

**DRAFT MINUTES OF THE**

**TEXAS REGIONAL ENTITY ADVISORY COMMITTEE**

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

March 22, 2010

**Committee Members**

Michehl R. Gent, Chair		Unaffiliated
A.D. Patton, Vice Chair		Unaffiliated
Barry T. Smitherman	Chairman, Public Utility Commission of Texas	
Miguel Espinosa		Unaffiliated
Sheri Givens	Office of Public Utility Counsel	Residential Small Consumer
Jan Newton		Unaffiliated

**Other Directors and Segment Alternates**

Calvin Crowder	American Electric Power Service	Investor Owned Utility
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**Other Attendees**

Larry Grimm, Texas RE CEO and CCO  
Susan Vincent, Texas RE Director, Legal Affairs  
Jeff Whitmer, Texas RE Manager, Audits (via telephone)  
Rashida Caraway, Texas RE Manager, Enforcements (via telephone)  
Derrick Davis, Texas RE Corporate Counsel  
Paul Curtis, Texas RE Corporate Counsel  
Todd Brewer, Texas RE Manager, Finance and Accounting  
Don Jones, Texas RE Manager, Reliability Standards  
Jennifer Taylor, Texas RE Senior Paralegal  
Bridget Headrick, Public Utility Commission of Texas  
Lea Anne Porter, ERCOT ISO  
Chuck Manning, ERCOT ISO, CCO  
DeAnn Walker, CenterPoint Energy  
Liz Jones, Oncor  
Kip Fox, AEP  
Jennifer Windler, LCRA  
Adrienne Brandt, Austin Energy

**Call to Order**

Pursuant to notice duly given, the meeting of the Texas Regional Entity ("Texas RE") Advisory Committee ("Committee") convened on March 22, 2010. Michehl Gent reviewed the Antitrust Admonition with the Committee, ascertained a quorum was present, and called the open session of the meeting to order at approximately 10:10 a.m.

**Approval of Previous Minutes**

**A.D. Patton made a motion to approve the minutes from the January 18, 2010 meeting; Jan Newton seconded the motion. The motion passed by unanimous voice vote.**

## **Texas RE Administrative Update**

Chair Gent asked Larry Grimm to brief the Committee regarding the costs assessed by North American Electric Reliability Corporation (NERC) for its participation in the ERCOT ISO audit. Mr. Grimm advised the Committee he reviewed NERC's expenses in detail and all of the costs and expenses levied by NERC appeared to be legitimate. Mr. Grimm noted that once Texas RE is separate from ERCOT ISO, Texas RE will not have to pay NERC a fee for any audits in which NERC participates.

Chair Gent questioned who authorized NERC to charge Texas RE for participating in the ERCOT ISO audit. Mr. Grimm advised he believed the Federal Energy Regulatory Commission (FERC) Order approving the regional entity budgets authorized the NERC fee.

Mr. Grimm updated the Committee on Texas RE personnel matters. Texas RE hired Page Allen as the new Human Resources Manager to oversee the day-to-day human resource management and benefits administration for Texas Reliability Entity and to immediately assist with the securing of employee benefits and the transition of employees from ERCOT ISO.

Mr. Grimm updated the Committee on the information technology (IT) separation from ERCOT, noting that Texas RE was in the process of obtaining final bids from vendors and making the competitive selections. Mr. Grimm said he was confident the IT systems will be separated from ERCOT ISO before the legal separation of the two organizations.

Mr. Grimm advised the Committee that Texas RE had sent notices to all stakeholders regarding the new Texas Reliability Entity Member Representatives Committee (MRC) and Reliability Standards Committee (RSC). The Texas Reliability Entity members will nominate representatives to participate in the MRC and RSC. An MRC meeting is set for June 2, 2010, at which time the MRC will select a chair and vice chair, who will serve as membership directors on the Texas Reliability Entity, Inc. Board of Directors.

Chair Gent questioned Mr. Grimm about complaints he had heard regarding the Texas RE Compliance Portal not being able to accept comments. Mr. Grimm noted the regional entity consortium group and NERC are aware of the problems and are working on it. Mr. Grimm further informed the Committee that NERC and all regional entities were coordinating to prepare an overall IT strategy for NERC and the regional entities. IT subject matter experts have been working on portal projects as needs arise, but NERC and the regional entities agree that there is a need to promptly establish a strategic overview and plan for 2011 budgeting purposes.

Chair Gent touched upon the new use of the regional entity portals for notification of cyber events. Mr. Grimm and the Committee discussed national cyber activities and NERC event notifications. Mr. Grimm noted that he, as well as NERC, was hopeful that NERC would be able to institute a better notification system than the regional entity portals in the near future.

