

**SECOND AMENDMENT
TO THE
ERCOT FLEXIBLE BENEFITS PLAN**

Pursuant to Section 7.01 of the ERCOT Flexible Benefits Plan (the “Plan”), the Electric Reliability Council of Texas, Inc. (the “Employer”) may amend the Plan. Therefore, the Employer hereby amends the Plan in the following particulars to be effective as specified herein:

1.

Effective July 1, 2008, add the following as Section 2.025 of the Plan:

2.025 Authorized Leave means a leave of absence from the Employer that is authorized in accordance with the Employer’s corporate standards, as they may be in effect from time to time, and any reference in this Plan to the last day of an Authorized Leave means the date determined by the Employer in accordance with such corporate standards.

2.

Effective for Plan Years beginning on and after July 1, 2009, delete Section 2.08 of the Plan and substitute the following therefor:

2.08 Dependent means, with respect to an Employee or Participant: (a) for purposes of the provisions of this Plan that relate to the Group Health Plan, an individual who is a “Dependent Child” or the “Domestic Partner” of the Employee or Participant, as such terms are defined in the Group Health Plan, but only if the Employer treats any such individual as the Employee’s or Participant’s “dependent,” as such term is defined in Code Section 152 (applied as provided in and for purposes of Code Sections 105 and 106), in accordance with the applicable procedures established by the Employer under the Group Health Plan; (b) for purposes of the provisions of this Plan that relate to the DCA Plan, an individual who is not the “Spouse” of the Employee or Participant but who is a “Qualifying Individual” with respect to the Employee or Participant, as such terms are defined in the DCA Plan; and (c) for purposes of the provisions of this Plan that relate to the HCA Plan, an individual who is a “Dependent” of the Employee or Participant, as such term is defined in the HCA Plan.

3.

Effective for Plan Years beginning on and after January 1, 2009, add the following as Section 2.125 of the Plan:

2.125 Election Period means, with respect to a Permitted Change Event, the period of thirty (30) days beginning on the date of the Permitted Change Event.

4.

Effective April 1, 2009, delete Section 2.125 of the Plan (as added to the Plan by paragraph 3 above) and substitute the following therefor:

2.125 Election Period means, with respect to a Permitted Change Event, (a) in the case of a Permitted Change Event described in Section 2.21(c) and provided for by Code Section 9801(f)(3), the period of sixty (60) days beginning on the date of the Permitted Change Event and (b) in the case of all other Permitted Change Events, the period of thirty (30) days beginning on the date of the Permitted Change Event.

5.

Effective for Plan Years beginning on and after January 1, 2009, add the following as Section 2.145 of the Plan:

2.145 Enrollment Period means, with respect to an Employee, the period of thirty (30) days beginning on the first day of the month coinciding with or next following the date that he or she became an Employee.

6.

Effective for Plan Years beginning on and after January 1, 2009, (a) delete Section 2.20 of the Plan; (b) renumber Sections 2.18 and 2.19 of the Plan as Sections 2.19 and 2.20, respectively; and (c) add the following as Section 2.18 of the Plan:

2.18 Open Enrollment Period means, with respect to a Plan Year, the period of time ending prior to the commencement of the Plan Year as the Plan Administrator shall designate in which Elections for the Plan Year may be made as provided in this Plan.

7.

Effective January 1, 2010, delete Section 2.24 of the Plan and substitute the following therefor:

2.24 Plan Year means: (a) for purposes of the provisions of this Plan that relate to the Group Health Plan, a twelve (12) consecutive month period beginning on a July 1st; and (b) for purposes of the provisions of this Plan that relate to the DCA Plan or the HCA Plan, (i) a calendar year prior to January 1, 2010, (ii) the six

(6) consecutive month period beginning on January 1, 2010, and ending on June 30, 2010, or (iii) a twelve (12) consecutive month period beginning on July 1, 2010, or any subsequent anniversary thereof.

8.

