



ERCOT Finance & Audit Committee Meeting:
Includes 2012 Budget Discussion
7620 Metro Center Drive, Austin, Texas
Met Center, Conference Room 206
July 18, 2011; 11:30am – 2:00pm*

Item #	Agenda Item Type	Description/Purpose/Action Required	Presenter	Time
		Call Open Session to order and announce proxies	Clifton Karnei	11:30am
1.	Vote	Approve general session minutes (6/20/11)	Clifton Karnei	
2.	Discussion	Review proposed 2012 budget	Misti Hancock	
3.	Discussion	Update on Commodities Exchange Act exemption	Mark Ruane	
4.	Vote	Recommend changes to standard forms of Letter of Credit and Market Participant Guarantee Agreements	Chad Seely	
5.	Vote	Credit update – procedures for setting nodal day-ahead market credit requirement parameters	Mark Ruane	
6.	Discussion	Review Committee briefs	Mike Petterson	
7.	Discussion	Future agenda items	Mike Petterson	
8.		Other business	Mike Petterson	
		Convene to Executive Session	Clifton Karnei	
9.	Vote	Approve executive session minutes (6/20/11)	Clifton Karnei	
10.	Discussion	10a. Internal Audit status report	Bill Wullenjohn	
	Discussion	10b. Discussion of Internal Audit staffing for 2012	Bill Wullenjohn / Trip Doggett	
	Discussion	10c. Quarterly Update on EthicsPoint Historical Metrics and Trends	Bill Wullenjohn	
	Discussion	10d. EthicsPoint update	Bill Wullenjohn	
	Discussion	10e. Quarterly Private Discussion with Chief Audit Executive	Bill Wullenjohn	
11.	Discussion	Contract, personnel, security, compliance, risk management, litigation and regulatory matters	Clifton Karnei	
		Reconvene to Open Session		
		Adjourn meeting	Clifton Karnei	2:00pm

** Background material is enclosed or will be distributed prior to meeting. All times shown in the agenda are approximate.
The next Finance & Audit Committee Meeting will be held Monday, August 15, 2011, at ERCOT, 7620 Metro Center Drive, Austin, Texas 78744, in Room 206.*

1. Approval of General Session Minutes

Clifton Karnei

Approval of General Session Minutes

- Vote 6/20/11



**DRAFT GENERAL SESSION MINUTES OF THE
FINANCE & AUDIT COMMITTEE
OF ELECTRIC RELIABILITY COUNCIL OF TEXAS, INC.**

Electric Reliability Council of Texas, Inc.
7620 Metro Center Drive (Room 206) - Austin, Texas 78744
June 20, 2011 at 12:00 p.m.

Pursuant to notice duly given and after determination that a quorum was present, the meeting of the Finance and Audit (F&A) Committee of the Board of Directors (Board) of Electric Reliability Council of Texas, Inc. (ERCOT) convened on the above-referenced date.

General Session Attendance

Committee Members:

Director	Affiliation	Segment
Bermudez, Jorge (Vice Chairman)	Unaffiliated	Unaffiliated Director
Crowder, Calvin	American Electric Power Service Corporation	Investor Owned Utility (Proxy for Mark Dreyfus)
Espinosa, Miguel	Unaffiliated	Unaffiliated Director
Fehrenbach, Nick	City of Dallas	Commercial Consumer
Hendrick, Eric	Stream Energy	Independent Retail Electric Provider Segment Alternate
Packard, Mike	South Texas Electric Cooperative, Inc.	Cooperative Segment Alternate for Committee Chairman Clifton Karnei

Guest Board Members and Segment Alternates:

Director	Affiliation	Segment
Bivens, Danny	Office of Public Utility Council	Alternate Representative for Sheri Givens – Residential Consumer
Brown, Jeff	Shell Energy North America (US) LP	Independent Power Marketer Segment Alternate
Dalton, Andrew	Valero Services, Inc.	Industrial Consumer
Doggett, Trip	ERCOT	President and Chief Executive Officer (CEO)
Doll, Laura	Unaffiliated	Unaffiliated Director
Gent, Michehl	Unaffiliated	Unaffiliated Director
Gresham, Kevin	E.ON Climate & Renewables NA LLC	Independent Generator Segment Alternate
Helton, Bob	International Power America Services, Inc.	Independent Generator



