



Date: December 7, 2010
To: Board of Directors
From: Bill Magness, Vice President, General Counsel and Corporate Secretary
Subject: Amendment and Renewal of ERCOT Region Reliability Monitor Agreement with the Public Utility Commission of Texas and Texas Reliability Entity, Inc.

Issue for the ERCOT Board of Directors

ERCOT Board of Directors Meeting Date: December 14, 2010

Agenda Item No.: 8

Issue:

Whether the Board of Directors (Board) of Electric Reliability Council of Texas, Inc. (ERCOT) should authorize and approve the amendment and renewal of the tri-party agreement among ERCOT, the Public Utility Commission of Texas (Commission) and Texas Reliability Entity, Inc. (Texas RE) for ERCOT Region Reliability Monitor services. The three-year extension would involve an additional expenditure of approximately \$3.5 million over three years (that is, through December 31, 2013) for a total not-to-exceed (NTE) amount of \$3.975 million, subject to mutual agreement of the parties as to general contract terms and conditions.

Background/History:

Current Reliability Monitor Agreement

At the Commission's direction, ERCOT, the Commission and Texas RE entered into a tri-party Professional Services Agreement (PSA) and Statement of Work No. 1 (SOW 1), both effective as of July 1, 2010, through December 31, 2010, regarding ERCOT Region Reliability Monitor services (collectively, Reliability Monitor Agreement). The PSA provides for general contract terms among the parties. SOW 1 provides the details of the scope of services for this particular engagement among the parties. SOW 1 contemplated estimated service costs of \$237,500 per quarter to be paid in advance in the first month of the quarter (including reimbursement for services and reasonable out-of-pocket expenses) by ERCOT to Texas RE, with any credits provided against the next quarterly payment, for a total NTE amount of \$475,000.

Current Scope of Services

Pursuant to SOW 1, subject to the Commission's supervision and oversight, Texas RE acts as the Reliability Monitor for the ERCOT Region and is responsible for monitoring, investigating, auditing and reporting to the Commission regarding compliance with the reliability-related ERCOT Protocols and Operating Guides, and the reliability-related provisions of the Public Utility Regulatory Act by ERCOT and ERCOT Market Participants. The parties entered into the Reliability Monitor Agreement pursuant to the Commission's directive that a third-party entity independent of ERCOT and Market Participants assist the Commission in ensuring compliance and enforcement of the reliability-related rules arising from state law and ERCOT Protocols and Operating Guides. In connection with SOW 1, Texas RE also provides other reliability-related subject matter expert advice, expertise, and assistance to the Commission in the conduct of the Commission's oversight and enforcement activities.

Proposed Renewal of Reliability Monitor Agreement

The Commission has directed that Texas RE should continue to act as the ERCOT Region



Reliability Monitor, pursuant to generally similar terms and conditions of the current Reliability Monitor Agreement. The Texas RE Board of Directors initially indicated that Texas RE would not continue providing these non-statutory ERCOT Region Reliability Monitor services beyond the December 31, 2010 expiration of the existing agreement. After further consideration at its December 6, 2010 meeting, the Texas RE Board of Directors approved the Commission's request for Texas RE to continue to provide such non-statutory ERCOT Region Reliability Monitor services for an additional term of up to three years (that is, through December 31, 2013), subject to ERCOT and Texas RE coming to an agreement as to the terms and conditions regarding Texas RE's access to ERCOT electronic information. ERCOT anticipated the continuation of Reliability Monitor services in its recently-approved 2011 operating budget, and has sufficient amounts budgeted to pay the costs associated with the proposed renewal of the Reliability Monitor Agreement.

Key Factors Influencing Issue:

- The Commission has directed ERCOT to delegate to Texas RE certain responsibilities and obligations assigned to ERCOT under: (1) P.U.C. SUBST. R. 25.503(j), which describes ERCOT's role in monitoring compliance with ERCOT Protocols and Operating Guides; and (2) the Settlement Agreement and Commission Order in Docket No. 32350 that established the "ERCOT Compliance Process" for enforcement of reliability-related ERCOT Protocols and Operating Guides.
- Texas RE must obtain formal approval from the Federal Energy Regulatory Commission and North American Electric Reliability Corporation to continue these ERCOT Region Reliability Monitoring services. If Texas RE does not obtain such approvals, then Texas RE will provide notice of the termination date of services to ERCOT and the Commission.
- If the Reliability Monitor Agreements were to expire on their own terms (that is, immediately after December 31, 2010), then the ERCOT Region Reliability Monitor obligations currently delegated to Texas RE would revert to ERCOT pursuant to the P.U.C. SUBST. R. 25.503(j).