Effective for Plan Years beginning on and after July 1, 2009, delete Section 2.26 of the Plan and substitute the following therefor:

2.26 Spouse means, with respect to an Employee or a Participant, (a) for purposes of the provisions of this Plan that relate to the Group Health Plan, an individual who is the “Spouse” of the Employee or Participant, as such term is defined in the Group Health Plan; (b) for purposes of the provisions of this Plan that relate to the DCA Plan, an individual who is both the “Spouse” of the Employee or Participant and a “Qualifying Individual” with respect to the Employee or Participant, as such terms are defined in the DCA Plan; and (c) for purposes of the provisions of this Plan that relate to the HCA Plan, an individual who is the “Spouse” of the Employee or Participant, as such term is defined in the HCA Plan.

9.

Effective April 1, 2009, delete Subsection (c) of Section 3.03 of the Plan and substitute the following therefor:

(c) The date determined pursuant to Section 4.04(c) of the Plan.

10.

Effective for Plan Years beginning on and after January 1, 2009, delete Section 4.02 of the Plan and substitute the following therefor:

4.02 Election Procedures. The procedures described in this Section, as applicable, shall govern any Elections and Election Changes.

(a) Annual Enrollment. With respect to a Plan Year (referred to in this Subsection as the “next Plan Year”), Elections and Election Changes may be made during the Open Enrollment Period for such Plan Year in accordance with this Subsection.

(i) Group Health Plan Elections.

- (A) If as of the last day of the current Plan Year the Employee will have in effect an Election relating to the Group Health Plan:
 - (I) In the event that the Employee does not cancel or change the Group Health Plan coverage in effect under the Election during the Open Enrollment Period in accordance with the Employer's applicable procedures, the Employee shall be deemed to have made an Election to make Pre-tax Contributions as required for such same coverage for the next Plan Year; or
 - (II) In the event that the Employee changes (but does not cancel) the Group Health Plan coverage in effect under the Election by submitting the prescribed change/revocation form to the Employer during the Open Enrollment Period in accordance with the Employer's applicable procedures, the Employee shall be deemed to have made an Election to make Pre-tax Contributions as required for such changed coverage for the next Plan Year;
- (B) If as of the last day of the current Plan Year the Employee will not have in effect either an Election relating to the Group Health Plan or Group Health Plan coverage, in the event that the Employee elects Group Health Plan coverage by submitting the prescribed enrollment form to the Employer during the Open Enrollment Period in accordance with the Employer's applicable procedures, the Employee shall be deemed to have made an Election to make Pre-tax Contributions as required for such elected coverage for the next Plan Year; or
- (C) If as of the last day of the current Plan Year the Employee will not have in effect an Election relating to the Group Health Plan but will have in effect Group Health Plan coverage, the Employee may make an Election described in Subparagraph (A)(I) or (A)(II) above if he or she revokes his or her election previously made pursuant to Subsection (d) below to make after-tax contributions for Group Health Plan coverage by submitting the prescribed form to the

Employer during the Open Enrollment Period in accordance with the Employer's applicable procedures.

- (ii) DCA Plan and HCA Plan Elections. If the Employee desires to make an Election relating to the DCA Plan or the HCA Plan for the next Plan Year, the Employee must submit the prescribed election form to the Plan Administrator during the Open Enrollment Period in accordance with the Plan Administrator's applicable procedures.

Any Election or Election Change made pursuant to this Subsection will be effective as of the first day of the next Plan Year.

(b) New Employees. With respect to an individual who becomes an Employee during a Plan Year, Elections may be made during the Employee's Enrollment Period in accordance with this Subsection.

- (i) Group Health Plan Elections. In the event that the Employee elects Group Health Plan coverage by submitting the prescribed enrollment form to the Employer during the Employee's Enrollment Period in accordance with the Employer's applicable procedures, the Employee shall be deemed to have made an Election for the remainder of the Plan Year to make Pre-tax Contributions as required for such elected coverage.
- (ii) DCA Plan and HCA Plan Elections. If the Employee desires to make an Election relating to the DCA Plan or the HCA Plan for the remainder of the Plan Year, the Employee must submit the prescribed election form to the Plan Administrator during the Employee's Enrollment Period in accordance with the Plan Administrator's applicable procedures.

