT, as a transition of the activities performed by Original Texas RE, through at least December 31, 2010. These Protocol compliance activities are referred to herein as Non-Statutory activities. Texas RE will coordinate with PUCT staff regarding enforcement of potential Protocol violations, and the PUCT will prosecute any Protocol violations that result in enforcement actions. Due process is provided to any entity that is reported to have violated a Protocol, pursuant to state law, and the PUCT makes all final decisions regarding Protocol violations.

Texas RE's proposed 2010 Amended and Restated Business Plan and Budget includes (A) the expenditures required by Original Texas RE under its previously submitted and approved 2010 Business Plan and Budget<sup>1</sup> until Implementation, which is estimated herein to be June 1, 2010, and (B) the expenditures required by Texas RE in 2010 for its start up costs and for operating expenses it incurs in 2010 as a regional entity, beginning at Implementation.

Original Texas RE will continue to perform under the Original Delegation Agreement and its approved 2010 Business Plan and Budget until Implementation, when Texas RE will begin to perform the Statutory and Non-statutory activities under a new Delegation Agreement. Original Texas RE will hire some of the additional employees required by new Texas RE prior to Implementation, to help prepare for the Implementation and for the prior transition of many of the administrative services that were performed for Original Texas RE by ERCOT ISO under the Memorandum of Understanding which was attached to the Original Texas RE 2010 Business Plan & Budget filing (MOU).

Upon Implementation, any remaining Original Texas RE funds, from cash reserves, penalties, and any Statutory revenues which are not spent by Original Texas RE performing Statutory Activities will be distributed to Texas RE. Texas RE and NERC will, within ninety (90) days after Implementation, prepare and file a reconciliation of the approved 2010 budget of Original Texas

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<sup>1</sup> See *Request of the North American Electric Reliability Corporation for Acceptance of its 2010 Business Plan and Budget and the 2010 Business Plans and Budgets of Regional Entities and for Approval of Proposed Assessments to Fund Budgets*, filed August 24, 2009 in Docket RR09-9-000; and Order Conditionally Accepting 2010 Business Plan And Budget of the North American Electric Reliability Corporation and Ordering Compliance Filings, 129 FERC ¶ 61,040 (October 15, 2009).

RE to the actual expenditures and revenues, from January 1, 2010 to Implementation, to demonstrate that all unspent collections were appropriately transferred to Texas RE.

### **Membership and Governance**

Texas RE has the following six membership sectors:

- 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).
- Transmission and Distribution - An entity that is registered with NERC as a Transmission Owner (TO), Transmission Planner (TP), Transmission Service Provider (TSP), Distribution Provider (DP), and/or Transmission Operator (TOP), and is not a Cooperative or Municipal Utility.
- Cooperative 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 that is registered with NERC for at least one reliability function.
- 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 reliability function.
- Generation: An entity that is registered with NERC as a Generator Owner (GO) or Generator Operator (GOP).
- 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 reliability function for demand response.

Membership in Texas RE is voluntary and open to any entity that is a user, owner, or operator in the ERCOT region BPS, who registers with Texas RE and complies with the Texas RE bylaws requirements. Texas RE charges a nominal fee for membership, but the membership fee can be waived upon good cause shown. Any person or entity that has a direct and material interest in the BPS has a right to participate in the Texas RE Standards Development Process, even if not a Texas RE member.

Texas RE is governed by a hybrid board of directors (Board), comprised of the following nine (9) directors:

- The Texas RE Chief Executive Officer, as a voting member
- The Chair of the PUCT, as an ex officio non-voting member
- Texas Public Counsel, from the Texas Office of Public Utility Counsel, as an ex officio non-voting member
- Four (4) Independent Directors
- Two (2) Member Directors (the Chair and Vice-Chair of the Member Representatives Committee).

The Board's primary role is to assure that Texas RE meets its requirements under the bylaws and Delegation Agreement. The PUCT acts as the Hearing Body for contested matters under the Compliance Monitoring and Enforcement Program (CMEP). As the Hearing Body, the PUCT makes a recommendation to the Board, and the Board makes final compliance and enforcement decisions on contested cases.

Texas RE has two membership committees, the Member Representatives Committee and the Reliability Standards Committee. The Member Representatives Committee includes representatives from members in each of the six membership sectors and provides advice and recommendations to the Board on administrative, financial, reliability-related, or any other matters, except for standards development issues, through its elected Chair and Vice Chair, who serve as directors. The Reliability Standards Committee includes representatives from the six membership sectors, whether or not members and including any entity with a direct and material interest in the ERCOT region BPS, and manages and participates in the Regional Standards Development Process, coordinates the development of regional standards and variances with the development of national standards, and monitors, reviews, and comments on NERC (national) standards under development and standards interpretation requests.

### **Statutory Functional Scope**

In accordance with the Delegation Agreement and in compliance with the NERC Rules of Procedure (NERC ROP), Texas RE performs the following Statutory Functions:

- Propose and participate in the development of reliability standards, or modifications thereof and propose and develop needed regional standards or variances through Texas RE's Standards Development Process.
- Monitor and enforce approved reliability standards, including the registration of responsible entities and, as needed, the certification of such entities within the ERCOT region, through the Compliance Monitoring and Enforcement Program (CMEP).
- Perform other delegation-related services on behalf of NERC, in furtherance of NERC's responsibilities as the ERO under the FPA, including:
  - Assessment and performance analysis of the present and future reliability, adequacy, and security of the BPS.
  - Promote effective training and education of reliability personnel and assist in the certification of operating personnel.
  - Promote situational awareness and the security and protection of critical infrastructure.

### **2010 Key Assumptions**

The key assumptions for Texas RE's 2010 Budget include the following:

- Original Texas RE will remain functionally separate from ERCOT ISO and will continue to receive at least some administrative services (including human resources and possibly information technology services) from ERCOT ISO through a memorandum of understanding (which was amended as of February 16, 2009 and was attached to the Original Texas RE 2010 Business Plan & Budget filing (MOU)) until Texas RE begins to perform under a new or amended Delegation Agreement.
- Texas RE will be legally separate from ERCOT ISO, will not obtain administrative or other services from ERCOT ISO, and will be required to pay more for some of the administrative services and employee benefits than Original Texas RE paid through the MOU, including:
  - Texas RE will hire six (6) additional corporate services employees not required in the Original Texas RE 2010 Business Plan and Budget
  - Texas RE will outsource certain information technology services at cost higher than the amount paid by Original Texas RE to ERCOT ISO under the MOU

- Texas RE will be required to pay more for employee benefits than the amount paid by Original Texas RE for similar services under the MOU
- Texas RE will be required expend substantial start up costs for such things as furniture, software, information technology equipment (computers, telephone system, and servers), search firm expenses for independent directors, and contract assignments.
- Texas RE will maintain a 75-day cash reserve in 2010.
- The Delegation Agreement requirements and NERC expectations will be consistent with the requirements of Original Texas RE.
- Texas RE will use any surplus funds from the Original Texas RE prior year and any penalty funds received by Original Texas RE or Texas RE prior to July 1, 2009, to offset 2010 funding requirements.
- The number of registered entities and the current audit frequency are expected to remain fairly constant, except as specifically described herein.
- The number of contested enforcement and registration cases will remain fairly low in 2010 but will be slightly higher than originally estimated by Original Texas RE – one to two large or two to three small-to-mid-sized disputes per year.
- ERCOT ISO will continue to take primary responsibility for the research and preparation of the seasonal and long-term reliability assessments, with Texas RE responsible for coordinating, reviewing, and providing comments on such assessments.
- NERC, Texas RE, and the other regional entities will continue to invest in technology improvements and process automation to improve efficiency and increase national consistency.
- NERC will lead the audits, other compliance monitoring processes, and enforcement of ERCOT ISO during the time Original Texas RE is the regional entity under the Delegation Agreement (until Implementation).
- NERC will charge Original Texas RE fees to cover NERC's costs for its leadership of compliance monitoring and enforcement activities, but Texas RE will fund any such fees out of reserves. (NERC's costs will include its personnel expenses, travel expenses, an allocation of overhead based upon the time spent performing the function, and any other costs incurred specifically related to performance of the CEA function in the Region.)
- Texas RE has not budgeted to conduct CIP audits of nuclear facilities.
- Texas RE estimated the budget immediately required for the evaluation of Technical Feasibility Exception (TFE) requests based upon the information available at this time.

## 2010 Goals and Key Deliverables

Texas RE's Goals and Key Deliverables for 2010 are as follows:

1. Improve reliability through rigorous monitoring and enforcement of compliance with mandatory standards, in accordance with the Delegation Agreement and the CMEP
  - a. Maintain registrations for responsible entities.
  - b. Monitor compliance of registered entities in the ERCOT region with mandatory standards, while adopting risk-based methodologies to optimize reliability benefits and improving quality and timeliness.

- c. Ensure timely and thorough mitigation of all violations of mandatory reliability standards.
  - d. Enforce registered entities' compliance with the mandatory standards, while improving timeliness.
  - e. Promote a strong culture of compliance excellence, reliability improvement, and risk-based methods among registered entities in the ERCOT region.
2. Effectively communicate with NERC, other regional entities, regulators, and industry stakeholders as follows:
  - a. Continue to build and improve cooperative relationships with other registered entities, industry stakeholders, and regulators through regular, consistent messaging regarding all of Texas RE's program areas.
  - b. Deliver a consistent message through the Texas RE website and a variety of electronic media (including the bi-monthly newsletter) as a timely and efficient means of providing important information to the industry and the public.
3. Maintain effective financial controls and conduct Texas RE operations within the approved budget.
4. Effectively manage the Texas RE Standards Development Process
  - a. Participate in and encourage stakeholder participation in the development of national standards, in support of the NERC three-year plan
  - b. Propose and facilitate development of regional standards or variances that are needed to comply with NERC's three-year plan, FERC directives, and any ERCOT region-wide physical differences.
5. Continue to increase situational awareness and event analysis capabilities, to improve timeliness of root cause analyses and lessons learned and strengthen overall reliability.
6. Work with NERC and the other regional entities to develop appropriate procedures for auditing and monitoring cyber and physical security of critical infrastructure.
7. Efficiently adopt appropriate technology to increase efficiency and productivity.
8. Establish key performance indicators and benchmarks for Texas RE operations.

## Overview of Cost Impacts – Operating Expenses

In the proposed 2010 budget, total direct Statutory expenses are increasing by 16.8% \$1,921K in recurring direct operating expenses less MOU reductions of \$787K, for a net increase of \$1,133K from the 2010 approved budget. Additionally, this increase includes the required effort to support the structural separation of Texas RE from ERCOT ISO. The total increase is primarily being driven by the following items:

1. Increased personnel expenses resulting from adding six (6) additional staff (5.50 FTEs Statutory, 0.50 FTEs Non-statutory) and salary and benefit increases for existing staff. The total increase for salaries is approximately \$490K. Additionally, the expected increase in benefits expense for those employees is \$156K. This results in a total personnel expense increase of \$646K for structural separation.

2. Texas RE is expecting the service fee and premium fees to increase for the benefits provided to existing employees, those employee benefits expenses are expected to increase \$71K. Additionally, recruitment expenses will be incurred under professional services totaling \$60K.
3. Increased technology expenditures for structural separation of \$181K. This is primarily with external IT support that will be necessary to run the Texas RE IT needs.
4. Increase accounting services expenses of \$46K, internal audit function (external provider) expenses of \$43K, \$9K in treasury fee increases, and \$83K in insurance coverage expense.
5. Additionally, there is an increase of \$15K for security services planned for 2010. This cost was also previously paid for under the MOU with ERCOT.
6. Increased depreciation expense of \$147K.
7. These increases are offset by reductions in contracts & consultants of \$71K.
8. There is an increase in outside legal expenses due to the expectation of a greater number of, and scope of enforcement and registration appeals.

## Overview of Cost Impacts – Texas RE Start-Up Expenses

In the proposed 2010 budget, total direct Statutory start-up costs are budgeted at \$1,162K. These expenses are one-time expenses that will not reoccur. They include both capital expenses as well as non-capital expenses. The total increase is primarily being driven by the following items that Texas RE must procure from independent third party vendors to replace the goods and services currently provided to Original Texas RE under its MOU with ERCOT ISO:

1. Texas RE must procure IT assets and establish an independent IT environment that operates without the assistance of ERCOT ISO. The expected capital costs for this are budgeted at \$634K.
2. Texas RE will procure an accounting system to process all of the accounting data; this is budgeted at \$41K.
3. Texas RE will also procure office furniture, workstations for employees, as well as conference room furniture, etc. these are capital expenses and are expected to total \$317K.
4. Texas RE is also budgeting for the recruitment fees anticipated with securing four (4) independent directors. This search fee is expected to be \$200K.
5. Texas RE must expend approximately \$17K for the set-up and implementation of the HRIS, Payroll, and Expense Reporting systems.
6. Texas RE Compliance Portfolio Management Tool \$100K.
7. Finally, the above is offset by the depreciation expense of \$147K

## **Detailed Business Plans and Budgets by Program**

Details of the planning, operation, review, and adjustment for each program area are included in Section A. The corresponding budget details are shown in Section B.



## Section A — 2010 Business Plan

### Reliability Standards Program

Reliability Standards Program Resources			
(in whole dollars)			
	2010 Approved Budget	2010 Proposed Budget	Increase(Decrease)
Total FTEs	2.06	2.06	0.00
Total Direct Expenses	\$273,959	\$273,959	\$0
Total Indirect Expenses <sup>2</sup>	\$136,410	\$228,439	\$92,029
Total Expenses	\$410,369	\$502,398	\$92,029

Texas RE Standards staff facilitates the development of regional standards and variances, in accordance with the Texas RE Standards Development Process, which was approved as Exhibit C to the Delegation Agreement. Texas RE standards staff coordinates and publicly posts information regarding the activities of the Reliability Standards Committee (RSC) and all standards drafting teams (SDTs).

The Texas RE Standards Development Process is open to all organizations that are materially affected by the ERCOT region BPS, with no undue financial barriers. Any such entity has the right to participate by expressing an opinion, having its opinion considered, and having the right to appeal. Notice of all meetings of the Texas RE RSC and all drafting teams are provided on the Texas RE website and are open to the public.

The Texas RE Standards Development Process provides for a balance of interests, containing seven market segments and a requirement of a vote of at least two-thirds of the segments for approval of any regional standard. The first Texas RE Standard Authorization Request (SAR), SAR-001, proposed to add an additional market segment, with a  $\frac{1}{4}$  vote, for ERCOT ISO and has been approved by NERC and filed with FERC. No two segments can approve, and no single segment can defeat any matter. In addition, each of the current seven segments has at least two representatives on the RSC. Currently, 47 entities have joined the RBB, representing about 25% of all Texas RE members.

Texas RE's Standards Development Process provides for fair and due process by providing sufficient public notice of the intent to develop a regional standard. In addition, all proposed

<sup>2</sup> Indirect funding is calculated by allocating all administrative services funding to the operational program areas on a proportional FTE basis.

standards are posted on the Texas RE Reliability Standards Tracking site for public comments. The site allows all interested parties to submit comments during the commenting period. This process also provides an appeals process.

The RSC meets once a month. The SDTs meet as necessary and include WebEx participation. In addition to facilitating all meetings, Texas RE Standards employees are directly involved in the non-technical aspects of the drafting of the standards. Texas RE Compliance employees also provide technical support, as requested. To promote wider awareness of and participation in the reliability standards process throughout the ERCOT region, Texas RE launched the Reliability Standards Tracking site in 2008. The tool allows all registered parties to efficiently submit comments on SARs and draft standards during commenting periods and allows members of the Registered Ballot Body (RBB) to vote online.

Texas RE staff supports and participates in the NERC Standards Committee and Regional Reliability Standards Working Group and has contributed to the 2009-2011 NERC Work Plan. The Texas RE Manager of Standards was nominated and accepted into the NERC Communications and Planning Subcommittee of the NERC Standards Committee. In addition, the Texas RE staff review draft reliability standards from other regions, and staff from other regional entities review draft Texas RE regional standards.

Texas RE informs stakeholders of the impact and requirements of emerging NERC standards through training at the Texas RE workshops. In general, Texas RE works to ensure that stakeholders have the most current and accurate information on reliability standards. procedures, forms, meetings, minutes, notes, agendas, drafts, etc., for all regional activities associated with standards are posted in a timely fashion on the Texas RE website. Market notices on major topics and upcoming meetings are sent regularly to Texas RE email lists. Articles on reliability standards topics are included in the bi-monthly Texas RE newsletter.

## **2010 Key Assumptions**

- Standards workflow remains constant, with no more than four (4) new SARs being developed during 2010.
- Standards program staffing is complete with two full time equivalent employees (FTEs) to maintain the continuation of existing SARs and development of potential new ones.
- Travel will increase in 2010 to meet goals of increasing participation in NERC and other regional committees and subcommittees.

## **2010 Goals and Key Deliverables**

The goals of the Reliability Standards Program for 2010 are as follows:

1. Meet all FERC and NERC directives with regard to regional standards development and procedures and maintain effective relationships and communications with the standards staff at NERC and the other regional entities.
2. Develop regional standards program communications that educate and inform stakeholders and support the Texas RE Standards Development program objectives.

3. Work closely with NERC and registered entities within the Texas RE footprint to develop regional standards that go beyond, add detail to, or implement NERC Reliability Standards; obtain a regional variance; or otherwise address issues that are not addressed in NERC Reliability Standards.
4. Ensure consistency and quality of regional standards without causing undue restrictions or adverse impacts on competitive electricity markets.
5. Ensure Texas RE Reliability Standards development process is aligned to meet agreed-upon expectations.
6. Streamline and improve the Texas RE's Standards Development Process and associated tools.
7. Participate and be actively involved in various NERC reliability standards program and related functions.
8. Continue to educate and inform the market participants to ensure adequate representation on the Registered Ballot Body.

To implement these goals Texas RE Standards staff is leading the RSC in developing a scope of work for the RSC to include more comprehensive review and comment to the existing and proposed NERC standards under development for tracking of possible regional variances that may be necessary with the associated continent-wide efforts. Texas RE Standards staff presented the RSC with the 39 standards development projects in the current NERC workplan and asked the RSC to rank them in importance. Ten projects emerged as most important to the ERCOT region. The RSC plans to have subject matter experts (SMEs) make one presentation each month on the 10 projects for evaluation as to any potential regional standard that may be necessary. Texas RE also supports revising the NERC Fill-in-the-Blank standards, and will help develop (as necessary) any regional standards that are subsequently required.

Texas RE Standards staff is considering having a regional standards workshop (a longer and more detailed presentation than the normal standards presentation made during the Compliance workshop), to allow ERCOT region stakeholders to learn about standards in general and the process for developing new regional and national standards. If this workshop is warranted, it would occur in the latter half of 2010. Otherwise, Texas RE Standards staff will continue to include a standards section in the Compliance Workshop.

A regional-wide announcement was sent out in December 2008 to update and solicit more RBB registrations, to ensure wider participation by all sectors. This announcement was part of the ballot pool solicitation and formation efforts for SAR-001. This resulted in the 47 RBB members as of February 28, 2009.

Texas RE Standards staff will increase its participation in NERC Standards Committee meetings to stay current on all NERC Standards under development for presentation to the ERCOT ISO stakeholders, and Texas RE will continue participating in the NERC Communication and Planning Subcommittee.

#### **Funding Requirements — Explanation of Increase (Decrease)**

The funding requirements reflect an increase of \$150K from the 2010 approved budget for Original Texas RE because of the start-up costs and the increased administrative costs of Texas RE.