Alternatives:

The Board has the following alternatives within its discretion:

1. Approve the amendment and renewal of the Reliability Monitor Agreement among ERCOT, the Commission and Texas RE for ERCOT Region Reliability Monitor services. The three-year extension would involve an additional expenditure of approximately \$3.5 million over three years (that is, through December 31, 2013) for a total NTE amount of \$3.975 million, subject to mutual agreement of the parties as to contract terms and conditions; or
2. Allow the Reliability Monitor Agreement to expire on its own terms on December 31, 2010, at which time the ERCOT Region Reliability Monitor obligations would revert to ERCOT pursuant to the P.U.C. SUBST. R. 25.503(j), contrary to the direction received from the Commission.

Conclusion/Recommendation:

Based on the Commission's desire to delegate the duties detailed in the Reliability Monitor Agreement to a third party, ERCOT staff respectfully recommends that the Board authorize and approve the amendment and renewal of the Reliability Monitor Agreement for ERCOT Region Reliability Monitor services. The three-year extension would involve an additional expenditure



of approximately \$3.5 million over three years (that is, through December 31, 2013) for a total NTE amount of \$3.975 million, subject to mutual agreement of the parties as to general contract terms and conditions. ERCOT has sufficient amounts budgeted in 2011 to pay the costs associated with the proposed renewal of the Reliability Monitor Agreement. ERCOT staff respectfully requests authority to finalize the terms of the contract and execute prior to the expiration of the existing Reliability Monitor Agreement on December 31, 2010.



ELECTRIC RELIABILITY COUNCIL OF TEXAS, INC.
BOARD OF DIRECTORS RESOLUTION

WHEREAS, at the direction of the Public Utility Commission of Texas (Commission), Electric Reliability Council of Texas, Inc. (ERCOT), the Commission and Texas Reliability Entity, Inc. (Texas RE) entered into a tri-party Professional Services Agreement (PSA) and Statement of Work No. 1 (SOW 1), both effective as of July 1, 2010, through December 31, 2010, regarding ERCOT Region Reliability Monitor services (collectively, Reliability Monitor Agreement), for a not-to-exceed amount of \$475,000;

WHEREAS, at its December 6, 2010 meeting, the Texas RE Board of Directors approved the Commission's request for Texas RE to continue to provide such non-statutory ERCOT Region Reliability Monitor services for up to an additional three years (that is, through December 31, 2013), subject to ERCOT and Texas RE coming to an agreement as to the terms and conditions regarding Texas RE's access to ERCOT electronic information and;

WHEREAS, after due consideration of the alternatives, the Board of Directors (Board) of ERCOT deems it desirable and in the best interest of ERCOT to authorize and approve the amendment and renewal of the Reliability Monitor Agreement among the parties for ERCOT Region Reliability Monitor services for an additional expenditure of approximately \$3.5 million through December 31, 2013, for a total NTE amount of \$3.975 million, subject to mutual agreement of the parties as to general contract terms and conditions.

THEREFORE, BE IT RESOLVED, that:

- (1) ERCOT is hereby authorized and approved to amend and renew the Reliability Monitor Agreement among the parties for ERCOT Region Reliability Monitor services for an additional expenditure of approximately \$3.5 million through December 31, 2013, for a total NTE amount of \$3.975 million, subject to mutual agreement of the parties as to general contract terms and conditions; and
- (2) Authorized officers of ERCOT are hereby authorized to act on behalf of ERCOT and negotiate and execute in the name of and on behalf of ERCOT such other contracts and documents necessary to obtain such services from the parties prior to the expiration of the existing Reliability Monitor Agreement on December 31, 2010.

CORPORATE SECRETARY'S CERTIFICATE

I, Bill Magness, Corporate Secretary of ERCOT, do hereby certify that, at its December 14, 2010 meeting, the ERCOT Board passed a motion approving the above Resolution by _____.

IN WITNESS WHEREOF, I have hereunto set my hand this ____ day of December, 2010.

Bill Magness
Corporate Secretary