Prochazka, Scott	CenterPoint Houston Electric	Investor Owned Utility Segment Alternate
Ryall, Jean	Constellation Energy Commodities Group	Independent Power Marketer
Schwertner, Ray	Garland Power & Light	Municipally Owned Utilities Segment Alternate
Smitherman, Barry T.	Public Utility Commission of Texas (PUCT)	Chairman (Beginning with Agenda Item 2)

Other Guests:

Anderson, Ken	Public Utility Commission of Texas – Commissioner
Cleary, Mike	ERCOT Senior Vice President and Chief Operating Officer
Cobos, Lori	ERCOT Associate Corporate Counsel
Hancock, Misti	ERCOT Director of Finance
Ledy, Vickie	ERCOT Assistant General Counsel and Assistant Corporate Secretary
Magness, Bill	ERCOT Vice President, General Counsel and Corporate Secretary
Manning, Chuck	ERCOT Vice President of Human Resources and Chief Compliance Officer
Morgan, Richard	ERCOT Vice President and Chief Information Officer
Pettersen, Mike	ERCOT Vice President of Finance and Treasury
Ruane, Mark	ERCOT Vice President of Credit and Enterprise Risk Management
Seely, Chad	ERCOT Assistant General Counsel
Wolff, Freddy	ERCOT Manager of Accounting
Woodfin, Dan	ERCOT Director of System Planning
Wullenjohn, Bill	ERCOT Director of Internal Audit

Jorge Bermudez, Vice Chairman of the F&A Committee, acting as Committee Chairman in Clifton Karnei's absence, determined that a quorum was present and called the F&A Committee meeting to order at approximately 12:02 p.m. Acting Chairman Bermudez announced that Calvin Crowder held the proxy for Mark Dreyfus and addressed the following Agenda Items in the order below.

Approval of May 16, 2011 General Session Minutes (Agenda Item 1)

Acting Chairman Bermudez entertained a motion to approve the May 16, 2011 F&A Committee General Session Meeting Minutes (Minutes).

Miguel Espinosa moved to approve the Minutes as presented. Calvin Crowder seconded the motion. The motion passed by unanimous voice vote with no abstentions.

Review Preliminary 2012-2017 Budget Highlights (Agenda Item 2)

Misti Hancock provided preliminary 2012-2017 budget highlights to the Committee members and responded to comments and questions from the Committee members.



Barry T. Smitherman, Chairman of the Public Utility Commission of Texas (PUCT, Commission), called an Open Meeting of the Commission to order to consider matters which had been duly posted with the Texas Secretary of State for June 20, 2011.

Recommend Revision of ERCOT Security Screening Study Fee (Agenda Item 3)

Dan Woodfin provided a recommendation to revise the ERCOT Security Screening Study Fee to the Committee members and responded to comments and questions from the Committee members.

Mr. Crowder moved to recommend Board approval of the revision to the ERCOT Security Screening Study Fee as presented. Mr. Espinosa seconded the motion. The motion passed by unanimous voice vote with no abstentions.

Commodities Exchange Act Exemption (Agenda Item 4)

Mark Ruane provided a status update on exemption issues relating to the Commodity Futures Trading Commission's (CFTC) Commodities Exchange Act (CEA) to the Committee members and responded to comments and questions from the Committee members.

Recommend Changes to Standard Forms of Letter of Credit and Market Participant Guarantee Agreements (Agenda Item 5)

The F&A Committee deferred this agenda item to the July 2011 F&A Committee Meeting.

Recommend Corrected Effective Date for Revised Investment Corporate Standard - Approved May 2011 (Agenda Item 6)

Mike Petterson provided a recommendation to correct the effective date of the recently approved, revised Investment Corporate Standard from May 17, 2011 to July 18, 2011 to the Committee members and responded to comments and questions from the Committee members.

Mr. Crowder moved to recommend Board approval of the corrected effective date for the Investment Corporate Standard as presented. Jorge Bermudez seconded the motion. The motion passed by unanimous voice vote with no abstentions.