## Section B — 2010 Regional Entity Budget

### Reliability Standards Program

Funding sources and related expenses for the reliability standards section of the 2010 business plan are shown in the table below.

Statement of Activities			
2010 Approved Budget & 2010 Proposed Budget			
Reliability Standards			
	2010 Approved Budget	2010 Structural Separation Budget	2010 Proposed Budget
<b>Funding</b>			
<b>ERO Funding</b>			
ERO Assessments	\$ 411,750	\$ 149,650	\$ 561,400
Penalty Sanctions	-	-	-
<b>Total ERO Funding</b>	<b>\$ 411,750</b>	<b>\$ 149,650</b>	<b>\$ 561,400</b>
Membership Dues	-	-	-
Testing Fees	-	-	-
Services & Software	-	-	-
Workshops	-	-	-
Interest	-	-	-
Miscellaneous	-	-	-
<b>Total Funding</b>	<b>\$ 411,750</b>	<b>\$ 149,650</b>	<b>\$ 561,400</b>
<b>Expenses</b>			
<b>Personnel Expenses</b>			
Salaries	\$ 184,729	-	\$ 184,729
Payroll Taxes	14,901	-	14,901
Benefits	20,489	-	20,489
Retirement Costs	26,697	-	26,697
<b>Total Personnel Expenses</b>	<b>\$ 246,816</b>	<b>\$ -</b>	<b>\$ 246,816</b>
<b>Meeting Expenses</b>			
Meetings	\$ 400	-	\$ 400
Travel	6,824	-	6,824
Conference Calls	-	-	-
<b>Total Meeting Expenses</b>	<b>\$ 7,224</b>	<b>\$ -</b>	<b>\$ 7,224</b>
<b>Operating Expenses</b>			
Consultants & Contracts	\$ -	-	\$ -
Office Rent	-	-	-
Office Costs	480	-	480
Professional Services	18,824	-	18,824
Miscellaneous	615	-	615
Depreciation	-	-	-
<b>Total Operating Expenses</b>	<b>\$ 19,919</b>	<b>\$ -</b>	<b>\$ 19,919</b>
<b>Total Direct Expenses</b>	<b>\$ 273,959</b>	<b>\$ -</b>	<b>\$ 273,959</b>
<b>Indirect Expenses</b>	<b>\$ 136,410</b>	<b>\$ 92,029</b>	<b>\$ 228,439</b>
<b>Other Non-Operating Expenses</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>
<b>Total Expenses</b>	<b>\$ 410,369</b>	<b>\$ 92,029</b>	<b>\$ 502,398</b>
<b>Change in Assets</b>	<b>\$ 1,381</b>	<b>\$ 57,621</b>	<b>\$ 59,002</b>
<b>Fixed Assets</b>			
Depreciation	\$ -	\$ -	\$ -
Computer & Software CapEx	-	-	-
Furniture & Fixtures CapEx	-	-	-
Equipment CapEx	-	-	-
Leasehold Improvements	-	-	-
<b>(Incr)Dec in Fixed Assets</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>
Allocation of Fixed Assets	\$ (1,381)	\$ (57,621)	\$ (59,002)
<b>Change in Fixed Assets</b>	<b>\$ (1,381)</b>	<b>\$ (57,621)</b>	<b>\$ (59,002)</b>
<b>TOTAL CHANGE IN ASSETS</b>	<b>-</b>	<b>\$ -</b>	<b>\$ -</b>

## **Explanations of Variances – Proposed 2010 Budget versus Approved 2010 Budget**

### **Funding Sources**

- Funding is received only through assessment income and is designated to fully fund total expenses.

### **Personnel Expenses**

- N/A

### **Meeting Expenses**

- N/A

### **Operating Expenses**

- N/A

### **Indirect Expenses**

- Indirect expenses are increasing by \$92K due to the start-up costs and the increased administrative costs of Texas RE. The result is a total of \$228K for indirect expenses through 2010.

### **Other Non-Operating Expenses**

- N/A

### **Fixed Asset Additions**

- Fixed assets are increasing due to the allocation of the increased administrative services' fixed assets which are required for the start-up of Texas RE, , in the amount of approximately \$58K, bringing the total fixed assets to \$59K for 2010.

## Compliance Monitoring and Enforcement and Organization Registration and Certification Program

Compliance Monitoring and Enforcement and Organization Registration and Certification Program Resources			
(in whole dollars)			
	2010 Approved Budget	2010 Proposed Budget	Increase(Decrease)
Total FTEs	21.74	21.74	0.00
Total Direct Expenses	\$3,465,857	\$3,465,857	\$0
Total Indirect Expenses	\$1,438,898	\$2,409,652	\$970,754
Total Expenses	\$4,904,755	\$5,875,509	\$970,754

The purpose of Texas RE's Compliance Monitoring and Enforcement Program (CMEP) is to protect the reliability of the ERCOT region's Bulk-Power System (BPS) through its interactions with and oversight of the registered entities in the region. Texas RE is responsible for monitoring, assessing, and enforcing compliance with NERC Reliability Standards and regional standards for all registered entities in the ERCOT region. The CMEP activities make up the majority of the work currently done by Texas RE although Non-statutory work continues to be an important aspect of overall compliance in the ERCOT region.

The CMEP focuses on four primary areas: properly registering organizations responsible for complying with reliability standards (Organization Registration and Certification), monitoring the registered entities for compliance with reliability standards (Compliance Monitoring), determining and reporting to NERC violations of reliability standards by registered entities (Enforcement), and ensuring correction of non-compliance and violations (Mitigation of Violations). Texas RE maintains processes and procedures for data gathering, reporting, investigating, auditing, assessing, penalizing and sanctioning violators, and mitigating non-compliance.

Because the CMEP is still a relatively new program, Texas RE continues to develop policies and procedures to support the evolving requirements that are developed at the national level. Texas RE will continue to review its organizational structure, processes, procedures and document management with the intent to continuously improve the quality and timeliness of its work while also controlling the cost of compliance whenever possible.

In 2010, Texas RE is developing a software tool (Texas RE compliance and enforcement data management system) to allow [Texas RE employees to efficiently and flexibly view, analyze, and retrieve Texas RE registered entity compliance and enforcement information \(by registered entity, registered function, date, compliance monitoring process, technical feasibility exception request, settlement agreement, violation, etc.\)](#). The tool should increase the efficiency of

compliance and enforcement personnel locating and analyzing relevant compliance and enforcement information as needed for performance of their duties. This tool will ultimately interface with the Texas RE document management system.

#### Organization Registration and Certification Program Description and Functions

Texas RE is responsible for identifying and registering the owners, operators, and users of the BPS as registered entities in the ERCOT region per Section 500 of the NERC ROP. These registered entities are responsible for complying with all applicable reliability standards. Texas RE must maintain an accurate registration list of all entities, their contact personnel and the business relationships, as well as managing the Joint Registered Organization agreement process.

Texas RE has 214 registered entities representing 335 functions as of November 30, 2009. The list of registered entities in the ERCOT region continues to evolve and currently includes:

- 110 Generator Owners (GO)
- 79 Generator Operators (GOP)
- 24 Transmission Planners (TP)
- 29 Transmission Owners (TO)
- 46 Distribution Providers (DP)
- 40 Purchasing Selling Entities (PSE)
- 1 entity – ERCOT ISO – with seven (7) functional registrations: Transmission Operator (TOP), Reliability Coordinator (RC), Balancing Authority (BA), Planning Authority (PA), Resource Planner (RP), Transmission Service Provider (TSP), and Interchange Authority (IA)

Texas RE has a Stakeholder Management Department with responsibility for registration, certification, training, communications, reporting, document management and reliability assessments. This provides organizational focus for stakeholder management and services. In response to concerns expressed by registered entities in the 2009 NERC survey, Original Texas RE had increased the staffing of this area for its 2010 budget (1.0 full-time employee, allocated as 0.85 FTE Statutory and 0.15 FTE Non-statutory), and Texas RE expects this staffing to be adequate for 2010.

Texas RE will continue to use the compliance portal launched by Original Texas RE in 2008, which allows registered entities to update or modify contact information and to submit self-certification response electronically. However, extracting data from the portal for submission to NERC continues to require manual intervention and quality control to validate entity changes. Texas RE has planned improvements for the portal to address issues such as reporting, and NERC is working toward completing its portal to allow a more efficient submission of this information. The updated Texas RE and NERC portals are intended to reduce some of the administrative burdens on this program.

The implementation of the modified LSE registration criteria in 2008 resulted in significant challenges in the ERCOT region due to the unique market design of the ERCOT region (including competitive markets and a single Balancing Authority). A number of ERCOT region stakeholders have now agreed to a Joint Registration Organization (JRO) solution for the Load Serving Entity (LSE) function in the ERCOT region which should help to avoid gaps and overlaps and reduce the number of required registration appeals. The JRO has an effective date of January 1, 2010. Texas RE anticipates that most of the entities needed for registration as LSEs in the ERCOT region will participate in the LSE JRO, but it believes there might be some registration disputes by entities that do not participate in this JRO. Texas RE will need to register all LSEs that do not participate in the JRO. Texas RE anticipates that the LSE JRO will result in a small increase in newly registered entities and a more significant increase in registered functions for existing entities.

Registration work is expected to remain at the current level through 2010 due to on-going registered entity changes (changes in business names, mergers, acquisitions, asset sales, and reorganizations) and a possible JRO for the Transmission Operator (TOP) function (which could require TOP certification audits), and anticipated participation in national discussions regarding modifications or additions to the Statement of Registry Criteria (such as LSE) and registered entity functions or responsibilities, to ensure that the issues unique to the ERCOT region are properly considered.

Registration disputes have the potential to adversely impact work load in the registration area. The time expended by Original Texas RE on each registration appeal (none of which are currently pending) has been significant. Texas RE anticipates that registration disputes should reduce over time once the NERC functions and registration criteria stabilize, but Texas RE anticipates possible registration disputes in the LSE and TOP areas in 2010. This budget anticipates no additional significant changes in registration criteria in 2010.

The extensive reporting requirements for NERC, FERC, and the Texas RE board continue to remain higher and more challenging than expected. Texas RE anticipates that this could reduce somewhat, but, as a fairly new enterprise that is trying to achieve consistency among eight regional entities and NERC, Texas RE anticipates that it will need to continue to expect extensive reporting obligations through 2010.

#### Compliance Monitoring and Enforcement Program Description and Functions

Through a rigorous program of monitoring, audits, assessments, investigations, mitigation activities, and the imposition of penalties and sanctions for non-compliance with reliability standards, Texas RE strives to maintain a high level of reliability in the ERCOT region BPS. Ensuring the reliable operation of the BPS benefits all owners, operators, and users of the BPS in the ERCOT region.

In 2008, Texas RE divided its compliance staff into a Compliance Audit group and a Compliance Enforcement group in order to provide separation between the audit the other compliance and enforcement processes.

Texas RE uses a total of eight (8) monitoring and investigation processes to collect information to confirm compliance or a violation with NERC Reliability Standards:



1. Compliance Audits,
2. Self-Certifications,
3. Spot Checking,
4. Compliance Violation Investigations (CVI),
5. Self-Reporting,
6. Periodic Data Submittals,
7. Exception Reporting,
8. Complaints.

### **Compliance Audit**

Texas RE audits the reliability standards on a recurring basis using an approved audit plan coordinated with NERC and the other regions. Texas RE also augments the audit schedule based on regional needs. The Compliance Audit schedule follows a three or six-year cycle, depending on the entity's registration, and an audit report is issued for each audit.

In any year that a registered entity does not receive a Compliance Audit, Texas RE requires the entity to complete a compliance Self-Certification using electronic forms developed in coordination with NERC and distributed by Texas RE. The entity must certify its compliance or non-compliance with each designated measure and submit the Self-Certification form to the Texas RE by the date specified in Texas RE's request. Texas RE may require registered entities to also self-certify their compliance with reliability standards at other times as well.

Texas RE's Compliance Audit group performs Spot Checks of registered entities to 1) confirm compliance certified on Self-Certifications, 2) follow up on Self Reports and Periodic Data Submittals, and 3) follow up on complaints, events, or other indications of non-compliance. Texas RE may perform Spot Checks by telephone, site visit, or a data or document request. Deficiencies found in Self-Certifications and Spot Checks are treated as if they were audit findings of violations.

The current plan for Texas RE is to support the 2010 Critical Infrastructure Protection (CIP) audit with the Compliance Audit staff. CIP experts will be staffed in the CIP budget; however, Texas RE intends to augment the CIP audit team with experienced auditors from the Compliance audit team in 2010. Texas RE has only one (1) registered entity that is required to be auditably compliant with CIP 002 – 009 prior to January 1, 2011, but Texas RE plans to perform 2010 validation and testing of CIP methodologies for CIP 002 via a minimum of six (6) CIP Spot Checks of the 41 requirements contained in the reliability standards CIP 002 – 009. (The CIP FTEs are discussed in the Critical Infrastructure Information section.)

Texas RE has a single Table 1 entity, ERCOT ISO, due to its registration as the sole TOP, BA and RC in the ERCOT Region. Texas RE scheduled the spot check in 2009 for this entity covering the thirteen requirements initially applicable to Table 1 entities. Texas RE's 2010 plan therefore does not include additional mandatory spot checks of these thirteen requirements (as is the case in most other Regions). In the latter half of 2010, Texas RE has budgeted for approximately 10 possible event-driven spot checks of CIP requirements for Table 3 entities that

will be in the “compliant” stage of the CIP implementation plan. The budget also includes a planned ERCOT ISO audit for the remaining 28 CIP-002 through 009 requirements not included in this year’s spot check, after July 1, 2010 when these requirements become “Auditably Compliant” for Table 1 entities under the implementation plan.

Texas RE plans to add 1.0 staff (.85 FTEs Statutory, .15 FTEs Non-statutory) auditor to the Compliance Auditing department to address the increase in audit work load from the organic growth in regular audits and to support CIP audits and spot checks in 2010. This is in addition to the CIP experts and staff to support the TFE processing discussed in a later section.

### **Compliance Enforcement**

Texas RE has implemented a separate Compliance Enforcement group that processes alleged violations originating from audits, spot-checks, self-certifications, complaints, self reports, CIQs and CVIs. The Compliance Enforcement program activities include reviewing all potential alleged violations from any of the eight (8) defined processes, preparing and submitting notices of alleged violations, preparing Notices of Confirmed Violations, assisting NERC with Notices of Penalties, and managing settlement negotiations and hearings associated with contested violations. This group also reviews all mitigation plans and must confirm completion of all mitigation plans not verified during audit, using Spot Checks, when necessary.

Once a potential alleged violation is identified from any compliance monitoring process, the Compliance Enforcement group may begin a Compliance Inquiry (CIQ), Compliance Violation Investigation (CVI), or perform a Spot Check to gather additional information to assist with the final determination of a potential violation. A CIQ is initiated as an informal, non-public review of facts, circumstances, and information that is conducted to determine if a more formal CMEP activity (such as a Spot Check or CVI) should be initiated. The CVI process is a detailed and lengthy process used for the more serious or complicated potential violations. The Spot Check is a very efficient process to gather information to reach a final determination of a potential violation.

Documentation requirements for all Compliance Enforcement program activities and processes increased during 2009 to support due process and to address all NERC and FERC-required improvements. Texas RE expects the Compliance Enforcement program activities to continue to increase in 2010 due to the level of complexity to reach violation determination and penalty calculation.

Texas RE also anticipates additional work to support enforcement appeals. Since no significant penalties have yet been approved, there have not been any significant appeals in the ERCOT region. Texas RE is staffing to ensure that it will be prepared for 1 large or 2 smaller enforcement appeals.

Texas RE plans to add an additional 1.0 staff (.85 FTEs Statutory, .15 FTEs Non-statutory) in 2010 to accommodate the work load in Compliance Enforcement.

### **2010 Key Assumptions**

#### **Organization Registration and Certification**

- Additional JRO workload due to LSE and possible TOP registrations.
- Certification audits for a maximum of 4 new TOPs (registered by JRO) might be performed.
- A maximum of two small to medium or one large registration dispute will occur in 2010.
- No additional NERC functions will be added or substantially modified by or during 2010.
- The Texas RE and NERC Portals will be fully functional and supporting electronic reporting of registration information to NERC by late 2010.
- Document management software will be installed in mid-2010 and fully operational by late- 2010.

#### Compliance Audit

- Audits will require an average of three (3) full days for the team to conduct the audit, with additional time required for preparation of audit notification, review of submitted responses prior to the audit and completion of the audit reports, similarly to the audits performed by Original Texas RE in 2009.
- Spot checks of requirements will be incorporated in the audit team schedule based on system events, self-certification results and complaints. A maximum of 20 entities will have a spot check, (including the ten (10) Spot checks of CIP 002 – 009 standards listed below) conducted in the second half of the year.
- Develop and implement the Texas RE compliance management data management system.

#### Compliance Enforcement

- The number of alleged violations in the region will remain fairly constant in 2010.
- Have one (1) large or two (2) small-to-medium contested enforcement cases.
- Conduct 2 Compliance Violation Investigations.
- Conduct 20 detailed analyses of incidents, system disturbances, and events.
- Analyze and investigate 10 Complaints.
- Develop and implement the Texas RE compliance management data management system.
- Continue to work with NERC and other regional entities to improve consistency in processing violations and applying penalties for Registered Entities with operations in multiple regions.

## 2010 Goals and Key Deliverables

### Organization Registration and Certification

1. Maintain an accurate registration list of all owners, operators, and users of the BPS by establishing a schedule to verify entity registration and contact information.
2. Provide updated registered entity information to NERC and appropriate government authorities.
3. Participate in development of registration criteria, procedures, policies and databases with NERC and FERC, and implement and communicate changes as necessary.
4. Provide support for all registration appeals.
5. Implement organization certification in accordance with NERC processes, some of which are under development or revision, and conduct required certification audits, if necessary.
6. Maintain processes and procedures for registration and certification activities that are required by the certification standards.
7. Review and improve procedures to improve communications with registered entities
8. Achieve significant improvement in responsiveness and add more focus on regional consistency.
9. Respond to requests and special reports from NERC/FERC and the board.
10. Continue to improve the Portal to facilitate automated communications with registered entities.
11. Help implement and maintain an electronic document management system to more efficiently preserve work papers and evidence.

### Compliance Enforcement

1. Review and process or dismiss all alleged violations in a more timely fashion.
2. Manage all settlements and contested cases to completion, as efficiently as possible.
3. Coordinate with and provide assistance to the Legal Department on settlements, appeals and contested cases.
4. Conduct required Compliance Violation Investigations.
5. Conduct compliance analysis of all significant events and other system disturbances.
6. Analyze and investigate all Complaints.
7. Achieve reasonable timelines in performing each of the compliance monitoring and enforcement processes.
8. Achieve reasonable timelines in processing violations, penalties and settlement agreements (less than 100 days).

### Audits

1. Conduct approximately 52 audits, 18 at the entity's site and the remaining 34 at Texas RE's offices, per the 2010 schedule, Texas RE procedures and the provisions of the NERC CMEP.
2. Perform Spot Checks, including a sample of entities for spot checks of the CIP standards.
3. Continue to work with other Regional Entities to improve auditing consistency and reduce the cost of audits for Registered Entities with operations in multiple regions.
4. Complete a review of policies and procedures with the goal of improving the clarity of communications with Registered Entities, to determine how to mitigate the cost of compliance without impacting reliability, and meeting compliance with NERC ROP modifications and NERC guidance.
5. Prepare an overall CMEP implementation plan for the 2011 program by November 1, 2010, including recommendations from the FERC and upcoming NERC audit of Texas RE.