For purposes of this Subsection, in the case of a former Employee who becomes an Employee again within thirty (30) days after his or her employment with the Employer terminated or an Employee who commences an unpaid Authorized Leave and then returns to work before the leave has lasted thirty (30) days, the Employee will not be entitled to make an Election under this Subsection upon his reemployment or return from the Authorized Leave, respectively.

Any Election made pursuant to this Subsection will be effective as of the first day of the Employee's Enrollment Period; provided, however, that Pre-tax Contributions made under the Election may only be deducted from Compensation paid on or after the first day of the Payroll Period that commences after the Employee's enrollment form or election form, as applicable, is received by the Employer or the Plan Administrator, as applicable.

(c) Permitted Change Events. Upon the occurrence of a Permitted Change Event with respect to an Employee during a Plan Year, Elections and Election Changes may be made during the Election Period associated with such Permitted Change Event in accordance with this Subsection.

(i) Group Health Plan Elections. If the Employee is thereby entitled to make, and desires to make, an Election or Election Change relating to the Group Health Plan:

(A) If as of the date of the Permitted Change Event the Employee has in effect an Election relating to the Group Health Plan, in the event that the Employee changes (but does not cancel) the Group Health Plan coverage in effect on such date by submitting the prescribed change/revocation to the Employer during the Election Period in accordance with the Employer's applicable procedures, the Employee shall be deemed to have made an Election to make Pre-tax Contributions as required for such changed coverage for the remainder of the Plan Year;

(B) If as of the date of the Permitted Change Event the Employee does not have in effect either an Election relating to the Group Health Plan or Group Health Plan coverage, in the event that the Employee elects Group Health Plan coverage by submitting the prescribed enrollment form to the Employer during the Election Period in accordance with the Employer's applicable procedures, the Employee shall be deemed to have made an Election to make Pre-tax Contributions as required for such elected coverage for the remainder of the Plan Year; or

(C) If as of the date of the Permitted Change Event the Employee does not have in effect an Election relating to the Group Health Plan but has in effect Group Health Plan coverage, the Employee may make an Election described in Subparagraph (A)(I) or (A)(II) above if he or she revokes his or her election previously made pursuant to Subsection (d) below to make after-tax contributions for Group Health Plan coverage by submitting the prescribed form to the Employer during the Election Period in accordance with the Employer's applicable procedures.

(ii) DCA Plan and HCA Plan Elections. If the Employee is thereby entitled to make, and desires to make, an Election or Election Change relating to the DCA Plan or the HCA Plan:

- (A) If as of the date of the Permitted Change Event the Employee has in effect an Election relating to such plan, the Employee may revoke the Election and, if further desired, make a new Election for the remainder of the Plan Year by submitting the prescribed change/revocation form to the Plan Administrator during the Election Period in accordance with the Plan Administrator's applicable procedures; or
- (B) If as of the date of the Permitted Change Event the Employee does not have in effect an Election relating to such plan, the Employee may make an Election for the remainder of the Plan Year by submitting the prescribed election form to the Plan Administrator during the Election Period in accordance with the Plan Administrator's applicable procedures.

The effective date of any Election or Election Change made pursuant to this Subsection will be the first day of the month occurring on or next following the date that the Employee's enrollment form, change/revocation form, or election form, as applicable, is received by the Employer or the Plan Administrator, as applicable, subject to the following: (i) such an Election or Election Change relating to the Group Health Plan will be effective as of any earlier date that the Group Health Plan coverage election associated with the Election or Election Change will be effective, as provided in the Group Health Plan; (ii) such an Election or Election Change relating to the DCA Plan or the HCA Plan will be effective as of any earlier date required by applicable law or regulation or specified by the Plan Administrator in regard to one or more Permitted Change Events; and (iii) any Pre-tax Contributions made under any such Election may only be deducted from Compensation paid on or after the first day of the Payroll Period that commences after the Employee's enrollment form, change/revocation form, or election form, as applicable, is received by the Employer or the Plan Administrator, as applicable, unless the Election relates to the Group Health Plan, the Permitted Change Event is the birth, adoption, or placement for adoption of a Dependent of the Employee, and the Plan Administrator has established procedures allowing Pre-tax Contributions made under any such Election to be made retroactively to the date of the birth, adoption, or placement for adoption.