Ms. Newton asked Mr. Grimm about the number of full-time IT people Texas RE intends to employ versus outsourcing to third-party service providers. Mr. Grimm noted that Texas RE currently has only four employees who perform IT or Critical Infrastructure Protection (CIP) functions, and he updated the Committee on the current status of the selection process for the IT separation. Ms. Newton asked for a brief overview of how the IT department would function going forward and asked Mr. Grimm to provide the Committee with this information at the next Committee meeting. Mr. Grimm agreed to provide an update of IT activities and an IT overview at the next Committee meeting.

Mr. Grimm updated the Committee regarding NERC's approval of the Texas RE's Delegation Agreement and the Amended 2010 Business Plan and Budget. Mr. Grimm is hopeful FERC will

rule on the documents by its May meeting. He noted that FERC had approved the requested extension of the current regional entity Delegation Agreements until May 2011. The regional entities and NERC were continuing to work on a new pro forma Delegation Agreement to reflect lessons learned and areas improved upon and to incorporate stakeholder input. He said he expected to present the pro forma Delegation Agreement draft to the Committee and the Board in April for approval. All regional entity boards must approve the pro forma delegation agreement before NERC's May Board of Trustees meeting. The regional entities and NERC have held many meetings and discussions regarding the pro forma delegation agreement. All delegation agreements for all regional entities will be identical going forward. The only variation in Texas RE's delegation agreement will be to reflect the Public Utility Commission of Texas is the hearing body for enforcement matters.

Chair Gent asked if the new delegation agreements would address the makeup of regional entity boards. Mr. Grimm said they did not, and he understood that any required changes to regional entity boards would probably only come from a FERC order.

Ms. Newton asked Texas RE to provide a summary of the substantial changes to the delegation agreement. Mr. Grimm confirmed Texas RE will provide this summary in April.

Dr. Patton asked if the delegation agreement changes were administrative or related to system performance. Mr. Grimm stated changes were made to improve transparency and consistency across the regions and to also address stakeholder concerns. He said that he wouldn't characterize the changes as purely administrative.

Mr. Grimm reported that Texas RE had submitted its implementation plan to FERC regarding the audit findings and had not received any concerns about the plan from FERC.

Mr. Grimm said that the Transmission Operator (TOP) joint registration organization (JRO) Agreements were signed by all parties involved on or about March 1, 2010. Each of the thirteen entities signing TOP JRO Agreements with ERCOT must be certified by Texas RE. The cost of certification for the new TOPs was not included in the 2010 Texas RE's budget, and he informed the Committee a contractor might be brought in to help with the extra work. Mr. Grimm told the Committee that Texas RE leads other regions in registering entities under a joint registration agreement, and he is pleased with the way the process has been handled to date. The Committee generally discussed the certification process.

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

Mr. Espinosa questioned why Texas RE was under budget for the year. Mr. Grimm noted that some of the excess funds were due to unfilled staff positions. He further explained the budget was increased by \$400,000 last year for analysis and processing of Technical Feasibility Exceptions (TFEs), and Texas RE has just started processing TFEs, so the positions will now be filled to help with the work. Mr. Grimm advised the Committee he has been reviewing all open positions to see if Texas RE immediately needs each budgeted position before he allows the position to be filled. He further noted NERC and FERC have thrust many changes upon Texas RE and expectations and procedures are constantly evolving and changing. He confirmed that Texas RE makes every attempt to accurately budget. Mr. Grimm agreed that Texas RE could end 2010 under budget.

Mr. Espinosa asked if a revised budget could be prepared. Mr. Grimm explained any revisions to the budget would require a filing with and approval by NERC and FERC. The Committee generally discussed the open staffing positions and requested an updated forecast be included with the monthly Financial Report.

Chair Gent noted the Committee will begin discussions of the 2011 budget at the next Advisory Committee meeting. He questioned whether Texas RE should hold one million dollars as a cash reserve. He said it was a poor business practice to hold so much in reserves, since it seems to assume that Texas RE would not receive its funding when funding had never been a problem.

Todd Brewer cautioned the Committee about lowering the cash reserves as Texas RE does not have a line of credit. Mr. Brewer said it was prudent to maintain a cash reserve when operations are budgeted a year in advance, particularly because a number of changes by NERC or FERC could then cause Texas RE required expenditures to be over budget.

Ms. Newton noted budgeting is not a science, it is an art. She further noted Texas RE is a relatively new organization and has had many changes thrust upon it. She asked Todd Brewer to add a "best view" column to the financial report so the Committee and the Board could see what the budget situation is each month and what the best view forecast would be for year end. She said that in her past experiences board members were concerned that employees may feel compelled to spend excess funds if the budget is too robust. The best view forecast will show the Committee if there is an under budget situation and, if so, this would, in effect, become the new budget. It would not change the budget approval process through NERC and FERC, but would show the Board the spending levels. Mr. Brewer said he would add the forecast/best view to the financial report after the end of the first quarter.