### **Funding Requirements — Explanation of Increase (Decrease)**

The funding requirement reflects an increase of \$1,579K over the Original Texas RE's 2010 approved budget because of Texas RE's required start up costs and increased administrative operational expenses.

### **Technical Feasibility Exceptions**

#### **TFE Program Scope and Description**

The CIP standards allow for registered entities to request TFEs to certain of the standard requirements on the grounds of technical feasibility or technical limitations. NERC issued initial procedures for the processing the TFEs, but there is still great uncertainty regarding the workload requirements and longevity of the TFE review and evaluation process. To date, 48 ERCOT Region registered entities have declared critical cyber assets, and each of these registered entities must be audited against the CIP standards requirements. Using the information available, including the NERC guidance, Texas RE has used its best efforts to estimate the workload requirements for its review and evaluation of TFEs in the ERCOT region, including coordination with NERC and the other Regional Entities, in accordance with its below-listed assumptions. Texas RE estimates that each of the registered entities with critical cyber assets will submit an average of five (5) TFEs (totaling 240 TFEs), and that these 240 TFEs will be screened and verified over the next two years (2010-2011), or 120 TFEs per year.

Texas RE estimates that screening of each of these TFEs will require 16 hours of staff labor and the verification will require 34 hours of staff labor. Additionally, there will be approximately 6 hours of staff support required for development and maintenance of online forms, data management, and to monitor periodic reporting of TFE status. Therefore the total estimated impact is 56 hours per TFE. The total effort given these assumptions is 6,720 hours in 2010

(6,000 hours for engineering/information technology/legal labor (3.6 FTEs) and 720 hours of support labor (0.4 FTEs), or a total of 4 FTEs). This FTE increase would equate to approximately \$651K in additional expense plus cash reserves of approximately \$133K. Texas RE acknowledges, however, that the estimated workload for the TFE evaluation is based upon many assumptions that cannot yet be verified. For this reason, Texas RE seeks to add only \$400K, for 3 FTEs for TFE evaluation activities at this time.

Texas RE will monitor the workload actually required to process the TFEs as they are submitted. If the total number of TFEs or the actual workload required for processing the TFEs significantly exceeds the \$400K budget estimate, Texas RE would initially use its cash reserves and will seek a 2010 budget supplement. If the total number of TFEs is significantly less than the above estimate or if the workload for completing TFEs is significantly less than the amount budgeted, any savings will be applied to a future budget year.

The estimates above do not include staff enforcement time required if violations are assessed during the TFE evaluation. Should a large number of violations be assessed as a result of TFE evaluations, this would have a significant impact on enforcement staff and additional resources will be required.

### **TFE Program Key Assumptions**

- Texas RE will perform TFE evaluations for registered entities in the ERCOT Region and will coordinate with the other Regions to ensure consistent treatment of similar requested TFEs.
- TFE processing will require a preliminary screening of the TFE for completeness and reasonableness for acceptance on an interim basis. Screening is assumed to be completed within 60 days of receipt by the regional entity.
- Texas RE will conduct a thorough review of the TFE and proposed mitigating measures, and will prepare its justification for approval or denial of the TFE within 360 days of the initial submittal of the TFE, unless otherwise extended by the regional entity with the concurrence of NERC, based on criteria provided by NERC.
- The initial screening and thorough review of each TFE will be conducted off-site (not at the office of the Registered Entity and normally at the Texas RE offices) and Registered Entities will electronically submit all documentation required to review TFEs, including Critical Energy Infrastructure Information (CEII) associated with TFEs, to Texas RE. Registered entities will submit the information through either (1) encrypted email or (2) encrypted or password protected CDs, DVDs, or other mobile storage devices. Texas RE will ensure that confidential data and information received, including Critical Energy Infrastructure Information (CEII), are secured, in accordance with Section 1500 of NERC Rules of Procedure. Unless and until Texas RE can confirm that its servers are appropriately secure, Texas RE will maintain all CEII on password protected or encrypted mobile storage devices which are maintained in locked fire-proof filing cabinets, in accordance with its Handling Guidelines for CEII Corporate Procedure, and Texas RE will only view registered entity CEII on designated secured (password protected) computers that are not network-connected to either the Internet or the Texas RE corporate local area network.
- If a TFE is found to be deficient in the initial screening or during the thorough review, the registered entity will be provided 30 days to remedy the deficiency. If the registered

entity fails to comply with the mitigation measures in its own TFE, the entity may be referred to Texas RE enforcement for processing of a possible violation. Registered entities will have a 'safe harbor' from enforcement while a TFE is pending acceptance by Texas RE and while the entity is performing in accordance with the TFE mitigation plan.

- TFEs are associated with and permitted for only CIP-005 requirements 2.4, 2.6, 3.1, and 3.2; CIP-006 requirement 1.1; and CIP-007 requirements 2.3, 3.2, 4, 4.1, 5.3, 6, and 6.3.
- If a registrant refuses to submit materials or documents due to CEII concerns and requests that Texas RE only review materials on-site, Texas RE will not approve the request, unless the registered entity is prohibited by law from disclosing information designated as Confidential Information, Classified National Security Information, NRC Safeguards Information and/or Protected FOIA Information to any person who is not an Eligible Reviewer (such as, for example, the restriction on access to Classified National Security Information specified in Section 4.1 of Executive Order No. 12958, as amended). In such an instance, the TFE Request shall identify the Confidential Information, Classified National Security Information, NRC Safeguards Information and/or Protected FOIA Information that is subject to such restrictions on disclosure and shall identify the criteria which a person must meet in order to be an Eligible Reviewer of the Confidential Information, Classified National Security Information, NRC Safeguards Information and/or Protected FOIA Information. The registered entity must submit all information that is not so designated.
- Registered entities will be required to provide quarterly updates on the status of TFEs compared to mitigation plan milestones. Texas RE will be expected to review the completion of a TFE in a manner similar to a spot check.
- TFEs will be grouped by common equipment/device types. Therefore, if there is one vulnerability that affects several types of devices, of which an entity has hundreds of such devices, Texas RE assumes that an entity will submit a single TFE for such vulnerability.
- NERC will provide review, input, and visibility (such as through a shared national database for use by the Regions) for consistency of the TFEs and will also develop common TFEs to provide better consistency and efficiency across Regions.

### **Staffing Summary to Support TFE Processing**

The TFE processing and evaluation will require three (3.0) Compliance FTEs, as follows:

- Two (2.0) FTEs for TFE screening and verification, and mitigation plan review and follow-up.
- One (1.0) FTE for TFE data base administration and tracking.

At the end of the two-year period (after 2011), Texas RE will better understand the scope of the CIP compliance activity (including overflow work associated with balance of nuclear plant audits) and will evaluate staffing needs going forward. Texas RE believes the three (3.0) new TFE-related staff will transition into assuming responsibility for additional work associated with CIP audits, spot checks, investigations and enforcement activities, as well as follow-up on questions and concerns from registered entities.

## **2010 Overview of TFE Cost Impacts**

Based on current assumptions that cannot yet be verified, Texas RE's initial analysis has indicated that \$784K will be needed for TFE processing in 2010. However, because of the many uncertainties associated with TFE processing, Texas RE seeks to include only \$400K for TFE processing in 2010 at this time.



## Compliance Enforcement and Organization Registration and Certification Program

Funding sources and related expenses for the compliance enforcement and organization registration and certification section of the 2010 business plan are shown in the table below.

Statement of Activities			
2010 Approved Budget & 2010 Proposed Budget			
Compliance and Organization Registration and Certification			
	2010 Approved Budget	2010 Structural Separation Budget	2010 Proposed Budget
<b>Funding</b>			
<b>ERO Funding</b>			
ERO Assessments	\$ 5,067,667	\$ 1,678,562	\$ 6,746,229
Penalty Sanctions	-	-	-
<b>Total ERO Funding</b>	<b>\$ 5,067,667</b>	<b>\$ 1,678,562</b>	<b>\$ 6,746,229</b>
Membership Dues	-	-	-
Testing Fees	-	-	-
Services & Software	-	-	-
Workshops	-	-	-
Interest	-	-	-
Miscellaneous	-	-	-
<b>Total Funding</b>	<b>\$ 5,067,667</b>	<b>\$ 1,678,562</b>	<b>\$ 6,746,229</b>
<b>Expenses</b>			
<b>Personnel Expenses</b>			
Salaries	\$ 2,037,418		\$ 2,037,418
Payroll Taxes	161,372		161,372
Benefits	221,580		221,580
Retirement Costs	289,434		289,434
<b>Total Personnel Expenses</b>	<b>\$ 2,709,803</b>	<b>\$ -</b>	<b>\$ 2,709,803</b>
<b>Meeting Expenses</b>			
Meetings	\$ 4,000		\$ 4,000
Travel	154,664		154,664
Conference Calls	-		-
<b>Total Meeting Expenses</b>	<b>\$ 158,664</b>	<b>\$ -</b>	<b>\$ 158,664</b>
<b>Operating Expenses</b>			
Consultants & Contracts	\$ -		\$ -
Office Rent	-		-
Office Costs	12,062		12,062
Professional Services	428,660		428,660
Miscellaneous	15,561		15,561
Depreciation	141,107		141,107
<b>Total Operating Expenses</b>	<b>\$ 597,389</b>	<b>\$ -</b>	<b>\$ 597,389</b>
<b>Total Direct Expenses</b>	<b>\$ 3,465,857</b>	<b>\$ -</b>	<b>\$ 3,465,857</b>
<b>Indirect Expenses</b>	<b>\$ 1,438,898</b>	<b>\$ 970,754</b>	<b>\$ 2,409,652</b>
<b>Other Non-Operating Expenses</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>
<b>Total Expenses</b>	<b>\$ 4,904,755</b>	<b>\$ 970,754</b>	<b>\$ 5,875,509</b>
<b>Change in Assets</b>	<b>\$ 162,912</b>	<b>\$ 707,808</b>	<b>\$ 870,720</b>
<b>Fixed Assets</b>			
Depreciation	\$ (141,107)	\$ -	\$ (141,107)
Computer & Software CapEx	274,237	100,000	374,237
Furniture & Fixtures CapEx	15,215		15,215
Equipment CapEx	-		-
Leasehold Improvements	-		-
<b>(Incr)Dec in Fixed Assets</b>	<b>\$ (148,345)</b>	<b>\$ (100,000)</b>	<b>\$ (248,345)</b>
Allocation of Fixed Assets	\$ (14,568)	\$ (607,808)	\$ (622,375)
<b>Change in Fixed Assets</b>	<b>\$ (162,912)</b>	<b>\$ (707,808)</b>	<b>\$ (870,720)</b>
<b>TOTAL CHANGE IN ASSETS</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>

## **Explanations of Variances – Proposed 2010 Budget versus Approved 2010 Budget**

### **Funding Sources**

- Funding is received only through assessment income and is designated to fully fund total expenses.

### **Personnel Expenses**

- N/A

### **Meeting Expenses**

- N/A

### **Operating Expenses**

- N/A

### **Indirect Expenses**

- Indirect expenses are increasing by \$971K over the Original Texas RE's budget, due to the start-up costs and the increased administrative expenses of Texas RE. The result is a total of \$2,410K for indirect expenses for 2010.

### **Other Non-Operating Expenses**

- N/A

### **Fixed Asset Additions**

- Fixed assets are increasing due to the allocation of the increased administrative services' fixed assets which are required for the start-up of Texas RE, in the amount of approximately \$608K. Also, there is a need to establish a Texas RE compliance management data management system tool for \$100K. The result of these additions brings the total of fixed assets to \$871K for 2010.

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**Training, Education, and Operator Certification Program**

<b>Training, Education, and Operator Certification Program Resources</b>			
(in whole dollars)			
	2010 Approved Budget	2010 Proposed Budget	Increase(Decrease)
Total FTEs	0.97	0.97	0.00
Total Direct Expenses	\$328,735	\$328,735	\$0
Total Indirect Expenses	\$64,442	\$107,918	\$43,476
Total Expenses	\$393,177	\$436,653	\$43,476

The Texas RE Training, Education, and Operator Certification program provides the education and training necessary to understand and operate the BPS, in accordance with NERC ROP Section 900. In 2010, the Texas RE Training program will develop materials for and plan to hold at least:

- Two (2) full-day Standards and Compliance workshops;
- One (1) additional workshop focusing on standards;
- Two (2) additional workshops focusing on CIP compliance.

In addition to the above workshops, Texas RE also intends to coordinate and facilitate six (6) regular sessions of the ERCOT Operations Training Seminar in 2010. The purpose of this seminar is to refresh the understanding of operational fundamentals; introduce changes occurring to operational interfaces, equipment, systems, and processes; address the impact of market processes to system performance and operation; and address emerging issues in performance and system reliability. Texas RE will also facilitate the ERCOT Operator Certification Program, including maintaining and updating the ERCOT Fundamentals Training Manual and administering the System Operator testing process.

The Texas RE Training staff will continue to publish a bi-monthly newsletter, which will include useful compliance and standards-related information, updates about Texas RE and NERC activities, training, procedures, templates, and forms, and current reliability-related topics.

Texas RE staff will continue to participate on selected industry sponsored seminars and panels to provide as much information to the industry as possible as well as to receive feedback.

**2010 Key Assumptions:**

- Texas RE will develop and deliver two (2) Standards and Compliance workshops, two (2) CIP Compliance workshops and six sessions of the Operations Training seminar in 2010.
- Texas RE will develop and deliver one (1) Reliability Standards workshop in 2010.
- The Training, Education, and Operator Certification program will remain a Statutory function with the Operations Training Seminar revenues offsetting the majority of the seminar's expenses.

**2010 Goals and Key Deliverables:**

1. Develop two (2) full-day high quality 2010 Standards and Compliance workshops (approximately 125 stakeholders each)
2. Develop and deliver one (1) full-day Reliability Standards workshop
3. Develop and deliver two (2) full-day quality CIP workshops
4. Coordinate and host six (6) sessions of the four-day ERCOT region Operator Training seminar
5. Maintain a database for tracking seminar and workshop participants and feedback and use this feedback to continue to improve on future seminars and workshops

**Funding Requirements — Explanation of Increase (Decrease)**

The funding requirements reflects an increase of \$71K over the Original Texas RE's 2010 approved budget because of the required start-up costs and increased administrative costs of Texas RE.

## Training, Education, and Operator Certification Program

Funding sources and related expenses for the training, education, and operator certification section of the 2010 business plan are shown in the table below.

Statement of Activities			
2010 Approved Budget & 2010 Proposed Budget			
Training and Education			
	2010 Approved Budget	2010 Structural Separation Budget	2010 Proposed Budget
<b>Funding</b>			
<b>ERO Funding</b>			
ERO Assessments	\$ 213,829	\$ 71,349	\$ 285,179
Penalty Sanctions	-	-	-
<b>Total ERO Funding</b>	<b>\$ 213,829</b>	<b>\$ 71,349</b>	<b>\$ 285,179</b>
Membership Dues	-	-	-
Testing Fees	-	-	-
Services & Software	-	-	-
Workshops	180,000	-	180,000
Interest	-	-	-
Miscellaneous	-	-	-
<b>Total Funding</b>	<b>\$ 393,829</b>	<b>\$ 71,349</b>	<b>\$ 465,179</b>
<b>Expenses</b>			
<b>Personnel Expenses</b>			
Salaries	\$ 81,122	-	\$ 81,122
Payroll Taxes	6,425	-	6,425
Benefits	8,834	-	8,834
Retirement Costs	11,511	-	11,511
<b>Total Personnel Expenses</b>	<b>\$ 107,893</b>	<b>\$ -</b>	<b>\$ 107,893</b>
<b>Meeting Expenses</b>			
Meetings	\$ 220,000	-	\$ 220,000
Travel	-	-	-
Conference Calls	-	-	-
<b>Total Meeting Expenses</b>	<b>\$ 220,000</b>	<b>\$ -</b>	<b>\$ 220,000</b>
<b>Operating Expenses</b>			
Consultants & Contracts	\$ -	-	\$ -
Office Rent	-	-	-
Office Costs	-	-	-
Professional Services	-	-	-
Miscellaneous	842	-	842
Depreciation	-	-	-
<b>Total Operating Expenses</b>	<b>\$ 842</b>	<b>\$ -</b>	<b>\$ 842</b>
<b>Total Direct Expenses</b>	<b>\$ 328,735</b>	<b>\$ -</b>	<b>\$ 328,735</b>
<b>Indirect Expenses</b>	<b>\$ 64,442</b>	<b>\$ 43,476</b>	<b>\$ 107,918</b>
<b>Other Non-Operating Expenses</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>
<b>Total Expenses</b>	<b>\$ 393,177</b>	<b>\$ 43,476</b>	<b>\$ 436,653</b>
<b>Change in Assets</b>	<b>\$ 652</b>	<b>\$ 27,874</b>	<b>\$ 28,526</b>
<b>Fixed Assets</b>			
Depreciation	\$ -	\$ -	\$ -
Computer & Software CapEx	-	-	-
Furniture & Fixtures CapEx	-	-	-
Equipment CapEx	-	-	-
Leasehold Improvements	-	-	-
<b>(Incr)Dec in Fixed Assets</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>
Allocation of Fixed Assets	\$ (652)	\$ (27,874)	\$ (28,526)
<b>Change in Fixed Assets</b>	<b>\$ (652)</b>	<b>\$ (27,874)</b>	<b>\$ (28,526)</b>
<b>TOTAL CHANGE IN ASSETS</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>

## **Explanations of Variances – Proposed 2010 Budget versus Approved 2010 Budget**

### **Funding Sources**

- Training, Education and Operator Certification is planned to be nearly 35% self-funded in 2010 through registration fees from attendees of the OTS. The remaining 65% of this program is funded through ERO assessments.

### **Personnel Expenses**

- N/A

### **Meeting Expenses**

- N/A

### **Operating Expenses**

- N/A

### **Indirect Expenses**

- Indirect expenses are increasing by \$43K due to the start-up costs and the increased administrative expenses of Texas RE. The result is a total of \$108K for indirect expenses for 2010.

### **Other Non-Operating Expenses**

- N/A

### **Fixed Asset Additions**

- Fixed assets are increasing due to the allocation of the administrative services' fixed assets which are required for the start-up of Texas RE, in the amount of approximately \$28K, bringing the total of fixed assets to \$29K for 2010.

## Reliability Assessment and Performance Analysis Program

Reliability Assessment and Performance Analysis Program Resources			
(in whole dollars)			
	2010 Approved Budget	2010 Proposed Budget	Increase(Decrease)
Total FTEs	2.44	2.44	0.00
Total Direct Expenses	\$290,095	\$290,095	\$0
Total Indirect Expenses	\$161,505	\$270,464	\$108,959
Total Expenses	\$451,600	\$560,559	\$108,959

### Program Scope and Functional Description:

#### Reliability Assessment Reports

ERCOT ISO has traditionally assembled the data for and prepared all seasonal, annual long-term, and other required planning and reliability assessments for the ERCOT region, using ERCOT ISO planning staff and input from stakeholder technical experts. As the regional entity, Texas RE coordinates with ERCOT ISO regarding the timing of these assessments, and Texas RE reviews the assessments for completeness. Because Texas RE plans to continue to rely upon ERCOT ISO Planning staff for the research and preparation of these assessments, Texas RE's coordination and review of these assessments is a small portion of its 2010 budget.