(d) After-tax Contributions for Group Health Plan Coverage.
Notwithstanding Subsections (a)(i), (b)(i) and (c)(i) above:

- (i) An Election relating to the Group Health Plan otherwise deemed to have been made by an Employee pursuant to Subsection (a)(i)(A)-(B), (b)(i) or (c)(i)(A)-(B) above shall not be deemed to have been made if the Employee elects to make the required contributions for the elected Group Health Plan coverage as after-tax contributions, rather than as Pre-tax Contributions, by submitting the prescribed form to the Employer, in accordance with the Employer's applicable procedures, during the appropriate Open Enrollment Period, the Employee's Enrollment Period, or the appropriate Election Period, as applicable; provided that the Employee may revoke any such after-tax election in connection with an Election Change made during a subsequent Open Enrollment Period or Election Period in accordance with Subsection (a)(i)(C) or (c)(i)(C) above, as applicable.
- (ii) Effective for Plan Years beginning on and after July 1, 2009, an Election relating to the Group Health Plan otherwise deemed to have been made by an Employee pursuant to Subsection (a)(i), (b)(i) or (c)(i) above shall be deemed to have been made only to the extent of the contributions required for the Group Health Plan coverage of the Employee, his or her Spouse (if any), and his or her Dependents (if any).

11.

Effective for Plan Years beginning on and after January 1, 2009, delete Subsection (a) in Section 4.03 of the Plan and substitute the following therefor:

- (a) Irrevocability of Elections. Except as otherwise provided in any of Subsections (b) through (e) below, any Election made by a Participant shall be irrevocable until termination of the Election as provided in Section 4.04.

12.

Effective July 1, 2008, delete Subsections (c) and (d) of Section 4.03 of the Plan and substitute the following therefor:

- (c) Leaves of Absence. With respect to an Election previously made by a Participant who commences an Authorized Leave and remains an Employee or an Election made by an Employee who becomes a Participant during an Authorized Leave:

- (i) In the case of a paid Authorized Leave, the Participant shall make the Pre-tax Contributions required pursuant to the Election by payroll deduction from his or her Compensation during such Authorized Leave for as long as the Election remains in effect; and
- (ii) In the case of an unpaid Authorized Leave (whether or not such absence was preceded by a paid Authorized Leave), unless the Participant revokes the Election pursuant to Subsection (b)(i) above, the Participant shall make the contributions required pursuant to the Election for as long as the Election remains in effect in the following manner: (A) if agreed to by the Participant, all or a portion of the contributions required for the period during which the Election is expected to remain in effect shall be made by payroll deduction (on a pre-tax or after-tax basis) prior to the commencement of the leave and/or during the leave from any ongoing Compensation, such as unused sick days and vacation days, or shall be paid directly to the Employer by the Participant prior to the commencement of the leave, provided that the Participant shall not pre-pay on a pre-tax basis all or any portion of the contributions due for any period occurring during any Plan Year succeeding the Plan Year in which the Authorized Leave began; (B) the Participant shall pay monthly (on an after-tax basis) all or any portion of the contributions required pursuant to the Election not payable in accordance with clause (A); and/or (C) the Participant shall pay all or any portion of the required contributions not paid in accordance with clause (A) or (B) under another arrangement agreed upon between the plan administrator of the Group Health Plan or the Plan Administrator, as applicable, and the Participant, such as payment of the contributions by payroll deduction (on a pre-tax or after-tax basis) following the Participant's return from the leave.

The Plan Administrator will administer this Paragraph in accordance with the Group Health Plan and any applicable procedures established thereunder and in accordance with any applicable procedures established by the Plan Administrator, and, without limiting the generality of the foregoing, any such procedures may provide for collection of any contributions that were required from, but not made by, a Participant or former Participant pursuant to this Paragraph.