Dr. Patton questioned why the budget for ERCOT Protocol audits was under budget. Mr. Brewer explained Protocol revenue is only collected to offset Texas RE actual expenses; if expenses are lower than budgeted, ERCOT ISO does not pay Texas RE, so the Texas RE revenues are also reduced. Texas RE will never build a positive balance for Protocol compliance activities, because revenue always matches the expenses Texas RE occurs. Mr. Grimm noted only a couple of Protocol audits had occurred to date in 2010, since these are not scheduled equally each month. He expects the percentages to increase with activity in the NODAL metrics area. Mr. Grimm explained NODAL Protocol auditing has not started yet, but Texas RE is assisting with developing the NODAL metrics as it continues to audit to the current Protocols.

Mr. Smitherman requested an explanation regarding the assessments, workshops and the interest income budgets. Mr. Brewer advised that the assessment budget includes NERC assessments and all Protocol compliance reimbursement received. Mr. Brewer explained how NERC funds assessments to Texas RE.

Mr. Brewer explained that the workshop expenses were associated with the Operations Training Seminar. Texas RE collected a \$299 fee per person to attend the seminar. The fee is intended to cover Texas RE's expenses, but Texas RE does not make a profit on the seminar. The Committee discussed the appropriate cash reserve amounts and the need for cash reserves. Mr. Brewer noted capital expenses are not reflected in the budget (as noted page 6 of the Financial Report) and cautioned Committee members about looking at the budget seasonally – since the expenses might not occur evenly over the year. Ms. Newton asked Mr. Brewer to split the revenues between Protocol work and NERC assessments. She said the Board would like to keep an eye on the revenue sources and also asked Mr. Brewer to also add the capital expenses into the report. Mr. Brewer will add the requested information to the Financial Report going forward.

Chair Gent confirmed with Mr. Brewer that some known expenses were budgeted by the month (so the budget is not entirely divided over a 12 month period), but many items were not allocated for specific months.

## **Human Resources & Governance Issues**

### **A. Separation Status**

Chair Gent asked Ms. Vincent if Texas RE was on target for separation with ERCOT ISO. Ms. Vincent advised the Committee the IT separation was expected to occur by mid-May and all other activities related to separation appeared to be on target for a legal separation from ERCOT ISO by July 1, 2010.

Chair Gent queried what would happen if new board members were not selected by July 1<sup>st</sup>. Ms. Vincent said that she would need to file a request with FERC to allow Texas Reliability Entity additional time before it takes over the delegated activities.

### **B. Directors Code of Conduct**

The Committee discussed the proposed Director Code of Conduct (DCOC). Chair Gent asked Ms. Vincent to revise the first paragraph of the DCOC to include language regarding the one year extension of the Delegation Agreement with NERC. Chair Gent further inquired if the Committee would be making a recommendation to the new Texas Reliability Entity, Inc. board as to the DCOC. Ms. Vincent explained the new board must execute its own conflicts of interest policy and/or code of conduct in order to complete its application for 501(c)(3) tax exempt status. She said the current Texas RE Board was being asked to approve a code of conduct to clarify its understanding of its responsibilities to Texas RE, particularly because ERCOT ISO had adopted a code of conduct documenting the same individuals' responsibilities to ERCOT ISO. She said that both the ERCOT and the Texas RE's DCOC recite the legal responsibilities of directors in Texas. The Texas Reliability Entity's DCOC will be separate and apart from any DCOC signed by the Texas Regional Entity Board.

In response to Dr. Patton's request for an explanation as to why the current Board and the new Texas Reliability Entity, Inc. board would adopt a separate code of conduct from the current Texas RE Board, Ms. Vincent explained Texas Regional Entity and Texas Reliability Entity, Inc. are separate companies. The current Board would adopt a DCOC for its remaining three or four months, and the new directors of Texas Reliability Entity, Inc. would need to approve a code of conduct and ethics agreement to satisfy the 501(c)(3) tax requirements.

Dr. Patton said he doesn't believe the DCOC should use language requiring Board members to "act in the best interest of Texas RE"; he believes the language should reflect the directors are acting in the best interest of the citizens of the state of Texas, since Texas RE oversees reliability for all in the ERCOT system. He said the Board should be focused on making sure Texas RE is organized and operated in such a way to bring that about. He wants the DCOC to reflect this.

Ms. Vincent explained the DCOC was intended to outline director's fiduciary duties under Texas law. Dr. Patton said he would provide Ms. Vincent with his suggested changes to the DCOC. Chair Gent asked Ms. Vincent to revise the DCOC to clean up ERCOT's stakeholder language, for discussion at a future meeting. Chair Gent asked the Committee members to submit suggested revisions to Ms. Vincent, and the Committee would review the new draft at the next

meeting and make a recommendation to the Board.

### **Future Agenda Items**

Chair Gent suggested a modification to add an IT plan in addition to the legal separation plan and to provide the Committee with another draft of the Director Code of Conduct at the April meeting. He also requested the pro forma Delegation Agreement review be added to the future agenda items.

### **Adjournment**

Chair Gent adjourned the Committee into executive session at approximately 11:10 a.m.  
No further business was conducted in open session.