#### Event Analysis

As Reliability Coordinator, ERCOT ISO monitors the system in real time and reports a variety of incidents and disturbances to Texas RE for its review and compliance analysis. These incidents and disturbances include Department of Energy and NERC reportable events, Emergency Electric Alert (EEA) implementation, special protection system activation, equipment outages and failures, underfrequency and undervoltage relay operation, any failure to meet NERC requirements related to frequency control or transmission security.

Texas RE reviews all reported incidents and disturbances to determine if a compliance analysis is needed. If the initial review indicates that a standard might potentially have been violated, Texas RE performs a compliance analysis and obtains more information from the registered entity, as needed. If the compliance analysis indicates that further review, such as a CIQ, Spot Check, or CVI is justified, further analysis is performed as described under the CMEP

description. If the initial review indicates that any Protocol might have been violated, Texas RE performs a Non-statutory compliance analysis as part of its Non-statutory activities.

Texas RE staff also attend ERCOT ISO reliability-based stakeholder committees, such as the Reliability & Operating Subcommittee (ROS), Performance Disturbance Compliance Working Group (PDCWG), Operations Working Group (OWG) and the Wind Operations Task Force (WOTF) to better understand the reliability issues and challenges for the ERCOT region and to provide comments from the Texas RE perspective when needed. Texas RE also regularly communicates with NERC staff regarding any reliability challenges of special interest in the ERCOT region (e.g. wind generation) to keep NERC apprised of risks, improvements, and on-going strategy.

On a monthly basis, Texas RE also calculates and reports on a variety of reliability performance metrics (e.g. Regional (ERCOT Protocol) measures and NERC Reliability Standards measures) to its Board of Directors. Texas RE also uses this information, when appropriate, to identify potential standards violations or declining reliability trends that need to be investigated

#### **2010 Key Assumptions:**

- ERCOT ISO will continue to research, assemble data for, and prepare the seasonal, long-term, and other requested assessments, and Texas RE will coordinate the timing of and review such assessments (and make comments, if required) before submitting the assessments to NERC
- Texas RE will review approximately 80 reports of incidents, complaints, and disturbances

#### **2010 Goals and Key Deliverables:**

1. Increase Texas RE participation in the Regional Planning Group activities
2. Coordinate the communication of all reliability assessment-related information as requested by NERC
3. Timely review and submit all required assessments to NERC (or ensure required assessments are submitted to NERC on schedule), providing comments to the assessments, as needed.
4. Timely review all required incidents, complaints and disturbances
5. Communicate and coordinate issues of reliability concern with NERC

#### **Funding Requirements — Explanation of Increase (Decrease)**

The funding requirements reflects an increase of \$177K over the Original Texas RE's 2010 approved budget because of Texas RE's start-up costs and increased administrative expenses.



## Reliability Assessment and Performance Analysis Program

Funding sources and related expenses for the reliability assessment and performance analysis section of the 2010 business plan are shown in the table below.

<b>Statement of Activities</b> <b>2010 Approved Budget &amp; 2010 Proposed Budget</b> <b>Reliability Assessment and Performance Analysis</b>			
	2010 Approved Budget	2010 Structural Separation Budget	2010 Proposed Budget
<b>Funding</b>			
<b>ERO Funding</b>			
ERO Assessments	\$ 453,235	\$ 177,181	\$ 630,416
Penalty Sanctions	-	-	-
<b>Total ERO Funding</b>	<b>\$ 453,235</b>	<b>\$ 177,181</b>	<b>\$ 630,416</b>
Membership Dues	-	-	-
Testing Fees	-	-	-
Services & Software	-	-	-
Workshops	-	-	-
Interest	-	-	-
Miscellaneous	-	-	-
<b>Total Funding</b>	<b>\$ 453,235</b>	<b>\$ 177,181</b>	<b>\$ 630,416</b>
<b>Expenses</b>			
<b>Personnel Expenses</b>			
Salaries	\$ 217,004	-	\$ 217,004
Payroll Taxes	17,187	-	17,187
Benefits	23,632	-	23,632
Retirement Costs	30,793	-	30,793
<b>Total Personnel Expenses</b>	<b>\$ 288,615</b>	<b>\$ -</b>	<b>\$ 288,615</b>
<b>Meeting Expenses</b>			
Meetings	\$ -	-	\$ -
Travel	806	-	806
Conference Calls	-	-	-
<b>Total Meeting Expenses</b>	<b>\$ 806</b>	<b>\$ -</b>	<b>\$ 806</b>
<b>Operating Expenses</b>			
Consultants & Contracts	\$ -	-	\$ -
Office Rent	-	-	-
Office Costs	-	-	-
Professional Services	-	-	-
Miscellaneous	673	-	673
Depreciation	-	-	-
<b>Total Operating Expenses</b>	<b>\$ 673</b>	<b>\$ -</b>	<b>\$ 673</b>
<b>Total Direct Expenses</b>	<b>\$ 290,095</b>	<b>\$ -</b>	<b>\$ 290,095</b>
<b>Indirect Expenses</b>	<b>\$ 161,505</b>	<b>\$ 108,959</b>	<b>\$ 270,464</b>
<b>Other Non-Operating Expenses</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>
<b>Total Expenses</b>	<b>\$ 451,600</b>	<b>\$ 108,959</b>	<b>\$ 560,559</b>
<b>Change in Assets</b>	<b>\$ 1,635</b>	<b>\$ 68,222</b>	<b>\$ 69,857</b>
<b>Fixed Assets</b>			
Depreciation	\$ -	\$ -	\$ -
Computer & Software CapEx	-	-	-
Furniture & Fixtures CapEx	-	-	-
Equipment CapEx	-	-	-
Leasehold Improvements	-	-	-
<b>(Incr)Dec in Fixed Assets</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>
Allocation of Fixed Assets	\$ (1,635)	\$ (68,222)	\$ (69,857)
<b>Change in Fixed Assets</b>	<b>\$ (1,635)</b>	<b>\$ (68,222)</b>	<b>\$ (69,857)</b>
<b>TOTAL CHANGE IN ASSETS</b>	<b>\$ (0)</b>	<b>\$ -</b>	<b>\$ -</b>

## **Explanations of Variances – Proposed 2010 Budget versus Approved 2010 Budget**

### **Funding Sources**

- Funding is received only through assessment income and is designated to fully fund total expenses.

### **Personnel Expenses**

- N/A

### **Meeting Expenses**

- N/A

### **Operating Expenses**

- N/A

### **Indirect Expenses**

- Indirect expenses are increasing by \$109K due to the start-up costs and the increased administrative expenses of Texas RE. The result is a total of \$270K for indirect expenses through 2010.

### **Other Non-Operating Expenses**

- N/A

### **Fixed Asset Additions**

- Fixed assets are increasing due to the allocation of increased administrative services' fixed assets which are required for the start-up of Texas RE, in the amount of approximately \$68K, bringing the total fixed assets to \$70K for 2010.

## Situational Awareness and Infrastructure Security Program

Situational Awareness and Infrastructure Security Program Resources			
(in whole dollars)			
	2010 Approved Budget	2010 Proposed Budget	Increase(Decrease)
Total FTEs	3.03	3.03	0.00
Total Direct Expenses	\$391,907	\$391,907	\$0
Total Indirect Expenses	\$200,226	\$335,309	\$135,083
Total Expenses	\$592,134	\$727,217	\$135,083

### Program Scope and Functional Description

This program supports two distinct functions. Situational awareness is focused on near real-time analysis of the BPS for ERCOT ISO. Infrastructure Security focuses on protecting tangible assets from a variety of threats. The majority of activity for this program in 2010 relates to Infrastructure Security, however, some resources are also planned for Situational Awareness.

#### Situational Awareness

Currently, Texas RE relies significantly on the ERCOT ISO to provide details on situational issues. Texas RE Staff have direct access to historical data via the data warehouse. There are two aspects of situational awareness which require Texas RE involvement in 2010:

1. Texas RE will continue to participate in the Situational Awareness for FERC, NERC, and Regional Entities (SAFNR) Project. SAFNR Project goal is to enable 100% of reliability coordinators in the United States to display interconnection system conditions to FERC, NERC, and the respective regional entities. This will be accomplished through internet-based systems that provide visual displays for FERC, NERC, and the Regional Entities (REs) while all the data resides at the reliability coordinators.

The SAFNR Project team is comprised of FERC Office of Electric Reliability staff, NERC Situational Awareness staff, designated RE staff, the Reliability Coordinators (RCs) located in the United States, and the regional entity managers.

2. Texas RE situational awareness and events analysis staff communicate with NERC, FERC and other regions on observed events, disturbances, or BPS condition. NERC led conference calls are held at a minimum bi-weekly. In the case of more severe events (for example: major blackout or hurricane), daily as needed.

## 2010 Goals and Key Deliverables

### Situational Awareness

SAFNR's goal is to provide each NERC, FERC and each RE with a common view of the interconnections. In 2010, this includes:

1. Modify existing displays or create new ones to make the visualization more consistent.
2. Assess what aspects are working well, identify areas for improvement and review cost implications.
3. Clarify what is driving the related business case and possibly build in performance metrics from previous phases to help quantify the value.

### **Funding Requirements — Explanation of Increase (Decrease)**

The funding requirements reflects an increase of \$211K from the 2010 approved budget for Original Texas RE to the 2010 proposed budget because of Texas RE's start-up costs and increased administrative expenses.

### **Program Scope and Functional Description**

Responsible entities must become compliant with Critical Infrastructure Protection (CIP) Standards based on the NERC implementation schedules. ERCOT ISO is currently the only registered Balancing Authority (BA), Transmission Operator (TOP), and Reliability Coordinator (RC) in the ERCOT region and was the only entity required to self-certify compliance to NERC's Urgent Action Cyber Security Standard 1200. As such, only ERCOT ISO must be either auditably compliant or compliant with all of the CIP Standards requirements by the end of the second quarter 2009; and auditably compliant with all CIP Standards requirements by the end of the second quarter 2010.

All new registered entities must also become compliant with all CIP standards requirements in accordance with the CIP implementation plan.

Texas RE will continue to play an active role during the implementation of the CIP standards requirements. To provide time for Responsible Entities to examine their policies and procedures, to assemble the necessary documentation, and to meet the requirements of the CIP standards, compliance assessment began in 2007. Status reports are also being requested from Responsible Entities to verify that entities are on schedule and meeting the implementation plan. NERC expects its Regional Entities to provide assistance and education on the CIP standards to ease the transition. Texas RE is budgeting to provide training to registered entities and other stakeholders under the training function budget. Some of the content in this training will be related to cyber-security and will be internally developed.

This program will support activities associated with cyber security, including monitoring and enforcement of compliance with the CIP (CIP-001 thru 009) standards. The intent of the NERC CIP Standards is to ensure that all entities responsible for the reliability of the BPS identify and protect critical cyber assets that control or could impact the reliability of the BPS. The CIP Standards requirements are being communicated to all responsible entities to ensure compliance in accordance with the CIP Implementation Plan. This requires a significant amount of communication with the ERCOT ISO Security Department and entities responsible for complying with the CIP standards. Compliance Audits, self-certifications, and spot checks will be required to verify compliance.

### **2010 Key Assumptions**

- Develop and Implement CIP audit program during 2010.
- Texas RE will only have one major CIP audit in 2010.
- Conduct all CIP Spot Checks at the Texas RE offices (no CIP audit travel will be required in 2010).
- Semi-annual CIP Self-Certifications will be required of registered entities in 2010.
- NERC will conduct CIP audits of nuclear facilities, as contemplated by NERC's approved Business Plan and Budget.
- Six (6) CIP spot checks will be done in 2010.

### **2010 Goals and Key Deliverables**

1. Finalize Texas RE CIP audit procedures.
2. Complete the CIP audit of the ERCOT ISO.
3. Complete a minimum of 6 CIP spot checks.
4. Identify CIP Audit Team for 2011.
  - a. Any additional skill sets that may be needed for 2011.
5. Semi-Annual CIP Self-Certifications for 2010.
6. Develop education plan and deliver 2 CIP workshops for registered entities (see Training section) before most entities enter audibly compliant phase and CIP audits begin.
7. Enhance the Texas RE website with CIP information and links.

## Situational Awareness and Infrastructure Security Program

Funding sources and related expenses for the situational awareness and infrastructure security section of the 2010 business plan are shown in the table below.

Statement of Activities			
2010 Approved Budget & 2010 Proposed Budget			
Situational Awareness and Infrastructure Security			
	2010 Approved Budget	2010 Structural Separation Budget	2010 Proposed Budget
<b>Funding</b>			
<b>ERO Funding</b>			
ERO Assessments	\$ 594,161	\$ 219,661	\$ 813,822
Penalty Sanctions	-	-	-
<b>Total ERO Funding</b>	<b>\$ 594,161</b>	<b>\$ 219,661</b>	<b>\$ 813,822</b>
Membership Dues	-	-	-
Testing Fees	-	-	-
Services & Software	-	-	-
Workshops	-	-	-
Interest	-	-	-
Miscellaneous	-	-	-
<b>Total Funding</b>	<b>\$ 594,161</b>	<b>\$ 219,661</b>	<b>\$ 813,822</b>
<b>Expenses</b>			
<b>Personnel Expenses</b>			
Salaries	\$ 291,164	-	\$ 291,164
Payroll Taxes	23,060	-	23,060
Benefits	31,708	-	31,708
Retirement Costs	41,316	-	41,316
<b>Total Personnel Expenses</b>	<b>\$ 387,247</b>	<b>\$ -</b>	<b>\$ 387,247</b>
<b>Meeting Expenses</b>			
Meetings	\$ -	-	\$ -
Travel	4,260	-	4,260
Conference Calls	-	-	-
<b>Total Meeting Expenses</b>	<b>\$ 4,260</b>	<b>\$ -</b>	<b>\$ 4,260</b>
<b>Operating Expenses</b>			
Consultants & Contracts	\$ -	-	\$ -
Office Rent	-	-	-
Office Costs	-	-	-
Professional Services	-	-	-
Miscellaneous	400	-	400
Depreciation	-	-	-
<b>Total Operating Expenses</b>	<b>\$ 400</b>	<b>\$ -</b>	<b>\$ 400</b>
<b>Total Direct Expenses</b>	<b>\$ 391,907</b>	<b>\$ -</b>	<b>\$ 391,907</b>
<b>Indirect Expenses</b>	<b>\$ 200,226</b>	<b>\$ 135,083</b>	<b>\$ 335,309</b>
<b>Other Non-Operating Expenses</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>
<b>Total Expenses</b>	<b>\$ 592,134</b>	<b>\$ 135,083</b>	<b>\$ 727,217</b>
<b>Change in Assets</b>	<b>\$ 2,027</b>	<b>\$ 84,578</b>	<b>\$ 86,605</b>
<b>Fixed Assets</b>			
Depreciation	\$ -	\$ -	\$ -
Computer & Software CapEx	-	-	-
Furniture & Fixtures CapEx	-	-	-
Equipment CapEx	-	-	-
Leasehold Improvements	-	-	-
<b>(Incr)Dec in Fixed Assets</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>
Allocation of Fixed Assets	\$ (2,027)	\$ (84,578)	\$ (86,605)
<b>Change in Fixed Assets</b>	<b>\$ (2,027)</b>	<b>\$ (84,578)</b>	<b>\$ (86,605)</b>
<b>TOTAL CHANGE IN ASSETS</b>	<b>\$ 0</b>	<b>\$ -</b>	<b>\$ -</b>

## **Explanations of Variances – Proposed 2010 Budget versus Approved 2010 Budget**

### **Funding Sources**

- Funding is received only through assessment income and is designated to fully fund total expenses.

### **Personnel Expenses**

- N/A

### **Meeting Expenses**

- N/A

### **Operating Expenses**

- N/A

### **Indirect Expenses**

- Indirect expenses are increasing by \$135K due to the start-up costs and the increased administrative expenses of Texas RE. The result is a total of \$335K for indirect expenses through 2010.

### **Other Non-Operating Expenses**

- N/A

### **Fixed Asset Additions**

- Fixed assets are increasing due to the allocation of increased administrative services' fixed assets which are required for the start-up of Texas RE, in the amount of approximately \$85K, bringing the total of fixed assets to \$87K for 2010.

## Administrative Services

<b>Administrative Services</b>			
(in whole dollars)			
	2010 Approved Budget	2010 Proposed Budget	Increase(Decrease)
Total FTEs	3.76	9.26	5.50
Total Direct Expenses	\$2,001,482	\$3,351,783	\$1,350,301

### Program Scope and Functional Description

All administrative activities are considered indirect (including General and Administrative or “G&A”, Legal and Regulatory, Information Technology, Human Resources, and Finance) and the salaries of all employees in the administrative areas are reflected in the G&A program, to protect the confidentiality of salaries.

### General and Administrative

The CEO carries on the general affairs of the Texas RE. The CEO is independent of any registered entity and reports exclusively to the Texas RE Board of Directors. The CEO is responsible for:

- Overseeing and managing the activities of Texas RE.
- Making final decisions with respect to non-contested enforcement related to compliance actions for violations of reliability standards.
- Making employment-related decisions for all employees of Texas RE.
- Making an annual report and periodic reports to Texas RE’s Board concerning the activities and expenditures of Texas RE.
- Ensuring that Texas RE files all required reports with NERC.
- Monitoring the expenditures of the monies received by Texas RE to ensure that such are deployed in accordance with the approved Texas RE Budget (in cooperation with the Finance Staff).
- Retaining or terminating outside counsel or other advisors as deemed appropriate.
- Performing such other duties as may be determined from time to time by Texas RE’s Board, for the benefit of the Texas RE.

An Executive Assistant will be responsible for providing executive-level administrative support to the Texas RE CEO. The Executive Assistant will also perform general office manager activities and provide support to other Texas RE staff as needed.



### **2010 Key Assumptions**

- Original Texas RE will perform all Statutory and Non-statutory activities until Implementation.
- Upon Implementation Texas RE will perform all Statutory and Non-statutory activities as the regional entity.
- Texas RE will be a separate corporation that is not associated with nor affiliated with ERCOT ISO and does not receive any administrative services from ERCOT ISO.
- Texas RE total staff will increase to 46.00 staff (39.50 FTEs Statutory, 6.50 FTEs Non-statutory).
- Where possible, all appropriate direct program expenses will be direct costs to the respective program and function. Only corporate services expenses and personnel will remain in administrative services.

### **2010 Goals and Key Deliverables**

1. Communicate and maintain effective relationships with the board, industry, regulators, and other stakeholders.
2. Ensure that the new corporation is appropriately staffed and managed to maximize stakeholder value as well as to maintain independence.
3. Effectively manage the NERC Compliance Monitoring and Enforcement Program.
4. Manage Texas RE's Standards Development Process.
5. Establish key performance indicators and benchmarks for Texas RE operations.

### **Funding Requirements — Explanation of Increase (Decrease)**

- The funding requirements for this program reflect an increase of \$74K over Original Texas RE's approved budget, because of Texas RE's required start-up costs and increased administrative operational expenses. Indirect programs allocate their costs to the direct programs.

## Section B — 2010 Regional Entity Budget

### General and Administrative

Funding sources and related expenses for the general and administrative section of the 2010 business plan are shown in the table below.