Quarterly Committee Education on Accounting Developments (Agenda Item 7)

Freddy Wolff provided a quarterly update on accounting developments to the Committee members. No comments or questions were voiced by the Committee members.

Review Committee Briefs (Agenda Item 8)

Mr. Petterson noted that ERCOT was not in compliance with the Investment Corporate Standard, including reasons for the non-compliance and steps being taken to comply with the Investment Corporate Standard, to the Committee members and responded to comments and questions from the Committee members.

Future Agenda Items (Agenda Item 9)

Mr. Petterson noted that the following items would be presented for consideration at next month's F&A Committee meeting:

- 2012 Budget Update;



- CEA Exemption Status Update;
- Standard Form Letter of Credit and Market Participant Guarantee Agreement; and
- Elimination of the November F&A Committee meeting.

Other Business (Agenda Item 10)

There was no other business considered at this time.

Convene to Executive Session (Agenda Items 11 through 13)

Acting Chairman Bermudez adjourned the F&A Committee meeting into Executive Session at approximately 1:42 p.m.

Reconvene to Open Session

Acting Chairman Bermudez reconvened the General Session of the F&A Committee meeting at approximately 2:13 p.m. There were no voting items from Executive Session. Acting Chairman Bermudez adjourned the F&A Committee meeting at approximately 2:14 p.m.

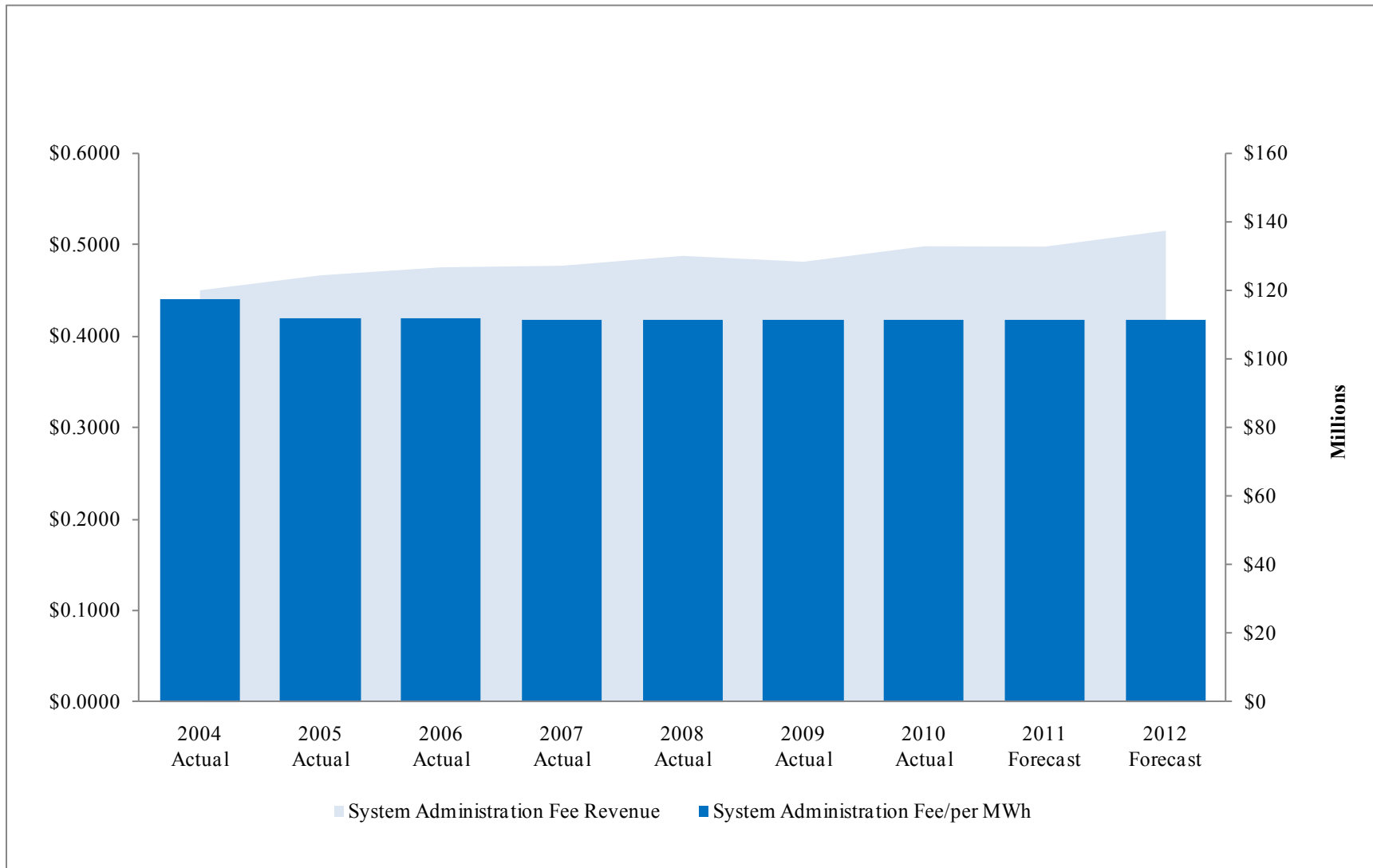
Committee materials and presentations from the meeting are available on ERCOT's website at: http://www.ercot.com/committees/board/finance_audit/