(d) Continuation of Coverage during Unpaid FMLA Leave. Notwithstanding Subsections (b)(i) and (c)(ii) above, even if a Participant who is entitled to unpaid FMLA Leave revokes an Election in order to cancel coverage under the Group Health Plan, the DCA Plan, or the HCA Plan, or does not make such

an Election Change but nevertheless fails to make the required contributions for such coverage such that the Election terminates, the Participant's coverage under any such plan may be continued for the remaining duration of the Participant's FMLA Leave (or until the Participant's return from FMLA Leave, if earlier). The plan administrator of the Group Health Plan or the Plan Administrator with respect to the DCA Plan or the HCA Plan, as applicable, shall have the discretion to determine whether the Participant's coverage under any such plan should be continued in order to ensure that the Participant's coverage under the plan can be restored as required under the Group Health Plan and/or 29 C.F.R. § 825.212(c) or 29 C.F.R. § 825.215(d), as applicable, upon the Participant's timely return (if any) from FMLA Leave.

If a Participant's coverage under the Group Health Plan, the DCA Plan, or the HCA Plan is continued as provided in this Subsection, the Employer will pay the contributions required for such coverage; provided that: (i) in the case of the Participant's continued coverage under the Group Health Plan or the HCA Plan, the Employer shall have the right to recover from the Participant, following the end of the FMLA Leave, (A) any amounts paid by the Employer that represent the Participant's required contributions for such coverage, and (B) in the event that the Participant fails to return to work at the end of the FMLA Leave other than for a reason described in 29 C.F.R. § 825.213(a), any amounts paid by the Employer that represent its contributions for such coverage; and (ii) in the case of the Participant's continued coverage under the DCA Plan, the Employer shall have the right to recover from the Participant, following the end of the FMLA Leave, any amounts paid by the Employer that represent the Participant's required contributions for such coverage.

The Plan Administrator will administer this Subsection in accordance with the Group Health Plan and any applicable procedures established thereunder and in accordance with any applicable procedures established by the Plan Administrator, and, without limiting the generality of the foregoing, any such procedures may provide for methods of payment of amounts owed by a Participant or former Participant pursuant to this Subsection, including (without limitation) by payroll deduction (on a pre-tax or after-tax basis) if the Participant or former Participant returns from the FMLA Leave.

13.

Effective April 1, 2009, delete Subsection (c) of Section 4.04 of the Plan and substitute the following therefor:

(c) The last day of the Payroll Period in which the earliest of the following events occurs:

(i) The Participant's employment with the Employer terminates;

- (ii) The Participant is on an Authorized Leave and fails to return to work by the last day of the leave;
- (iii) (A) With respect to an Election relating to the Group Health Plan or the HCA Plan, the Participant is on an unpaid Authorized Leave that is not FMLA Leave and the Participant completes the thirtieth (30th) day of such leave, and (B) with respect to an Election relating to the DCA Plan, the Participant is on an unpaid Authorized Leave and the Participant completes the thirtieth (30th) day of such leave;
- (iv) The Participant is on or is scheduled to commence FMLA Leave and the Participant informs the Employer, in accordance with the Employer's FMLA Leave policies as in effect from time to time, that he or she does not intend to return to work from FMLA Leave; or
- (v) The Participant becomes absent from employment with the Employer and the absence is not an Authorized Leave.

14.

Effective for Plan Years beginning on and after January 1, 2009, delete Section 4.05 of the Plan and substitute the following therefor:

4.05 Reinstatement of Elections. An Election made by a Participant that terminates under Section 4.04 may be reinstated as provided in this Section; provided, however, that the Participant may make an Election Change in accordance with Section 4.03(b) if a Permitted Change Event has occurred subsequent to the termination of the Election.

(a) Return to Employment within 30 Days. If the Election terminated pursuant to Section 4.04(c) and the Participant becomes an Employee again during the same Plan Year in which the Election terminated and within the thirty (30)-day period beginning on his or her employment termination date, the Election shall be reinstated as of the date that he or she becomes an Employee again.