Statement of Activities						
2010 Approved Budget & 2010 Proposed Budget						
General and Administrative - After Structural Separation						
	[1]	[2]	[3]	[4]	[2]+[3]+[4]=[5]	[1]+[5]=[6]
	2010 Approved Budget	2010 Budget Start-Up Costs	2010 Budget Recurring Costs	2010 Base Budget Reductions (MOU Decreases)	2010 Structural Separation Budget	2010 Proposed Budget
<b>Funding</b>						
<b>ERO Funding</b>						
ERO Assessments	\$ (80,265)	\$ -	\$ 228,577	\$ (154,656)	\$ 73,922	\$ (6,343)
Penalty Sanctions	-	-	-	-	-	-
<b>Total ERO Funding</b>	<b>\$ (80,265)</b>	<b>\$ -</b>	<b>\$ 228,577</b>	<b>\$ (154,656)</b>	<b>\$ 73,922</b>	<b>\$ (6,343)</b>
Membership Dues	-	-	27,000	-	27,000	27,000
Testing Fees	-	-	-	-	-	-
Services & Software	-	-	-	-	-	-
Workshops	-	-	-	-	-	-
Interest	2,000	-	-	-	-	2,000
Miscellaneous	-	-	-	-	-	-
<b>Total Funding</b>	<b>\$ (78,265)</b>	<b>\$ -</b>	<b>\$ 255,577</b>	<b>\$ (154,656)</b>	<b>\$ 100,922</b>	<b>\$ 22,657</b>
<b>Expenses</b>						
<b>Personnel Expenses</b>						
Salaries	\$ 539,855	\$ -	\$ 490,490	\$ -	\$ 490,490	\$ 1,030,345
Payroll Taxes	42,598	-	37,438	-	37,438	80,036
Benefits	54,570	-	47,960	-	47,960	102,530
Retirement Costs	80,324	-	70,594	-	70,594	150,918
<b>Total Personnel Expenses</b>	<b>\$ 717,347</b>	<b>\$ -</b>	<b>\$ 646,482</b>	<b>\$ -</b>	<b>\$ 646,482</b>	<b>\$ 1,363,829</b>
<b>Meeting Expenses</b>						
Meetings	\$ 3,600	\$ -	\$ -	\$ -	\$ -	\$ 3,600
Travel	17,158	-	-	-	-	17,158
Conference Calls	-	-	-	-	-	-
<b>Total Meeting Expenses</b>	<b>\$ 20,758</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ 20,758</b>
<b>Operating Expenses</b>						
Consultants & Contracts	\$ 676,331	\$ 200,000	\$ 287,675	\$ (559,523)	\$ (71,848)	\$ 604,483
Office Rent	327,600	-	229,725	(193,425)	36,300	363,900
Office Costs	24,240	-	4,590	-	4,590	28,830
Professional Services	60,000	-	15,300	-	15,300	75,300
Miscellaneous	1,350	-	-	-	-	1,350
Depreciation	-	-	146,550	-	146,550	146,550
<b>Total Operating Expenses</b>	<b>\$ 1,089,521</b>	<b>\$ 200,000</b>	<b>\$ 683,840</b>	<b>\$ (752,948)</b>	<b>\$ 130,892</b>	<b>\$ 1,220,413</b>
<b>Total Direct Expenses</b>	<b>\$ 1,827,626</b>	<b>\$ 200,000</b>	<b>\$ 1,330,322</b>	<b>\$ (752,948)</b>	<b>\$ 777,374</b>	<b>\$ 2,605,000</b>
<b>Indirect Expenses</b>	<b>\$ (1,827,626)</b>	<b>\$ (200,000)</b>	<b>\$ (1,330,322)</b>	<b>\$ 752,948</b>	<b>\$ (777,374)</b>	<b>\$ (2,605,000)</b>
<b>Other Non-Operating Expenses</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>
<b>Total Expenses</b>	<b>\$ (0)</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ (0)</b>
<b>Change in Assets</b>	<b>\$ (78,265)</b>	<b>\$ -</b>	<b>\$ 255,577</b>	<b>\$ (154,656)</b>	<b>\$ 100,922</b>	<b>\$ 22,657</b>
<b>Fixed Assets</b>						
Depreciation	\$ -	\$ -	\$ (146,550)	\$ -	\$ (146,550)	\$ (146,550)
Computer & Software CapEx	-	-	-	-	-	-
Furniture & Fixtures CapEx	-	317,000	-	-	317,000	317,000
Equipment CapEx	-	-	-	-	-	-
Leasehold Improvements	-	-	-	-	-	-
<b>(Incr)Dec in Fixed Assets</b>	<b>\$ -</b>	<b>\$ (317,000)</b>	<b>\$ 146,550</b>	<b>\$ -</b>	<b>\$ (170,450)</b>	<b>\$ (170,450)</b>
Allocation of Fixed Assets	\$ -	\$ 317,000	\$ (146,550)	\$ -	\$ 170,450	\$ 170,450
<b>Change in Fixed Assets</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>
<b>TOTAL CHANGE IN ASSETS</b>	<b>\$ (78,265)</b>	<b>\$ -</b>	<b>\$ 255,577</b>	<b>\$ (154,656)</b>	<b>\$ 100,922</b>	<b>\$ 22,657</b>

NOTE: The salaries of the indirect employees in G&A, Legal, Information Technology, and Finance have been consolidated for personnel confidentiality and budgeted under G&A.

## **Explanations of Variances – Proposed 2010 Budget versus Approved 2010 Budget**

### **Funding Sources**

- The 2010 funding requirements are increasing \$101K over the approved Original 2010 budget, for total additional funding requirement of \$23K. The approved 2010 budget assumed unspent funds of \$78K. The other indirect areas are also adding to the 75-days cash on hand in their respective funding sections. Indirect programs allocate their costs to the direct programs.

### **Personnel Expenses**

- The primary reason for the increase of \$646K is that Texas RE will need to hire additional staff and outsource certain of its human resources (HR) and information technology (IT) services that were formerly performed by ERCOT ISO under the MOU at a lower cost. The budget is consolidated to ensure the confidentiality of individual salaries under the General & Administrative budget. Texas RE will need to hire the following positions:
  - One (1) HR Manager to support and facilitate the HR and benefits functions for Texas RE and its employees.
  - One (1) Member Services Administrator to oversee administration of membership information and enrollment and to coordinate committee meetings and activities.
  - One (1) Budget and Accounting Manager to maintain the accounting system, financial/internal controls, budget development, payroll processing, accounts payable, accounts receivable, increased accountability, fixed assets, financial statement preparation and auditor interface.
  - One (1) Attorney to perform primarily corporate legal services, such as negotiation and preparation of contracts and other required documentation for goods, services, software licenses, and HR benefit plans, and HR legal services, all of which were previously included in the HR, information technology, finance, and other administrative services that were provided by ERCOT ISO under the MOU.
  - Two (2) IT employees to provide Texas RE with the appropriate level of IT support and skill necessary to maintain its network infrastructure and data integrity, provide desk-side support to Texas RE staff, facilitate specialized software and applications support, develop project scheduling / priority project lists, and project requirements engineering documentation (policies, procedures) creation.

### **Meeting Expenses**

- No additional travel is anticipated for this supplemental budget request.

### **Operating Expenses**

- Consulting and contract expenses are decreasing \$72K, due to reductions from the MOU. Texas RE expects an increase in rent and facilities related expenses of \$36K for 2010, due to a possible move in 2010, because of space constraints and the expiration of Texas RE's present lease. Finally, depreciation expenses are increasing \$147K as a result of fixed asset purchases required as part of the start-up costs.

### **Indirect Expenses**

- The entire program/activity expense reflected for G&A will be treated as indirect expense.

**Other Non-Operating Expenses**

- None.

**Fixed Asset Additions**

- Office furniture and equipment for all Texas RE staff (office and conference room furniture, computers, servers, telephone system, software, etc.) totaling \$317K will need to be acquired as part of the start-up costs. This will be offset from a funding perspective by depreciation expense of \$147K.

## **Legal and Regulatory**

### **Program Scope and Functional Description**

Texas RE Legal and Regulatory provides legal advice and counsel to Texas RE management, board, and staff on all legal and regulatory matters affecting Texas RE, including corporate governance, transactions, personnel, governmental relations, communications, NERC registration, standards development, compliance, enforcement, and other regulatory matters. Legal staff also retains and oversees the work of outside legal counsel as needed. Legal and Regulatory employees anticipate that the primary regulatory emphasis during 2010 will include NERC registration appeals, investigation oversight, settlement coordination, and enforcement proceedings under the CMEP. Legal and Regulatory employees will also continue to review and provide feedback to NERC regarding new and modified standards, procedures, and templates used in the CMEP process. Texas RE attorneys, or outside counsel overseen by Texas RE attorneys, will represent the Texas RE in its quasi-prosecutorial role in CMEP enforcement hearings, and in NERC, FERC, and PUCT rulemakings and other proceedings. In addition to overseeing Board meetings and activities, Texas RE Legal and Regulatory staff will oversee and coordinate corporate membership enrollment, information, and meetings and will coordinate and oversee the Member Representatives Committee activities.

### **2010 Key Assumptions**

Texas RE Legal and Regulatory has the following key assumptions:

- A. Original Texas RE will continue to perform all Statutory and Non-statutory activities until Implementation.
- B. Upon Implementation, Texas RE will perform the Statutory and Non-statutory activities and will operate as a separate corporation, not associated with or affiliated with ERCOT ISO, and Texas RE will receive no administrative services from ERCOT ISO.
- C. Legal and Regulatory will oversee and coordinate corporate membership and Member Representative Committee activities.
- D. The Delegation Agreement requirements and NERC expectations will remain consistent.
- E. The majority of possible violations will be handled through the settlement process.
- F. The number of contested registration and enforcement cases will remain fairly low, but will increase to two large or up to three small-to-mid-sized disputes per year.

### **2010 Goals and Key Deliverables**

- 1. Coordinate Texas RE board information, meetings, and materials and maintain corporate bylaws and corporate procedures as required by law, the Delegation Agreement, NERC Rules, and FERC Orders.
- 2. Provide legal advice to the CEO and the Texas RE board, board committees, and departments, as needed on corporate, contract, transactional, regulatory, enforcement, and other matters.
- 3. Represent Texas RE in all NERC, FERC, regulatory matters, and legal proceedings.
- 4. Prosecute CMEP hearings of contested enforcement matters.

5. Act as a resource for investigations to help ensure accurate, appropriate and complete documentation is maintained and consistent procedures are followed.
6. Communicate and maintain effective relationships with NERC, FERC, the PUCT, and other governmental authorities.
7. Manage and oversee all Texas RE registration and enforcement action appeals.
8. Review Texas RE alleged violations, penalties, and sanctions for consistency.
9. Participate in settlement processes and review all settlements for consistent application of the CMEP.
10. Review and provide input to NERC regarding new and modified standards, procedures, forms, and templates.

**Funding Requirements — Explanation of Increase (Decrease)**

The 2010 funding requirement for this program is increasing by \$19K. This represents a provision for the 75-day cash on hand requirement in light of the expense change for outside legal counsel.

## Section B — 2010 Regional Entity Budget

### Legal and Regulatory

Funding sources and related expenses for the general and administrative section of the 2010 business plan are shown in the table below.

Statement of Activities						
2010 Approved Budget & 2010 Proposed Budget						
Legal and Regulatory - After Structural Separation						
	[1]	[2]	[3]	[4]	[2]+[3]+[4]=[5]	[1]+[5]=[6]
	2010 Approved Budget	2010 Budget Start-Up Costs	2010 Budget Recurring Costs	2010 Base Budget Reductions (MOU Decreases)	2010 Structural Separation Budget	2010 Proposed Budget
<b>Funding</b>						
<b>ERO Funding</b>						
ERO Assessments	\$ -	\$ -	\$ 18,486	\$ -	\$ 18,486	\$ 18,486
Penalty Sanctions	-	-	-	-	-	-
<b>Total ERO Funding</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ 18,486</b>	<b>\$ -</b>	<b>\$ 18,486</b>	<b>\$ 18,486</b>
Membership Dues	-	-	-	-	-	-
Testing Fees	-	-	-	-	-	-
Services & Software	-	-	-	-	-	-
Workshops	-	-	-	-	-	-
Interest	-	-	-	-	-	-
Miscellaneous	-	-	-	-	-	-
<b>Total Funding</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ 18,486</b>	<b>\$ -</b>	<b>\$ 18,486</b>	<b>\$ 18,486</b>
<b>Expenses</b>						
<b>Personnel Expenses</b>						
Salaries	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Payroll Taxes	-	-	-	-	-	-
Benefits	-	-	-	-	-	-
Retirement Costs	-	-	-	-	-	-
<b>Total Personnel Expenses</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>
<b>Meeting Expenses</b>						
Meetings	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Travel	4,478	-	-	-	-	4,478
Conference Calls	-	-	-	-	-	-
<b>Total Meeting Expenses</b>	<b>\$ 4,478</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ 4,478</b>
<b>Operating Expenses</b>						
Consultants & Contracts	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Office Rent	-	-	-	-	-	-
Office Costs	5,400	-	-	-	-	5,400
Professional Services	48,000	-	90,000	-	90,000	138,000
Miscellaneous	6,200	-	-	-	-	6,200
Depreciation	-	-	-	-	-	-
<b>Total Operating Expenses</b>	<b>\$ 59,600</b>	<b>\$ -</b>	<b>\$ 90,000</b>	<b>\$ -</b>	<b>\$ 90,000</b>	<b>\$ 149,600</b>
<b>Total Direct Expenses</b>	<b>\$ 64,078</b>	<b>\$ -</b>	<b>\$ 90,000</b>	<b>\$ -</b>	<b>\$ 90,000</b>	<b>\$ 154,078</b>
<b>Indirect Expenses</b>	<b>\$ (64,078)</b>	<b>\$ -</b>	<b>\$ (90,000)</b>	<b>\$ -</b>	<b>\$ (90,000)</b>	<b>\$ (154,078)</b>
<b>Other Non-Operating Expenses</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>
<b>Total Expenses</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>
<b>Change in Assets</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ 18,486</b>	<b>\$ -</b>	<b>\$ 18,486</b>	<b>\$ 18,486</b>
<b>Fixed Assets</b>						
Depreciation	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Computer & Software CapEx	-	-	-	-	-	-
Furniture & Fixtures CapEx	-	-	-	-	-	-
Equipment CapEx	-	-	-	-	-	-
Leasehold Improvements	-	-	-	-	-	-
<b>(Incr)Dec in Fixed Assets</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>
Allocation of Fixed Assets	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
<b>Change in Fixed Assets</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>
<b>TOTAL CHANGE IN ASSETS</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ 18,486</b>	<b>\$ -</b>	<b>\$ 18,486</b>	<b>\$ 18,486</b>

NOTE: The salaries of the indirect employees in G&A, Legal, Information Technology, and Finance have been consolidated for personnel confidentiality and budgeted under G&A.

## **Explanations of Variances – Proposed 2010 Budget versus Approved 2010 Budget**

### **Funding Sources**

- In 2010, Texas RE's Legal and Regulatory function expenses are allocated entirely to the direct programs.

### **Personnel Expenses**

- Texas RE is adding one (1) Attorney and one (1) Member Services Administrator, due to the increased workload that was formerly performed for Original Texas RE under the MOU with ERCOT ISO. However, those employees are reflected under G&A for personnel confidentiality purposes. The detail for the headcount is reflected in Table 2 within Section B.

### **Meeting Expenses**

- No additional travel is anticipated.

### **Operating Expenses**

- Legal and Regulatory requires an additional \$90K to pay for outside legal counsel expenses. This is to ensure that there are sufficient funds to cover the anticipated additional registration or enforcement disputes.

### **Indirect Expenses**

- None.

### **Other Non-Operating Expenses**

- None.

### **Fixed Asset Additions**

- None.



## Information Technology

### Program Scope and Functional Description

Texas RE's IT employees will provide a broad range of information technology support to Texas RE, including the following: strategy; research; vendor management; planning, development, and deployment of enterprise systems and computer applications/systems in support of business needs; and support, training, and maintenance for these systems and applications.

IT staff will work with Texas RE management to develop a technological strategy to reach Texas RE's long-term goals and meet immediate system and hardware needs. In addition, IT staff will research and implement technologies for the purpose of increasing Texas RE efficiency and/or reducing workload.

In addition to its internal development efforts, IT employees will outsource a mix of services to third-party vendors. This will require a great deal of time and resources during the early part of 2010, as Texas RE competitively resources and acquires the information technology equipment and services that were performed for Original Texas RE by ERCOT ISO under the MOU. To ensure that applications and hardware are well maintained, service levels remain high, and costs are controlled, IT staff will provide vendor management and coordinate with external IT vendors on day-to-day support, administration, and future requirements.

IT staff also has the general responsibility to keep Texas RE systems up-to-date with evolving industry standards and will work with other Regional Entities and NERC to that end. IT staff will manage the design, implementation, support, and maintenance of the tools and delivery mechanisms to support the communication of information to the market, specifically the Texas RE website, Texas RE email boxes and lists, and Web-based training.

IT staff will also manage the design, implementation, support, and maintenance of Texas RE data and records-management tools to support the Standards, Registration, and CMEP programs, as well as improving registered entities' ability to participate in the processes. Specifically, such tools include the Texas RE Entity Portal and associated tools for management and tracking, the Reliability Standards tracking tool, the compliance and enforcement data management system, and the electronic document management system. IT staff will also assist with the transition of Texas RE staff's ability to receive or view necessary data in ERCOT ISO nodal systems. IT staff will also participate in the design and development of database models, web-enabled applications, data extraction and delivery methods, and data presentation.

### 2010 Key Assumptions

- Original Texas RE will continue to procure key IT equipment and services (such as computers and support, email and support, phone service and support, enterprise servers, and WebEx, but not including any services relating to the portal) from ERCOT ISO for at least several months of 2010, until these services can be performed by new employees or third-party vendors, which will occur prior to Implementation.
- Texas RE will receive no IT services from ERCOT ISO.
- Original Texas RE is in the process of competitively procuring its IT equipment (including computers, servers, telephone systems, etc.), software, and all required IT services from qualified third-parties, and it will implement a transition of the IT services from ERCOT ISO as part of the Texas RE start up costs.

- Texas RE will require two (2) additional IT employees to perform services that are currently provided by ERCOT ISO under the MOU.
- Texas RE will outsource many key IT services (email server hosting and service, desk side support services, telecommunications services, etc.) to third parties, at a cost greater than Original Texas RE paid to ERCOT ISO under the MOU.
- Texas RE will be a member of the Consortium User Group to collaborate on and share the costs of development for the portal software with other Regional Entities.

## **2010 Goals and Key Deliverables**

IT objectives for 2010 include the following:

1. Implement and monitor long-term strategy in response to business needs.
2. Continue to research, and develop, and/or purchase software and hardware to respond to immediate business needs.
3. Manage vendors to ensure quality of services and applications, responsiveness to Texas RE needs, and cost controls.
4. Provide vendor management support / IT department management support (security, disaster recovery, service management, self-assessment, lifecycle management)
5. Work effectively with other regional entities and NERC to ensure that Texas RE remains consistent.
6. Assist in ensuring information systems are functional and secure, and that applications running on those systems meet business requirements for performance, availability, and security.
7. Provide or oversee desk side support to Texas RE staff.
8. Support specialized software and applications
9. Oversee project scheduling and priority project lists
10. Engineer project requirements
11. Ensure documentation (policies, procedures) creation and management for IT operations
12. Train and support staff on software and applications
13. Implement and oversee all Texas RE electronic systems and tools

## **Funding Requirements — Explanation of Increase (Decrease)**

The funding requirement is increasing \$37K because of Texas RE's required start-up costs and the increased cost of obtaining IT services from third-party vendors instead of ERCOT ISO (which costs are partially allocated to other programs). Indirect programs allocate their costs to the direct programs.