Lori Cobos
Committee Secretary

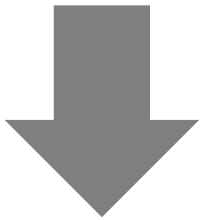
2. Review Proposed 2012 Budget Highlights

- System Administration Fee - \$0.4171 per MWh
 - 9 years of falling to flat funding of ERCOT base operations
- Projects
 - \$15 + million dedicated for priority projects to enhance system reliability, market operations and regulatory requirements
- Long-term outlook
 - Fees reduced more than 40 percent
 - Outstanding debt reduced by more than 75 percent

2. Review Proposed 2012 Budget Historical System Administration Fee

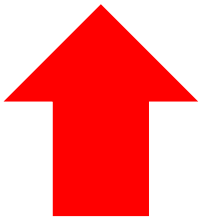


2. Review Proposed 2012 Budget Requirement Changes 2011 Budget vs. 2012 Proposed Budget



Downward Fee Pressure.....

- Increased MWh consumption
- Reduced Project Portfolio



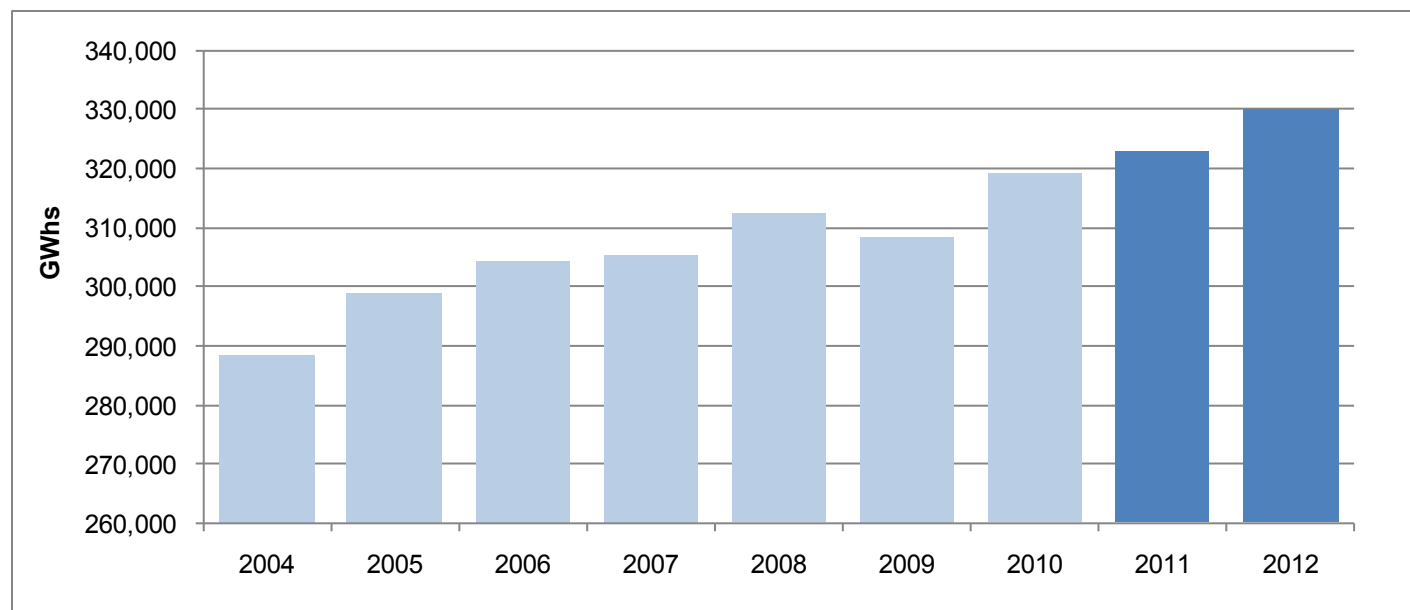
Upward Fee Pressure.....