(b) Return from Unpaid Leave. If the Election terminated as of the commencement of or during an unpaid Authorized Leave (either due to revocation of the Election or nonpayment of the required contributions):

- (i) Unpaid FMLA Leave. In the case of unpaid FMLA Leave, the Election shall be reinstated as of the date (if any) that the Employee returns from FMLA Leave either if such reinstatement is requested by the Participant or if and to the extent that the Plan Administrator determines, in its discretion, that such reinstatement is necessary in effectuating

the restoration of the Employee's coverage under the plan to which the Election relates, as required under the Group Health Plan and/or 29 C.F.R. § 825.212(c) or 29 C.F.R. § 825.215(d), as applicable.

- (ii) Any Unpaid Leave. Notwithstanding Paragraph (i) above, in the case of any unpaid Authorized Leave, if the Election relates to the HCA Plan, reinstatement of the Election as of the date (if any) that the Participant returns from the leave may be required under procedures that the Plan Administrator may establish.
- (iii) Adjustments to the Maximum Reimbursement Amount and Required Contributions under the HCA Plan. In the case of unpaid FMLA Leave, if the Election relates to the HCA Plan and the Participant's coverage under the HCA Plan was not continued pursuant to Section 4.03(d), upon reinstatement of the Election pursuant to Paragraph (i) or (ii) above, the Participant may either: (A) resume coverage under the HCA Plan starting with a Maximum Reimbursement Amount (as such term is used in the HCA Plan) calculated as the difference between the Total Amount and the Aggregate Expenses Paid and have a Pre-tax Contribution deducted each Payroll Period in an amount equal to (I) the aggregate Pre-tax Contributions that would have been required during the Gap Period had the Election not terminated, divided by the number of Payroll Periods during the Remaining Period, plus (II) the Pre-tax Contribution otherwise required under the Election or (B) resume coverage under the HCA Plan starting with a Maximum Reimbursement Amount calculated as the difference between (I) the Total Amount multiplied by a fraction, the numerator of which is the Total Payroll Periods less the number of Payroll Periods during the Gap Period and the denominator of which is the Total Payroll Periods and (II) the Aggregate Expenses Paid, and have a Pre-tax Contributions deducted each Payroll Period pursuant to the Election.

For purposes of this Paragraph, (A) the term "Aggregate Expenses Paid" means the total of any payments or reimbursements of Health Care Expenses (as such term is defined in the HCA Plan) already made or due to be made from the Participant's Account for the Plan Year as of the date that the Election terminated; (B) the term "Gap Period" means the period between the date that the Election terminated and the date that it was reinstated; (C) the term "Remaining Period" means the period between the date that the Election was reinstated and the last day of the Plan Year

in which it was reinstated; (D) the term "Total Amount" means the aggregate Pre-tax Contributions designated to be made pursuant to the Election (prior to its termination) plus the aggregate Pre-tax Contributions (if any) made or due to be made pursuant to any prior Election(s) in effect for the same Plan Year; and (E) the term "Total Payroll Periods" means, with respect to a Plan Year, 12 for the Plan Year beginning January 1, 2010, and 24 for any other Plan Year.

(c) Return from Service in the Uniformed Services. If the Election relates to the Group Health Plan or the HCA Plan and the Election terminated by reason of the Participant's "service in the uniformed services," as such term is defined in USERRA, the Election shall be reinstated as of the date (if any) that the Participant returns to work if and to the extent that the Plan Administrator determines, in its discretion, that reinstatement of the Election is required as part of the Participant's coverage reinstatement rights, as provided in the Group Health Plan and/or under USERRA, as applicable.

(d) Other Reinstatements of Elections Relating to the Group Health Plan. If the Election relates to the Group Health Plan, the Election shall be reinstated if and to the extent that the Plan Administrator determines, in its discretion, that reinstatement of the Election is required as part of any coverage reinstatement right not specified in any of the preceding Subsections but provided in the Group Health Plan.

15.

All other parts of the Plan not inconsistent herewith are hereby ratified and confirmed.

IN WITNESS WHEREOF, the Employer has executed this Second Amendment to the ERCOT Flexible Benefits Plan on this the ____ day of November, 2009.

EMPLOYER:

Electric Reliability Council of Texas, Inc.

By: _____

Name: _____

Title: _____