## Section B — 2010 Regional Entity Budget

### Information Technology

Funding sources and related expenses for the information technology section of the 2010 business plan are shown in the table below.

Statement of Activities						
2010 Approved Budget & 2010 Proposed Budget						
Information Technology - After Structural Separation						
	[1]	[2]	[3]	[4]	[2]+[3]+[4]=[5]	[1]+[5]=[6]
	2010	2010	2010	2010	2010	2010
	Approved	Budget	Budget	Base Budget	Structural	2010
	Budget	Start-Up	Recurring	Reductions	Separation	Proposed
		Costs	Costs	(MOU Decreases)	Budget	Budget
<b>Funding</b>						
<b>ERO Funding</b>						
ERO Assessments	\$ -	\$ -	\$ 37,151	\$ -	\$ 37,151	\$ 37,151
Penalty Sanctions	-	-	-	-	-	-
<b>Total ERO Funding</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ 37,151</b>	<b>\$ -</b>	<b>\$ 37,151</b>	<b>\$ 37,151</b>
Membership Dues	-	-	-	-	-	-
Testing Fees	-	-	-	-	-	-
Services & Software	-	-	-	-	-	-
Workshops	-	-	-	-	-	-
Interest	-	-	-	-	-	-
Miscellaneous	-	-	-	-	-	-
<b>Total Funding</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ 37,151</b>	<b>\$ -</b>	<b>\$ 37,151</b>	<b>\$ 37,151</b>
<b>Expenses</b>						
<b>Personnel Expenses</b>						
Salaries	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Payroll Taxes	-	-	-	-	-	-
Benefits	-	-	-	-	-	-
Retirement Costs	-	-	-	-	-	-
<b>Total Personnel Expenses</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>
<b>Meeting Expenses</b>						
Meetings	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Travel	4,057	-	-	-	-	4,057
Conference Calls	-	-	-	-	-	-
<b>Total Meeting Expenses</b>	<b>\$ 4,057</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ 4,057</b>
<b>Operating Expenses</b>						
Consultants & Contracts	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Office Rent	-	-	-	-	-	-
Office Costs	960	-	-	-	-	960
Professional Services	33,860	\$ -	180,873	\$ -	180,873	214,733
Miscellaneous	6,500	-	-	-	-	6,500
Depreciation	12,000	-	-	-	-	12,000
<b>Total Operating Expenses</b>	<b>\$ 53,320</b>	<b>\$ -</b>	<b>\$ 180,873</b>	<b>\$ -</b>	<b>\$ 180,873</b>	<b>\$ 234,193</b>
<b>Total Direct Expenses</b>	<b>\$ 57,377</b>	<b>\$ -</b>	<b>\$ 180,873</b>	<b>\$ -</b>	<b>\$ 180,873</b>	<b>\$ 238,250</b>
<b>Indirect Expenses</b>	<b>\$ (57,377)</b>	<b>\$ -</b>	<b>\$ (180,873)</b>	<b>\$ -</b>	<b>\$ (180,873)</b>	<b>\$ (238,250)</b>
<b>Other Non-Operating Expenses</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>
<b>Total Expenses</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>
<b>Change in Assets</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ 37,151</b>	<b>\$ -</b>	<b>\$ 37,151</b>	<b>\$ 37,151</b>
<b>Fixed Assets</b>						
Depreciation	\$ (12,000)	\$ -	\$ -	\$ -	\$ -	\$ (12,000)
Computer & Software CapEx	32,263	634,000	-	-	634,000	666,263
Furniture & Fixtures CapEx	-	-	-	-	-	-
Equipment CapEx	-	-	-	-	-	-
Leasehold Improvements	-	-	-	-	-	-
<b>(Incr)Dec in Fixed Assets</b>	<b>\$ (20,263)</b>	<b>\$ (634,000)</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ (634,000)</b>	<b>\$ (654,263)</b>
Allocation of Fixed Assets	\$ 20,263	\$ 634,000	\$ -	\$ -	\$ 634,000	\$ 654,263
<b>Change in Fixed Assets</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>
<b>TOTAL CHANGE IN ASSETS</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ 37,151</b>	<b>\$ -</b>	<b>\$ 37,151</b>	<b>\$ 37,151</b>

NOTE: The salaries of the indirect employees in G&A, Legal, Information Technology, and Finance have been consolidated for personnel confidentiality and budgeted under G&A.

## **Explanations of Variances**

### **Funding Sources**

- The funding requirement is increasing \$37K because of Texas RE's required start-up costs and the increased cost of obtaining IT services from third-party vendors instead through the MOU with ERCOT ISO (which costs are partially allocated to other programs). Indirect programs allocate their costs to the direct programs.

### **Personnel Expenses**

- There are two (2) additional IT positions included in Texas RE's budget for 2010, to perform some of the services provided to Original Texas RE under the MOU with ERCOT ISO. These positions have been reflected under G&A for personnel confidentiality purposes. However, the detail for the headcount is reflected in Table 2 within Section B.

### **Meeting Expenses**

- No additional travel is anticipated for this supplemental budget request.

### **Operating Expenses**

- Professional IT services (hosting and professional services) for Microsoft Exchange and other servers, desk side support, maintenance, etc. are expected to increase \$181K over Original Texas RE's approved 2010 budget. These expenses which are within this indirect program are administrative services required to maintain the IT functionality for all of Texas RE's Statutory activities and should be allocated as an indirect expense.

### **Indirect Expenses**

- None.

### **Other Non-Operating Expenses**

- None.

### **Fixed Asset Additions**

- The IT start-up fixed asset expenses include computer systems for all employees, servers, LAN, software, telephone systems (PBX), monitors, and printers. There is an expected one-time start-up cost for these items totaling \$634K.

## Human Resources

### Program Scope and Functional Description

The Human Resources department will provide a broad range of support and human resources advice to all Texas RE employees. The HR function consists of overseeing all employee benefit programs and performing or overseeing all traditional human resources activities, including recruiting, on-boarding, developing, and counseling employees, maintaining job descriptions and market salary information, maintaining personnel policies and procedures, tracking existing employee data which traditionally includes personnel histories, skills, capabilities, accomplishments and salary. The HR function also encompasses such responsibilities as maintaining the Payroll Master File, benefits administration, HR Management Information Systems oversight, Training/Learning Management System, and overseeing and managing the employee performance review process and records. This department will play a pivotal role in the structural separation process, as the benefits programs and HR tools are established, and will also coordinate all of the HR-related filings and reporting with all governmental entities.

The Human Resources function will oversee the on-boarding and off-boarding of employees in a manner that ensures company policies are appropriately followed. This department is critical to ensure that Texas RE attracts and retains top talent within the company. Texas RE intends to have one HR Manager and to outsource many of its HR and employee benefit duties to third parties, under the guidance of the HR Manager.

### 2010 Key Assumptions

- Texas RE will formally hire employees upon the Implementation.
- Texas RE will hire a dedicated HR Manager to support Texas RE's human resource needs and oversee the vendors that provide human resources and benefit plan administration services to Texas RE.
- The HR Manager will be hired by Original Texas RE in early 2010 and prior to Implementation, to oversee the selection and implementation of the third-party vendors that will provide the human resource services and benefits programs for Texas RE staff upon Implementation and to help finalize personnel policies and procedures.
- Appropriate employee benefits will be provided for all Texas RE employees, similarly to Original Texas RE.

### Funding Requirements — Explanation of Increase (Decrease)

- The funding requirement is increasing by \$25K, which is HR's 75 day cash-on-hand requirement. Original Texas RE did not have an HR function. Indirect programs allocate their costs to the direct programs.

## Section B — 2010 Regional Entity Budget

### Human Resources – After Structural Separation

Funding sources and related expenses for the accounting and finance section of the 2010 Supplemental HR business plan are shown in the table below.

Statement of Activities						
2010 Approved Budget & 2010 Proposed Budget						
Human Resources - After Structural Separation						
	[1]	[2]	[3]	[4]	[2]+[3]+[4]=[5]	[1]+[5]=[6]
	2010 Approved Budget	2010 Budget Start-Up Costs	2010 Budget Recurring Costs	2010 Base Budget Reductions (MOU Decreases)	2010 Structural Separation Budget	2010 Proposed Budget
<b>Funding</b>						
<b>ERO Funding</b>						
ERO Assessments	\$ -	\$ -	\$ 25,001	\$ -	\$ 25,001	\$ 25,001
Penalty Sanctions						
<b>Total ERO Funding</b>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ 25,001</u>	<u>\$ -</u>	<u>\$ 25,001</u>	<u>\$ 25,001</u>
Membership Dues	-	-	-	-	-	-
Testing Fees	-	-	-	-	-	-
Services & Software	-	-	-	-	-	-
Workshops	-	-	-	-	-	-
Interest	-	-	-	-	-	-
Miscellaneous	-	-	-	-	-	-
<b>Total Funding</b>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ 25,001</u>	<u>\$ -</u>	<u>\$ 25,001</u>	<u>\$ 25,001</u>
<b>Expenses</b>						
<b>Personnel Expenses</b>						
Salaries	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Payroll Taxes	-	-	-	-	-	-
Benefits	-	-	-	-	-	-
Retirement Costs	-	-	-	-	-	-
<b>Total Personnel Expenses</b>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ -</u>
<b>Meeting Expenses</b>						
Meetings	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Travel	-	-	-	-	-	-
Conference Calls	-	-	-	-	-	-
<b>Total Meeting Expenses</b>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ -</u>
<b>Operating Expenses</b>						
Consultants & Contracts	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Office Rent	-	-	-	-	-	-
Office Costs	-	-	-	-	-	-
Professional Services	-	-	121,720	-	121,720	121,720
Miscellaneous	-	-	-	-	-	-
Depreciation	-	-	-	-	-	-
<b>Total Operating Expenses</b>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ 121,720</u>	<u>\$ -</u>	<u>\$ 121,720</u>	<u>\$ 121,720</u>
<b>Total Direct Expenses</b>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ 121,720</u>	<u>\$ -</u>	<u>\$ 121,720</u>	<u>\$ 121,720</u>
<b>Indirect Expenses</b>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ (121,720)</u>	<u>\$ -</u>	<u>\$ (121,720)</u>	<u>\$ (121,720)</u>
<b>Other Non-Operating Expenses</b>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ -</u>
<b>Total Expenses</b>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ -</u>
<b>Change in Assets</b>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ 25,001</u>	<u>\$ -</u>	<u>\$ 25,001</u>	<u>\$ 25,001</u>
<b>Fixed Assets</b>						
Depreciation	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Computer & Software CapEx	-	-	-	-	-	-
Furniture & Fixtures CapEx	-	-	-	-	-	-
Equipment CapEx	-	-	-	-	-	-
Leasehold Improvements	-	-	-	-	-	-
<b>(Incr)Dec in Fixed Assets</b>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ -</u>
Allocation of Fixed Assets	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
<b>Change in Fixed Assets</b>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ -</u>
<b>TOTAL CHANGE IN ASSETS</b>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ 25,001</u>	<u>\$ -</u>	<u>\$ 25,001</u>	<u>\$ 25,001</u>

NOTE: The salaries of the indirect employees in G&A, Legal, Information Technology, and Finance have been consolidated for personnel confidentiality and budgeted under G&A.

## **Explanations of Variances – Proposed 2010 Budget versus Approved 2010 Budget**

### **Funding Sources**

- The funding requirement is increasing \$25K for HR's portion of cash reserves.

### **Personnel Expenses**

- There is an HR Manager position that will be hired to perform this function; however that position has been reflected under G&A for personnel confidentiality purposes. The detail for the headcount is reflected in Table 2 within Section B.

### **Meeting Expenses**

- None.

### **Operating Expenses**

- Professional services related to benefits design/administration, and incremental benefits cost of \$71K. Additionally, employee recruitment will be necessary during the course of the year \$51K. These services were previously provided by ERCOT ISO under the MOU at a lower cost.

### **Indirect Expenses**

- None.

### **Other Non-Operating Expenses**

- None.

### **Fixed Asset Additions**

- None.

## **Finance and Accounting**

### **Program Scope and Functional Description**

The Budget and Accounting staff will provide a broad range of support to Texas RE management and personnel. Budget and Accounting staff are required to formulate and monitor the Texas RE budget for controlling funds to implement the Texas RE's objectives and will also review and evaluate the performance of key processes for maintaining tight financial controls in a cost-effective and efficient manner. Budget and Accounting staff will guide the annual budget process for the Texas RE and measure performance of all key aspects of the Texas RE to ensure performance matches or exceeds expectations, including the analysis of trends affecting budget needs and developing periodic financial reports. Texas RE's monthly general ledger close activities will be managed by Texas RE Budget and Accounting personnel. The Budget and Accounting staff are required to ensure Texas RE appropriately accounts for all Statutory and Non-statutory expenses and revenue appropriately. This will involve generating monthly financial reports that will be communicated to the CEO, the department managers and the board.

After structural separation, Texas RE Budget and Accounting will also direct the financial affairs of the organization and prepare financial analyses of operations, including interim and final financial statements with supporting schedules, for the guidance of management. Additionally, Texas RE Budget and Accounting will have responsibility for the company's financial plans and policies, its accounting practices, the conduct of its relationships with banking institutions, the maintenance of its fiscal records, and the preparation of financial reports. Texas RE Budget and Accounting will be centrally responsible for general accounting, accounts payable, accounts receivable, payroll processing, fixed asset accounting, cost accounting, and budgetary controls.

The Budget and Accounting staff are required to generate quarterly and annual financial reports to be filed with NERC as well as other ad hoc reporting that may be required.

### **2010 Key Assumptions**

- Texas RE will be required to hire an additional employee to manage this function prior to Implementation, to transition the services that were previously provided to Texas RE through the MOU with ERCOT ISO.

### **2010 Goals and Key Deliverables**

1. Ensure that the accounting, finance, and budgeting functions are appropriately managed at Texas RE.
2. Keep the CEO informed of budget, expenditures, and total operational financial performance.
3. Continue to facilitate the Financial Reporting for the Board.
4. Ensure that Texas RE receives an unqualified opinion on the audit of the financial statements.



5. Continue to support and coordinate with NERC finance staff to meet quarterly and annual reporting requirements.
6. Review workflow and adjust as required to better enable Texas RE staff operational success.

**Funding Requirements — Explanation of Increase (Decrease)**

The funding requirement is increasing \$34K. Indirect programs allocate their costs to the direct programs.

## Section B — 2010 Regional Entity Budget

### Finance and Accounting – Proposed 2010 Budget versus Approved 2010 Budget

Funding sources and related expenses for the accounting and finance section of the 2010 business plan are shown in the table below.

Statement of Activities						
2010 Approved Budget & 2010 Proposed Budget						
Finance and Accounting - After Structural Separation						
	[1]	[2]	[3]	[4]	[2]+[3]+[4]=[5]	[1]+[5]=[6]
	2010	2010	2010	2010	2010	2010
	Approved	Budget	Budget	Base Budget	Structural	2010
	Budget	Start-Up	Recurring	Reductions	Separation	Proposed
		Costs	Costs	(MOU Decreases)	Budget	Budget
<b>Funding</b>						
<b>ERO Funding</b>						
ERO Assessments	\$ -	\$ -	\$ 40,627	\$ (6,976)	\$ 33,652	\$ 33,652
Penalty Sanctions	-	-	-	-	-	-
<b>Total ERO Funding</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ 40,627</b>	<b>\$ (6,976)</b>	<b>\$ 33,652</b>	<b>\$ 33,652</b>
Membership Dues	-	-	-	-	-	-
Testing Fees	-	-	-	-	-	-
Services & Software	-	-	-	-	-	-
Workshops	-	-	-	-	-	-
Interest	-	-	-	-	-	-
Miscellaneous	-	-	-	-	-	-
<b>Total Funding</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ 40,627</b>	<b>\$ (6,976)</b>	<b>\$ 33,652</b>	<b>\$ 33,652</b>
<b>Expenses</b>						
<b>Personnel Expenses</b>						
Salaries	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Payroll Taxes	-	-	-	-	-	-
Benefits	-	-	-	-	-	-
Retirement Costs	-	-	-	-	-	-
<b>Total Personnel Expenses</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>
<b>Meeting Expenses</b>						
Meetings	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Travel	2,145	-	-	-	-	2,145
Conference Calls	-	-	-	-	-	-
<b>Total Meeting Expenses</b>	<b>\$ 2,145</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ 2,145</b>
<b>Operating Expenses</b>						
Consultants & Contracts	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Office Rent	-	-	-	-	-	-
Office Costs	880	-	-	-	-	880
Professional Services	45,281	16,500	189,190	(33,961)	171,729	217,010
Miscellaneous	4,095	-	8,606	-	8,606	12,701
Depreciation	-	-	-	-	-	-
<b>Total Operating Expenses</b>	<b>\$ 50,256</b>	<b>\$ 16,500</b>	<b>\$ 197,796</b>	<b>\$ (33,961)</b>	<b>\$ 180,335</b>	<b>\$ 230,591</b>
<b>Total Direct Expenses</b>	<b>\$ 52,401</b>	<b>\$ 16,500</b>	<b>\$ 197,796</b>	<b>\$ (33,961)</b>	<b>\$ 180,335</b>	<b>\$ 232,736</b>
<b>Indirect Expenses</b>	<b>\$ (52,401)</b>	<b>\$ (16,500)</b>	<b>\$ (197,796)</b>	<b>\$ 33,961</b>	<b>\$ (180,335)</b>	<b>\$ (232,736)</b>
<b>Other Non-Operating Expenses</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>
<b>Total Expenses</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>
<b>Change in Assets</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ 40,627</b>	<b>\$ (6,976)</b>	<b>\$ 33,652</b>	<b>\$ 33,652</b>
<b>Fixed Assets</b>						
Depreciation	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Computer & Software CapEx	-	41,000	-	-	41,000	41,000
Furniture & Fixtures CapEx	-	-	-	-	-	-
Equipment CapEx	-	-	-	-	-	-
Leasehold Improvements	-	-	-	-	-	-
<b>(Incr)Dec in Fixed Assets</b>	<b>\$ -</b>	<b>\$ (41,000)</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ (41,000)</b>	<b>\$ (41,000)</b>
Allocation of Fixed Assets	\$ -	\$ 41,000	\$ -	\$ -	\$ 41,000	\$ 41,000
<b>Change in Fixed Assets</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>
<b>TOTAL CHANGE IN ASSETS</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ 40,627</b>	<b>\$ (6,976)</b>	<b>\$ 33,652</b>	<b>\$ 33,652</b>

NOTE: The salaries of the indirect employees in G&A, Legal, Information Technology, and Finance have been consolidated for personnel confidentiality and budgeted under G&A.

## **Explanations of Variances – Proposed 2010 Budget versus Approved 2010 Budget**

### **Funding Sources**

- The funding requirement is increasing \$34K, because the services were previously provided at a reduced cost through the Original Texas RE's MOU with ERCOT ISO.

### **Personnel Expenses**

- Texas RE is hiring one (1) Budget and Accounting Manager which is reflected under G&A for personnel confidentiality purposes. However, the detail for the employee is reflected in Table 2 within Section B.
- The new employee will need to be hired in early 2010 and prior to the approval by FERC of the Delegation Agreement, so that this employee can provide assistance in procuring the needed financial tools and preparing for the transition of the finance and accounting services from ERCOT ISO (under the MOU) to be performed by Texas RE.

### **Meeting Expenses**

- None.