- Increased HW/SW Maintenance for Nodal Systems
- Increased Vendor Services for Proprietary Nodal Systems
- Increased Base Operations Cost of Labor
- Reduced Carry Forward & Extraordinary Revenue

2. Review Proposed 2012 Budget Requirement Changes 2011 Budget vs. 2012 Proposed Budget

(\$ Thousands)	2011 Budget	2012 Proposed Budget	Variance
O&M Expense			
Labor	\$ 70,307.3	\$ 73,742.2	\$ (3,434.9)
Equipment & Tools	880.6	877.8	2.7
Outside Services	2,913.0	7,308.7	(4,395.7)
Utility, Maintenance, & Facilities	12,599.2	12,456.1	143.1
Hardware & Software License & Maint.	9,860.7	15,970.5	(6,109.8)
Employee Expenses	1,020.7	1,148.4	(127.7)
Other Expenses	3,670.1	3,837.5	(167.4)
Subtotal - O&M Expense	\$ 101,251.5	\$ 115,341.2	\$ (14,089.6)
Debt Service - Interest	3,514.9	2,993.0	521.9
Debt Service - Principal	26,200.0	26,200.0	-
Revenue Funded Projects	16,758.4	6,000.0	10,758.4
Subtotal - Revenue Requirement	\$ 147,724.9	\$ 150,534.2	\$ (2,809.3)
Less: Other Revenue	4,005.8	3,607.5	(398.4)
Less: Extraordinary Item Revenue	5,000.0	-	(5,000.0)
2010 Carry Forward	14,420.0	-	(14,420.0)
2011 Carry Forward	-	13,064.6	13,064.6
Subtotal - Revenue Requirement from System Admin Fee	\$ 124,299.1	\$ 133,862.1	\$ 3,944.5
Subtotal - System Administration Fee - Non Mandated	\$ 0.4004	\$ 0.4056	\$ (0.0052)
NERC Dues	11,975.0	12,394.5	(419.5)
NERC Electric Reliability Organization fee	(11,975.0)	(12,394.5)	419.5
Protocol Services	2,466.0	1,000.0	1,466.0
Market Monitoring	2,700.0	2,800.0	(100.0)
Subtotal - Mandated Costs	\$ 5,166.0	\$ 3,800.0	\$ 1,366.0
Subtotal - System Administration Fee - Mandated	\$ 0.0166	\$ 0.0115	\$ 0.0051
Total - Revenue Rqmt from System Admin Fee	\$ 129,465.1	\$ 137,662.1	\$ (8,197.1)
Total - System Administration Fee	\$ 0.4171	\$ 0.4171	\$ (0.0000)
GWh	310,410.0	330,033.6	19,623.6
% GWh Growth	-2.6%	6.3%	8.9%
Debt Funded Projects	25,137.6	9,000.0	16,137.6
Total - Project Spending	\$ 41,896.0	\$ 15,000.0	\$ 26,896.0
Total - Spending Authorization	\$ 190,003.5	\$ 175,728.6	\$ 14,274.9

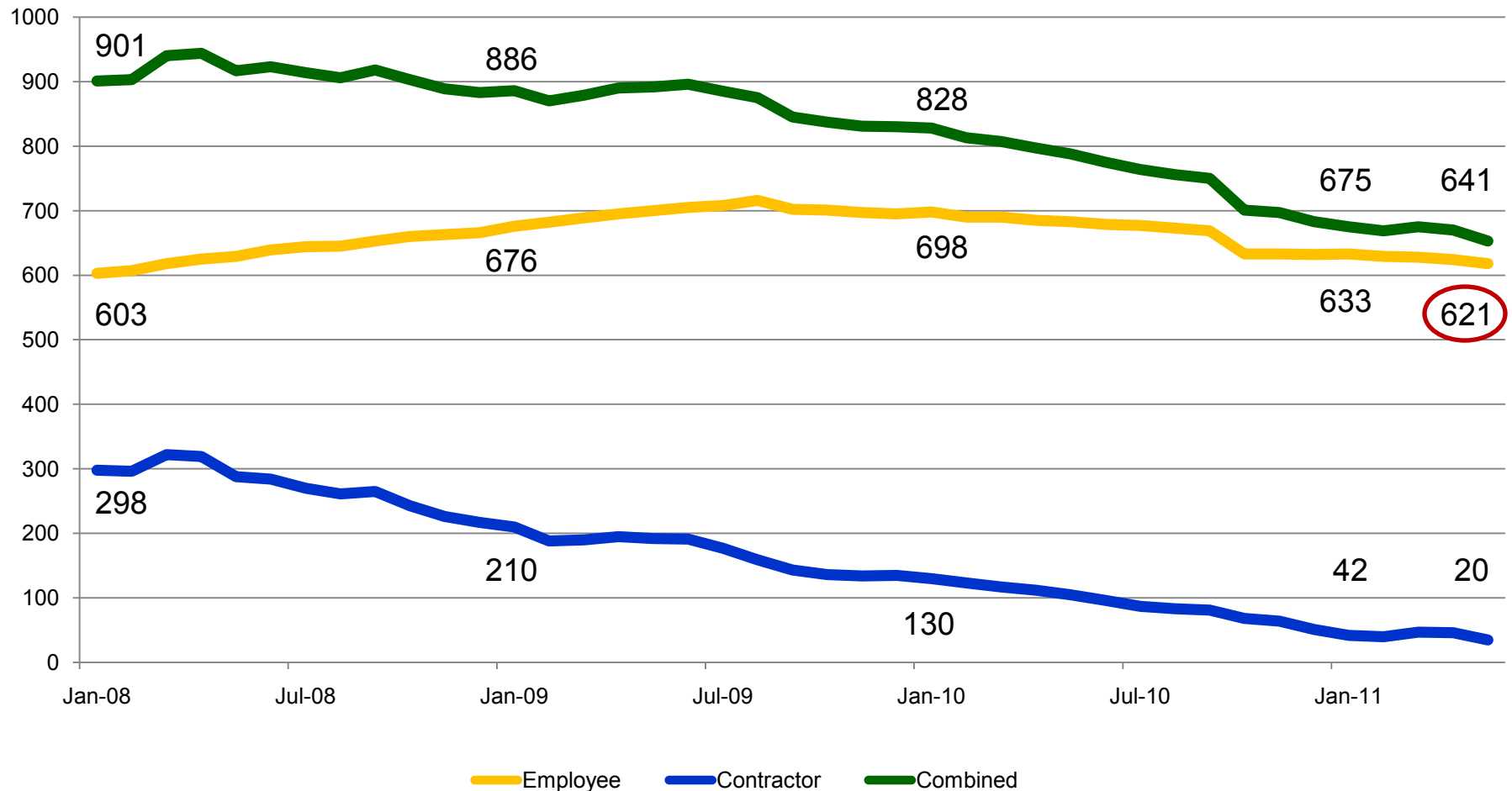
2. Review Proposed 2012 Budget Historical Load Trend and 2012 Forecast