### **Operating Expenses**

- Professional services will need to be procured to supplement the Budget and Accounting function, including: electronic expense reporting of \$21K, timekeeping and processing payroll of \$26K, internal audit function (external service) of \$43K, and increased insurance coverage costs of \$82K. Insurance coverage was previously included in the Original Texas RE's MOU with ERCOT ISO, and so this is a new expense in this category for 2010.
- Additionally, the treasury function set-up and maintenance fees are budgeted in miscellaneous expenses and this is expected to be approximately \$9K for the supplemental budget period.

### **Indirect Expenses**

- None.

### **Other Non-Operating Expenses**

- None.

### **Fixed Asset Additions**

- Texas RE will need to deploy an accounting system and will need to procure the software as well as implement the software. The cost for this is approximately \$41K and is a start-up expense in year one.

## Section B — 2010 Budget

### 2009 Budget and Projection and 2010 Budget Comparisons

Table 1

Statement of Activities						
2010 Approved Budget & 2010 Proposed Budget						
STATUTORY + STRUCTURAL SEPARATION BUDGET						
	[1]	[2]	[3]	[4]	[2]+[3]+[4]=[5]	[1]+[5]=[6]
	2010 Approved Budget	2010 Budget Start-Up Costs	2010 Budget Recurring Costs	2010 Base Budget Reductions	2010 Structural Separation Budget	2010 Base + Structural Separation Proposed Budget
<b>Funding</b>						
<b>ERO Funding</b>						
ERO Assessments	\$ 6,660,377	\$ 1,308,500	\$ 2,124,004	\$ (948,540)	\$ 2,483,964	\$ 9,144,340
Penalty Sanctions <sup>(1)</sup>	-	-	-	-	-	-
<b>Total ERO Funding</b>	<b>\$ 6,660,377</b>	<b>\$ 1,308,500</b>	<b>\$ 2,124,004</b>	<b>\$ (948,540)</b>	<b>\$ 2,483,964</b>	<b>\$ 9,144,340</b>
Membership Dues	-	-	27,000	-	27,000	27,000
Testing Fees	-	-	-	-	-	-
Services & Software	-	-	-	-	-	-
Workshops	180,000	-	-	-	-	180,000
Interest	2,000	-	-	-	-	2,000
Miscellaneous	-	-	-	-	-	-
<b>Total Funding</b>	<b>\$ 6,842,377</b>	<b>\$ 1,308,500</b>	<b>\$ 2,151,004</b>	<b>\$ (948,540)</b>	<b>\$ 2,510,964</b>	<b>\$ 9,353,340</b>
<b>Expenses</b>						
<b>Personnel Expenses</b>						
Salaries	\$ 3,351,291	\$ -	\$ 490,490	\$ -	\$ 490,490	\$ 3,841,781
Payroll Taxes	265,543	-	37,438	-	37,438	302,981
Benefits	360,813	-	47,960	-	47,960	408,773
Retirement Costs	480,075	-	70,594	-	70,594	550,669
<b>Total Personnel Expenses</b>	<b>\$ 4,457,721</b>	<b>\$ -</b>	<b>\$ 646,482</b>	<b>\$ -</b>	<b>\$ 646,482</b>	<b>\$ 5,104,203</b>
<b>Meeting Expenses</b>						
Meetings	\$ 228,000	\$ -	\$ -	\$ -	\$ -	\$ 228,000
Travel	194,392	-	-	-	-	194,392
Conference Calls	-	-	-	-	-	-
<b>Total Meeting Expenses</b>	<b>\$ 422,392</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ 422,392</b>
<b>Operating Expenses</b>						
Consultants & Contracts	\$ 676,331	\$ 200,000	\$ 287,675	\$ (559,523)	\$ (71,848)	\$ 604,483
Office Rent	327,600	-	229,725	(193,425)	36,300	363,900
Office Costs	44,022	-	4,590	-	4,590	48,612
Professional Services	634,625	16,500	597,083	(33,961)	579,622	1,214,246
Miscellaneous	36,236	-	8,606	-	8,606	44,843
Depreciation	153,107	-	146,550	-	146,550	299,657
<b>Total Operating Expenses</b>	<b>\$ 1,871,921</b>	<b>\$ 216,500</b>	<b>\$ 1,274,229</b>	<b>\$ (786,909)</b>	<b>\$ 703,820</b>	<b>\$ 2,575,740</b>
<b>Total Direct Expenses</b>	<b>\$ 6,752,034</b>	<b>\$ 216,500</b>	<b>\$ 1,920,711</b>	<b>\$ (786,909)</b>	<b>\$ 1,350,302</b>	<b>\$ 8,102,336</b>
<b>Indirect Expenses</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>
<b>Other Non-Operating Expenses</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>
<b>Total Expenses</b>	<b>\$ 6,752,034</b>	<b>\$ 216,500</b>	<b>\$ 1,920,711</b>	<b>\$ (786,909)</b>	<b>\$ 1,350,302</b>	<b>\$ 8,102,336</b>
<b>Change in Assets</b>	<b>\$ 90,343</b>	<b>\$ 1,092,000</b>	<b>\$ 230,293</b>	<b>\$ (161,631)</b>	<b>\$ 1,160,662</b>	<b>\$ 1,251,005</b>
<b>Fixed Assets</b>						
Depreciation	\$ (153,107)	\$ -	\$ (146,550)	\$ -	\$ (146,550)	\$ (299,657)
Computer & Software CapEx	306,500	775,000	-	-	775,000	1,081,500
Furniture & Fixtures CapEx	15,215	317,000	-	-	317,000	332,215
Equipment CapEx	-	-	-	-	-	-
Leasehold Improvements	-	-	-	-	-	-
<b>Change in Fixed Assets</b>	<b>\$ (168,608)</b>	<b>\$ (1,092,000)</b>	<b>\$ 146,550</b>	<b>\$ -</b>	<b>\$ (945,450)</b>	<b>\$ (1,114,058)</b>
Allocation of Fixed Assets	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
<b>Change in Fixed Assets</b>	<b>\$ (168,608)</b>	<b>\$ (1,092,000)</b>	<b>\$ 146,550</b>	<b>\$ -</b>	<b>\$ (945,450)</b>	<b>\$ (1,114,058)</b>
<b>TOTAL CHANGE IN ASSETS</b>	<b>\$ (78,265)</b>	<b>\$ -</b>	<b>\$ 376,843</b>	<b>\$ (161,631)</b>	<b>\$ 215,212</b>	<b>\$ 136,947</b>

<sup>(1)</sup> Reflects penalty sanctions collected prior to June 30, 2009.

## Personnel Analysis

FTEs are defined as full-time equivalent units. Fractional FTEs reflect time tracking and expected results of time-tracking.

**Table 2**

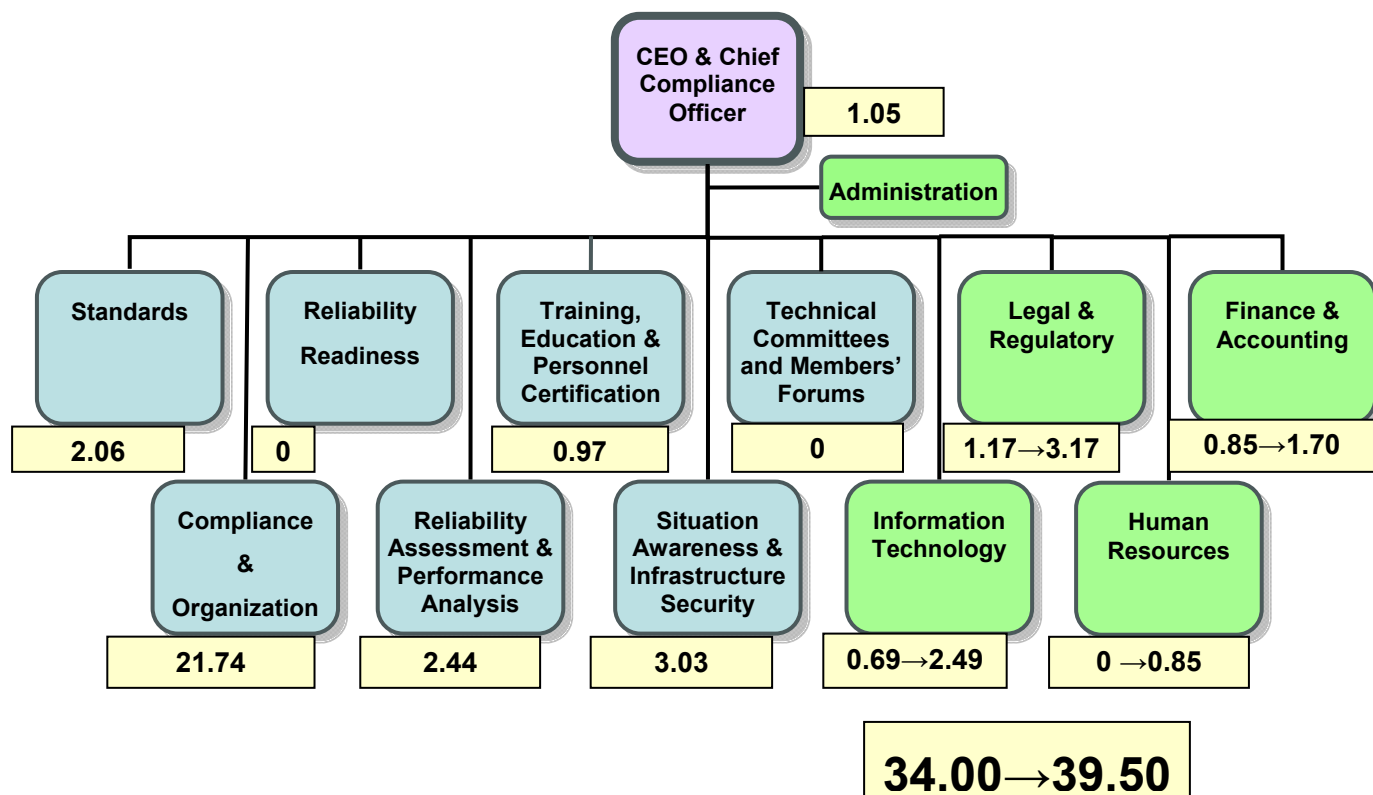
Total FTE's by Program Area	Approved 2010	Direct FTEs 2010 Budget	Shared FTEs <sup>1</sup> 2010 Budget	Total FTEs 2010 Budget	Change From Approved 2010 Budget
<b>STATUTORY</b>					
<b>Operational Programs</b>					
Reliability Standards	2.06	0.00	2.06	2.06	0.00
Compliance and Organization Registration and Certification	21.74	0.00	21.74	21.74	0.00
Training and Education	0.97	0.00	0.97	0.97	0.00
Reliability Assessment and Performance Analysis	2.44	0.00	2.44	2.44	0.00
Situational Awareness and Infrastructure Security	3.03	0.00	3.03	3.03	0.00
<b>Total FTEs Operational Programs</b>	<b>30.24</b>	<b>0.00</b>	<b>30.24</b>	<b>30.24</b>	<b>0.00</b>
<b>Administrative Programs</b>					
Member Forums	0.00	0.00	0.00	0.00	0.00
General & Administrative	1.05	0.00	1.05	1.05	0.00
Information Technology	0.69	0.00	2.49	2.49	1.80
Legal and Regulatory	1.17	0.00	3.17	3.17	2.00
Human Resources	0.00	0.00	0.85	0.85	0.85
Accounting	0.85	0.00	1.70	1.70	0.85
<b>Total FTEs Administrative Programs</b>	<b>3.76</b>	<b>0.00</b>	<b>9.26</b>	<b>9.26</b>	<b>5.50</b>
<b>Total FTEs</b>	<b>34.00</b>	<b>0.00</b>	<b>39.50</b>	<b>39.50</b>	<b>5.50</b>

<sup>1</sup>A shared FTE is defined as only Texas Regional Entity employees who performs both Statutory and Non-statutory activities; however not for a registered function (e.g. Reliability Coordinator).

\* NOTE: The FTEs for Administration Departments are reflected as staffed in this exhibit. The salary and related expenses in the statement of activities has been consolidated to ensure salary confidentiality.

2010 Organizational Chart (Statutory) – After Structural Separation

Table 3



## Reserve Balance

**Table 4**

<b>Working Capital Reserve Analysis 2010</b>	
<b>STATUTORY</b>	
<b>Beginning Working Capital Reserve (Deficit), December 31, 2008</b>	2,666,325
Penalty sanctions being held to be used as offset to 2010 assessments <sup>1</sup>	0
Plus: 2009 ERO Funding (from LSEs or designees)	3,430,700
Plus: 2009 Other funding sources	178,154
Less: 2009 Regulatory Liability Projected	(165,266)
Less: 2009 Projected expenses & capital expenditures	(5,254,914)
<b>Projected Working Capital Reserve (Deficit), December 31, 2009</b>	<b>855,000</b>
<b>Desired Working Capital Reserve, December 31, 2010</b> <sup>2</sup>	1,664,194
Less: Projected Working Capital Reserve, December 31, 2009	(855,000)
Less: LT Regulatory Liability Release	(593,983)
<b>Increase(decrease) in assessments to achieve desired Working Capital Reserve</b>	<b>215,212</b>
2010 Assessment for Expenses and Capital Expenditures	9,138,129
Less: Penalty Sanctions <sup>1</sup>	0
Less: Other Funding Sources	(209,000)
Adjustment to achieve desired Working Capital Reserve	215,212
<b>2010 Assessment</b>	<b>9,144,340</b>

<sup>1</sup> Represents collections prior to June 30, 2009.

<sup>2</sup> Represents an approximately 75-day cash reserve.

## Regional Entity Assessment Analysis

### Assessments by Country

Table 5

Data Year	Regional Entity	Total NEL	U.S. NEL	Canada NEL	Mexico NEL	% of RE Total	US Total	Canada Total	Mexico Total
Summary by Regional Entity									
2008	FRCC	-							
2008	MRO	-							
2008	NPCC	-							
2008	RFC	-							
2008	SERC	-							
2008	SPP	-							
2008	TRE	310,856,852	310,856,852			100.0%	100.0%		
2008	WECC	-							
TOTAL		310,856,852	310,856,852	-	-	100.0%	100.0%	0%	0%



## Breakdown by Statement of Activity Sections

Full disclosures of all penalties received prior to July 1, 2009 are detailed below, including the Company, the amount, and the date received.

Allocation Method: Penalty sanctions received have been allocated to the following Statutory programs to reduce assessments: Reliability Standards; Compliance Monitoring & Enforcement and Organization Registration & Certification; Reliability Assessments and Performance Analysis; Training, Education and Operator Certification; and Situational Awareness and Infrastructure Security. Penalty sanctions are allocated based upon the number of FTEs in the Program divided by the aggregate total FTEs in the Programs receiving the allocation.

**Table B-1**

Penalty Sanctions Received Prior to June 30, 2009		
	Date Receive	Amount Received
Name of Entity		
NOT APPLICABLE		
Total Penalties Received		\$ -

## Supplemental Funding

Table B-2

Outside Funding Breakdown By Program (excluding ERO Assessments & Penalty Sanctions)	2010 Approved Budget	2010 Proposed Budget	Variance 2010 Approved Budget v 2010 Proposed Budget	Variance %
<b>Training and Education</b>				
Operations Training Seminar	\$ 180,000	\$ 180,000	\$ -	0.00%
<b>Total</b>	<u>\$ 180,000</u>	<u>\$ 180,000</u>	<u>\$ -</u>	<u>0.00%</u>
<b>General and Administrative</b>				
Membership Fees	\$ -	\$ 27,000	\$ 27,000	100.00%
Interest Income	2,000	2,000	-	0.00%
<b>Total</b>	<u>\$ 2,000</u>	<u>\$ 29,000</u>	<u>\$ 27,000</u>	<u>1350.00%</u>
<b>Total Outside Funding</b>	<u>\$ 182,000</u>	<u>\$ 209,000</u>	<u>\$ 27,000</u>	<u>14.84%</u>

### Explanation of Significant Variances – 2010 Approved Budget versus 2010 Proposed Budget

- Texas RE members will pay nominal annual membership fee. Original Texas RE did not receive any portion of the ERCOT ISO membership fees.

## Personnel Expenses

Table B-3

Personnel Expenses	2010 Approved Budget	2010 Proposed Budget	Variance 2010 Approved Budget v 2010 Proposed Budget	Variance %
<b>Salaries</b>				
Salary	\$ 3,351,291	\$ 3,841,781	\$ 490,490	14.6%
<b>Total Salaries</b>	<b>\$ 3,351,291</b>	<b>\$ 3,841,781</b>	<b>\$ 490,490</b>	<b>14.6%</b>
<b>Total Payroll Taxes</b>	<b>\$ 265,543</b>	<b>\$ 302,981</b>	<b>\$ 37,438</b>	<b>14.1%</b>
<b>Benefits</b>				
Life, Health, Vision, etc.	\$ 360,813	\$ 408,773	\$ 47,960	13.3%
<b>Total Benefits</b>	<b>\$ 360,813</b>	<b>\$ 408,773</b>	<b>\$ 47,960</b>	<b>13.3%</b>
<b>Retirement</b>				
401(k) Contr. & Employee Matching	\$ 480,075	\$ 550,669	\$ 70,594	14.7%
<b>Total Retirement</b>	<b>\$ 480,075</b>	<b>\$ 550,669</b>	<b>\$ 70,594</b>	<b>14.7%</b>
<b>Total Personnel Costs</b>	<b>\$ 4,457,721</b>	<b>\$ 5,104,203</b>	<b>\$ 646,482</b>	<b>14.5%</b>
<b>FTEs</b>	<b>34.00</b>	<b>39.50</b>	<b>5.50</b>	<b>16.2%</b>
<b>Cost per FTE</b>				
Salaries	\$ 98,561	\$ 97,255	(1,306)	-1.3%
Payroll Taxes	7,810	7,670	(140)	-1.8%
Benefits	10,611	10,348	(263)	-2.5%
Retirement	14,119	13,940	(179)	-1.3%
<b>Total Cost per FTE</b>	<b>\$ 131,101</b>	<b>\$ 129,213</b>	<b>\$ (1,888)</b>	<b>-1.4%</b>

## Explanation of Significant Variances – 2010 Approved Budget versus 2010 Proposed Budget

- The reason for the 1.4% decrease is that the average salary of the existing professional staff is higher than the additional corporate support staff being hired to perform the administrative services that were performed for Original Texas RE under its MOU with ERCOT ISO.

## Consultants and Contracts

Table B-4

Consultants	2010 Approved Budget	2010 Proposed Budget	Variance 2010 Approved Budget v 2010 Proposed Budget	Variance %
<b>Consultants</b>				
Recruitment	\$ -	\$ -	\$ -	
<b>Consultants Total</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	

Contracts	Budget 2010	2010 Proposed Budget	Variance 2010 Approved Budget v 2010 Proposed Budget	Variance %
<b>Contracts</b>				
Corporate Support Allocation (MOU)	\$ 388,205	\$ 44,777	\$ (343,428)	-88.47%
Board Related Search & Support Fees	-	487,675	487,675	100.00%
IT Administration (MOU)	288,126	72,032	(216,095)	-75.00%
<b>Contracts Total</b>	<b>\$ 676,331</b>	<b>\$ 604,483</b>	<b>\$ (71,848)</b>	<b>-10.62%</b>
<b>Total Consulting and Contracts</b>	<b>\$ 676,331</b>	<b>\$ 604,483</b>	<b>\$ (71,848)</b>	<b>-10.62%</b>

## Explanation of Significant Variances – 2010 Approved Budget versus 2010 Proposed Budget

- Board related costs are increasing due to the recruitment expenses included for start-up including four independent directors, as well as having overlapping board fees (Original Texas RE and Texas RE) during a portion of year one. The board related increase is offset by reductions in HR support, Finance support, Insurance coverage, and IT administration provided under the MOU. The net reduction is \$71K

Table B-5

Office Rent	2010 Approved Budget	2010 Proposed Budget	Variance 2010 Approved Budget v 2010 Proposed Budget	Variance %
Office Rent & Facilities	\$ 327,600	\$ 261,900	(65,700)	-20.05%
2010 Office Move and Improvements	-	50,000	50,000	100.00%
2010 Office Move Project Management Expense	-	25,000	25,000	100.00%
MRC, Standards, and Board Meeting Room	-	27,000	27,000	100.00%
<b>Total Office Rent</b>	<b>\$ 327,600</b>	<b>\$ 363,900</b>	<b>\$ 36,300</b>	<b>11.08%</b>

### Explanation of Significant Variances – 2010 Approved Budget versus 2010 Proposed Budget

- Texas RE expects that Office Rent & Facilities support will be more than the approved budget amount after Texas RE structurally separates, due to the need for Texas RE to acquire additional space and the expiration of the lease at the end of 2010.

Table B-6

Office Costs	2010 Approved Budget	2010 Proposed Budget	Variance 2010 Approved Budget v 2010 Proposed Budget	Variance %
Office Supplies	\$ 16,002	\$ 16,766	\$ 764	4.77%
Cellular Phones	14,040	14,040	-	0.00%
Postage	1,800	3,713	1,913	106.28%
Express Shipping	7,980	7,980	-	0.00%
Stationary Forms	3,000	4,913	1,913	63.77%
Reports - Graphics	1,200	1,200	-	0.00%
<b>Total Office Costs</b>	<b>\$ 44,022</b>	<b>\$ 48,612</b>	<b>\$ 4,590</b>	<b>10.43%</b>

### Explanation of Significant Variances – 2010 Approved Budget versus 2010 Proposed Budget

- Texas RE is increasing the amount for office supplies to reflect the additional employees \$1K.
- Additionally, postage costs are estimated to be higher due to additional mailings required related to tax filings, corporate governance, and employee communications. The estimated increase is expected to be approximately \$2K.
- Finally, employee forms needed for HR purposes, financial documents, and check stock will be result in approximately a \$2K increase in office costs for Texas RE.

Table B-7

Professional Services	2010 Approved Budget	2010 Proposed Budget	Variance 2010 Approved Budget v 2010 Proposed Budget	Variance %
Outside Legal	\$ 300,000	\$ 390,000	\$ 90,000	30.00%
Accounting & Auditing Fees	45,281	87,820	42,539	93.95%
Accounting Services Fees	-	46,582	46,582	100.00%
Insurance / Risk Management	-	82,608	82,608	100.00%
IT Professional Services	207,344	388,217	180,873	87.23%
RSVP Hosting	10,000	10,000	-	0.00%
Recruitment	12,000	63,000	51,000	425.00%
Other Professional Services	60,000	60,000	-	0.00%
Benefits Administration	-	70,720	70,720	100.00%
Security	-	15,300	15,300	100.00%
<b>Total Services</b>	<b>\$ 634,625</b>	<b>\$ 1,214,246</b>	<b>\$ 579,621</b>	<b>115.62%</b>

#### Explanation of Significant Variances – 2010 Approved Budget versus 2010 Proposed Budget

- Outside legal expenses are expected to increase \$90K over the approved 2010 budget due to the expectation for a greater number of enforcement or registration disputes.
- Audit fees are increasing in 2010 by \$43K related to internal audit (external provider). Additionally, accounting services expenses for timekeeping, expense reporting, payroll processing are expected to increase to \$47K, because the costs for these are higher than when provided to Original Texas RE through the MOU with ERCOT ISO.
- Insurance/Risk Management is slated to increase approximately \$83K because the costs are higher than when provided to Original Texas RE through the MOU with ERCOT ISO.
- IT professional services are increasing \$181K because these costs are higher than when provided to Original Texas RE through the MOU with ERCOT ISO.
- Texas RE recruitment expenses are expected to increase \$51K in professional services. Recruitment expense was previously included in the Original Texas RE's MOU costs under consultants and contracts which reflects a decrease in expense.
- Benefits Administration will increase \$71K, because the cost of similar benefits is higher than when provided to Original Texas RE through the MOU with ERCOT ISO. This is as a result of the structural separation of Texas RE from ERCOT ISO.
- Security is being estimated to increase to \$15K, because this cost is higher than when provided to Original Texas RE through the MOU with ERCOT ISO.

Table B-8

Other Non-Operating Expenses	Variance			
	2010 Approved Budget	2010 Proposed Budget	2010 Approved Budget v 2010 Proposed Budget	Variance %
Cash Reserve	\$ -	\$ -	\$ -	-
<b>Total Non-Operating Expenses</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>-</b>

**Explanation of Significant Variances – 2010 Approved Budget versus 2010 Proposed Budget**

- N/A

## Section C — 2009 RE Non-statutory Business Plan and Budget

(in whole dollars)			
	2010 Approved Budget	2010 Proposed Budget	Increase(Decrease)
Total FTEs	6.00	6.50	0.50
Total Direct Expenses	\$1,086,772	\$1,112,132	\$25,360
Total Indirect Expenses			
Total Expenses	\$1,086,772	\$1,112,132	\$25,360

### Non-statutory Functional Scope

In addition to the Statutory functions, Texas RE will provide compliance support to the Public Utility Commission of Texas (PUCT) through December 31, 2010. These services include auditing, event analysis, complaint investigations and monthly metric monitoring to identify violations of protocols. In addition, Texas RE also monitors the stakeholder market rules creation and modification process and comments on proposed changes to the protocols that affect reliability. Texas RE also works closely with the PUCT to identify new risks to the BPS and craft strategies to address these risks from the regulatory perspective.

Texas RE does not perform any enforcement activities for the PUCT. Once a potential violation is identified by Texas RE it is reported to the PUCT and they follow up with all enforcement activities. Texas RE may be required to assist the PUCT with analysis of our findings and will support the PUCT in their enforcement processes, if needed; however, all enforcement is at the sole discretion of the PUCT.

Original Texas RE added one-half of an FTE (0.5 FTEs) to support the Non-statutory corporate support work in 2010. Texas RE estimates approximately (14%) percent of Texas RE staff time will be dedicated to monitoring, auditing, assessing, investigating, and reporting on compliance with the ERCOT Protocols and commenting on ERCOT Protocol revision requests. Funding for these Non-statutory activities is provided through the ERCOT System Administration Fee, which is based upon the fee factor approved by the ERCOT Board and the PUCT to support ERCOT activities and Texas RE Non-statutory activities which are subject to PUCT oversight.

Texas RE generated its budget to include the Non-statutory related work of the PUCT in its 2010 proposed budget. However, the Non-statutory work performed by Texas RE may potentially transition to another entity selected by the PUCT effective December 31, 2010.



## **Major 2010 Cost Impacts – Proposed 2010 Budget versus Approved 2010 Budget**

### **Funding Sources**

- Funding will be received through a contract with the PUCT or a three-way contract with the PUCT and ERCOT ISO.

### **Personnel Expenses**

- Personnel expenses are increasing primarily due to adding .50 FTEs of labor to the Non-statutory function for structural separation. This results in a \$70K increase to expenses (which is offset by the \$45K reduction in operating expenses), resulting in a change of a \$25K increase.

### **Operating Expenses**

- Support service expenses incurred for consulting, and other professional services related to Texas RE's new corporate structure will require \$45K less, due to the elimination of the MOU expenses paid to ERCOT and a reduction to outside legal expenses.

## **2010 Primary Goals and Objectives —**

1. Implement the 2010 protocol audit plan per the posted schedule and with a high level of quality and consistency.
2. Maintain high quality and effective organization of all audit and investigation work papers, audit reports and potential violation findings.
3. Review and assess system disturbances for potential violations of the ERCOT Protocols and report all findings to the PUCT.
4. Meet with the PUCT monthly to provide a complete report on work in progress as well as all audit reports and potential violation files.
5. Support the PUCT efforts to ensure adequate regulatory oversight in place for the Nodal Market.
6. Create and provide Nodal training for Texas RE staff and the PUCT.
7. Provide a workshop to educate stakeholders on compliance issues related to the Nodal Market transition and implementation. Continue to monitor and participate in the ERCOT ISO committee process.

## 2010 Approved Budget and 2010 Proposed Budget Comparisons

Table 1

Statement of Activities						
2010 Approved Budget & 2010 Proposed Budget						
NON-STATUTORY + STRUCTURAL SEPARATION BUDGET						
	[1] 2010 Approved Budget	[2] 2010 Budget Start-Up Costs	[3] 2010 Budget Recurring Costs	[4] 2010 Base Budget Reductions	[2]+[3]+[4]=[5] 2010 Structural Separation Budget	[1]+[5]=[6] 2010 Base + Structural Separation Proposed Budget
<b>Funding</b>						
<b>ERO Funding</b>						
ERO Assessments	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Penalty Sanctions <sup>(1)</sup>	-	-	-	-	-	-
<b>Total ERO Funding</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>
Membership Dues	-	-	-	-	-	-
Testing Fees	-	-	-	-	-	-
Services & Software	1,153,772	-	195,064	(164,956)	30,108	1,183,879
Workshops	-	-	-	-	-	-
Interest	-	-	-	-	-	-
Miscellaneous	-	-	-	-	-	-
<b>Total Funding</b>	<b>\$ 1,153,772</b>	<b>\$ -</b>	<b>\$ 195,064</b>	<b>\$ (164,956)</b>	<b>\$ 30,108</b>	<b>\$ 1,183,879</b>
<b>Expenses</b>						
<b>Personnel Expenses</b>						
Salaries	\$ 608,104	\$ -	\$ 48,510	\$ -	\$ 48,510	\$ 656,614
Payroll Taxes	48,059	-	5,123	-	5,123	53,181
Benefits	66,079	-	7,044	-	7,044	73,123
Retirement Costs	86,102	-	9,178	-	9,178	95,280
<b>Total Personnel Expenses</b>	<b>\$ 808,345</b>	<b>\$ -</b>	<b>\$ 69,854</b>	<b>\$ -</b>	<b>\$ 69,854</b>	<b>\$ 878,199</b>
<b>Meeting Expenses</b>						
Meetings	\$ 5,600	\$ -	\$ -	\$ -	\$ -	\$ 5,600
Travel	624	-	-	-	-	624
Conference Calls	-	-	-	-	-	-
<b>Total Meeting Expenses</b>	<b>\$ 6,224</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ 6,224</b>
<b>Operating Expenses</b>						
Consultants & Contracts	\$ 120,064	\$ -	\$ 21,677	\$ (99,273)	\$ (77,596)	\$ 42,467
Office Rent	62,400	-	40,540	(37,575)	2,965	65,365
Office Costs	-	-	810	-	810	810
Professional Services	57,875	-	27,809	-	27,809	85,684
Miscellaneous	1,865	-	1,519	-	1,519	3,383
Depreciation	30,000	-	-	-	-	30,000
<b>Total Operating Expenses</b>	<b>\$ 272,203</b>	<b>\$ -</b>	<b>\$ 92,354</b>	<b>\$ (136,848)</b>	<b>\$ (44,494)</b>	<b>\$ 227,709</b>
<b>Total Direct Expenses</b>	<b>\$ 1,086,772</b>	<b>\$ -</b>	<b>\$ 162,208</b>	<b>\$ (136,848)</b>	<b>\$ 25,360</b>	<b>\$ 1,112,132</b>
<b>Indirect Expenses</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>
<b>Other Non-Operating Expenses</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>
<b>Total Expenses</b>	<b>\$ 1,086,772</b>	<b>\$ -</b>	<b>\$ 162,208</b>	<b>\$ (136,848)</b>	<b>\$ 25,360</b>	<b>\$ 1,112,132</b>
<b>Change in Assets</b>	<b>\$ 67,000</b>	<b>\$ -</b>	<b>\$ 32,856</b>	<b>\$ (28,109)</b>	<b>\$ 4,748</b>	<b>\$ 71,748</b>
<b>Fixed Assets</b>						
Depreciation	\$ (30,000)	\$ -	\$ -	\$ -	\$ -	\$ (30,000)
Computer & Software CapEx	67,000	-	-	-	-	67,000
Furniture & Fixtures CapEx	-	-	-	-	-	-
Equipment CapEx	-	-	-	-	-	-
Leasehold Improvements	-	-	-	-	-	-
<b>Change in Fixed Assets</b>	<b>\$ (37,000)</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ (37,000)</b>
Allocation of Fixed Assets	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
<b>Change in Fixed Assets</b>	<b>\$ (37,000)</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ (37,000)</b>
<b>TOTAL CHANGE IN ASSETS</b>	<b>\$ 30,000</b>	<b>\$ -</b>	<b>\$ 32,856</b>	<b>\$ (28,109)</b>	<b>\$ 4,748</b>	<b>\$ 34,748</b>

## Personnel Analysis

FTEs are defined as full-time equivalent units. Fractional FTEs reflect time tracking and expected results of time-tracking.

**Table 2**

Total FTE's by Program Area	Approved 2010	Direct FTEs 2010 Budget	Shared FTEs <sup>1</sup> 2010 Budget	Total FTEs 2010 Budget	Change From Approved 2010 Budget
<b>NON-STATUTORY</b>					
<b>Operational Programs</b>					
Protocol	5.04	0.00	5.04	5.04	0.00
<b>Total FTEs Operational Programs</b>	<b>5.04</b>	<b>0.00</b>	<b>5.04</b>	<b>5.04</b>	<b>0.00</b>
<b>Administrative Programs</b>					
General & Administrative	0.96	0.00	1.46	1.46	0.50
<b>Total FTEs Administrative Programs</b>	<b>0.96</b>	<b>0.00</b>	<b>1.46</b>	<b>1.46</b>	<b>0.50</b>
<b>Total FTEs</b>	<b>6.00</b>	<b>0.00</b>	<b>6.50</b>	<b>6.50</b>	<b>0.50</b>

<sup>1</sup> A shared FTE is defined as only Texas Regional Entity employees who performs both Statutory and Non-statutory activities; however not for a registered function (e.g. Reliability Coordinator).

## Section D

### 2010 Consolidated Statement of Activities by Program, Statutory and Non-statutory

#### Statement of Financial Position

As of December 31, 2008, unaudited

As of December 31, 2009, projected

As of December 31, 2010, as budgeted

Statement of Financial Position			
2008 Audited, 2009 Projection, and 2010 Budget			
STATUTORY and NON-STATUTORY			
	In-Balance	In-Balance	In-Balance
	Unaudited 31-Dec-08	Projected 31-Dec-09	Budget 31-Dec-10
<b>ASSETS</b>			
Cash	3,959,463	1,714,097	1,929,309
Trade Accounts receivable, net of allowance for uncollectible accounts of \$137,600	-	-	-
Other Receivables	270,609	-	-
Prepaid expenses and other current assets	-	-	-
Security deposit	-	-	-
Cash value of insurance policies	-	-	-
Property and equipment	297,195	545,150	1,696,208
Total Assets	4,527,267	2,259,247	3,625,518
<b>LIABILITIES AND NET ASSETS</b>			
<b>Liabilities</b>			
Accounts payable and accrued expenses	265,115	265,115	265,115
Regulatory Liability	3,095,041	593,983	-
Other Liabilities	869,916	-	-
Deferred compensation	-	-	-
Accrued retirement liabilities	-	-	-
Total Liabilities	4,230,072	859,097	265,115
Net Assets - unrestricted	297,195	1,400,150	3,360,403
Total Liabilities and Net Assets	4,527,267	2,259,247	3,625,518

## Proposed Separation Plan [December 4, 2009]

Topic	Issue	Details	Tentative	Complete
<b>A. Initial Governance Decisions</b>				
1.	Legal separation from ERCOT	Texas RE Board decision	6/15/09	10/19/2009
2.	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	10/19/2009
3.	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	10/19/2009
4.	Corporate name & Non-profit status	Texas Regional Entity 501(c)(3)	11/1/2009	10/19/2009
<b>B. Prepare for governance and legal changes</b>				
1.	Bylaws	Draft and obtain comments on 1 <sup>st</sup> draft	7/20/09 to 8/17/09	√
2.		Review comments on revised 2 <sup>nd</sup> draft	8/20/09 to 9/14/09	√
3.		Review Comments on 3 <sup>rd</sup> draft	10/19/2009	√
4.		Board Vote on bylaws draft (for submission to FERC as pre-filing)	10/19/2009	√
5.		Confirm "straw" membership acceptance (have pre-formation meeting to confirm intended membership sectors will approve proposed Bylaws prior to submission of pre-filing to FERC)	November 24, 2009	√
6.		Form new corporation to allow for membership vote approving bylaws	January 2010	
7.		Confirm with formal membership vote prior to filing with NERC Board of Trustees	January 2010	
8.	Delegation Agreement	Prepare delegation agreement modifications, per new bylaws – send out for comments	10/30/09	
9.	Obtain input from regulators	<ul style="list-style-type: none"> <li>PUCT (Executive Director, Chairman, Legal counsel)</li> </ul>	On-going	
10.		<ul style="list-style-type: none"> <li>NERC (CEO, General Counsel)</li> </ul>	On-going	December 7, 2009 Pre-filing; February 2010 formal filing
11.		<ul style="list-style-type: none"> <li>FERC (OER, OE, GC, and Chairman)</li> </ul>	6/10/2009	December 7, 2009 Pre-filing; February 2010 formal filing

12.	Determine Director Competencies	The Board as an entirety shall have familiarity with regional system operation issues in the ERCOT Region and reflect expertise in: <ul style="list-style-type: none"> <li>• Technical electric operations and reliability</li> <li>• Legal and/or senior corporate leadership</li> <li>• Financial and risk management</li> <li>• Regulatory matters</li> </ul>	In the Bylaws	√
13.	Find Directors	Retain search firm and source	12/09 – early 2010	
14.	Educate Directors	Prepare training materials and schedule meetings for training sessions	1/10 – start up	
<b>C. Prepare for Separate Operations</b>				
1.	Texas RE policies and procedures	Develop and adopt any needed additions	On-going	~April 2010
	Protocol Compliance	Transition Protocol compliance files and activities with PUCT <ul style="list-style-type: none"> <li>• Send current procedures to PUC (done)</li> <li>• Continue to perform Protocol compliance work through end of 2010</li> <li>• Work with PUCT staff to assist with its transition plan</li> <li>• Provide training for and transition files to new compliance entity</li> </ul>	Now through 12/31/2010	12/31/2010
2.	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>	On-going	~April 2010
3.	Transition contracts and other services	Transition contracts, equipment, software, etc.	Early 2010	1 <sup>st</sup> Quarter 2010

**Texas Regional Entity  
Board of Directors  
Future Agenda Items – December 2009**

<b>Item</b>		<b>Meeting</b>
1.	Evaluate CEO/CCO performance against goals	Jan 2010
2.	Review and approve CEO/CCO compensation plan	Jan 2010
3.	Legal and IT separation update	Jan 2010 – May 2010
4.	Accept financial statement audit	April 2010
5.	Consider 2011 Business Plans and Budget	April 2010 – May 2010
6.	Approve 2011 Business Plan and Budget	June 2010