Fiscal Year	Actual	Projected	% Growth/Decline
2004	288,291,328		1.16%
2005	298,782,420		3.64%
2006	304,373,763		1.87%
2007	305,482,175		0.36%
2008	312,401,084		2.26%
2009	308,277,758		-1.32%
2010	319,097,400		3.51%
2011		322,700,000	1.13%
2012		330,033,592	2.27%

AVG 1.65%

2. Review Proposed 2012 Budget Staffing Requirements 2008 – June 2011



2. Review Proposed 2012 Budget Proposed Staffing Requirements

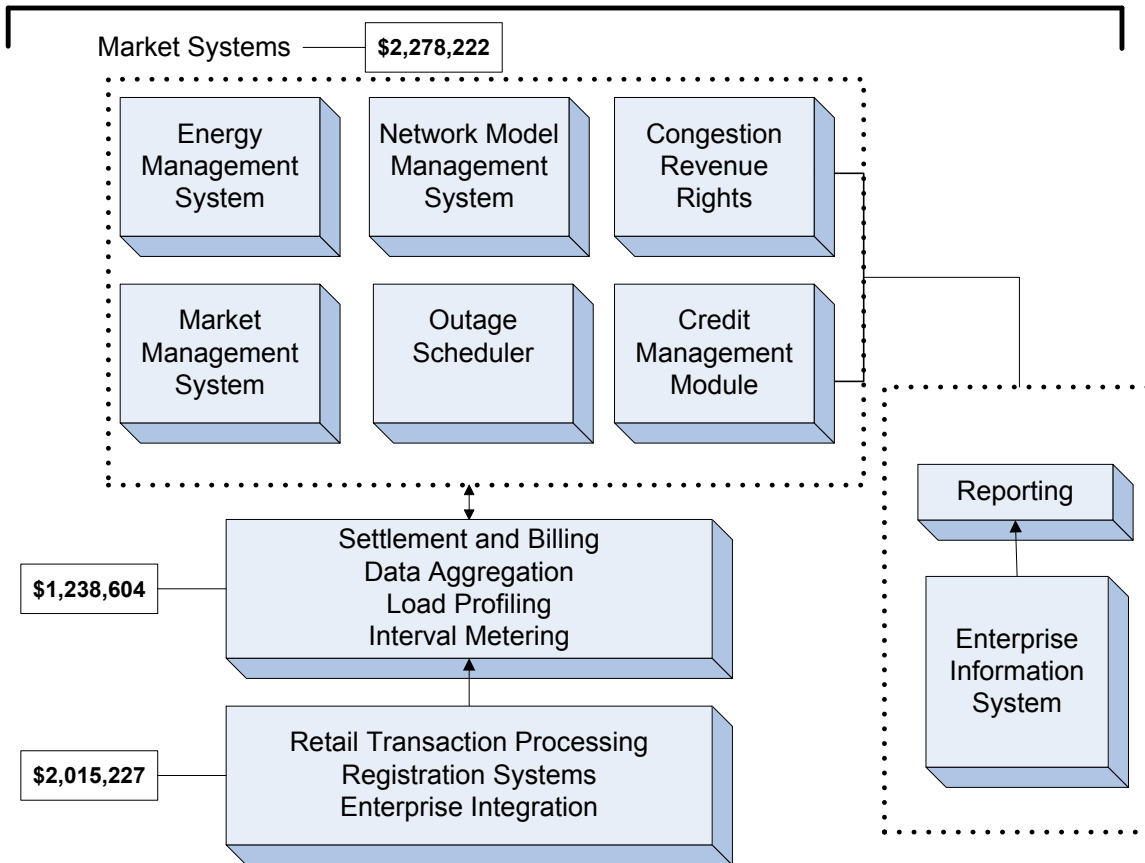
2011 Base Operations	584
Plus: Incremental staff associated with PRRs and NPRRs	5
Less: Efficiencies Obtained	<u>(16)</u>
2012 Base Operations	573
2012 Project Resources	65
2012 Estimated Headcount	638

- Staffing for steady-state in Nodal Market
- Right people with the right skills in the right positions at the right cost
 - 2% Merit
 - 1% Other Salary Adjustments

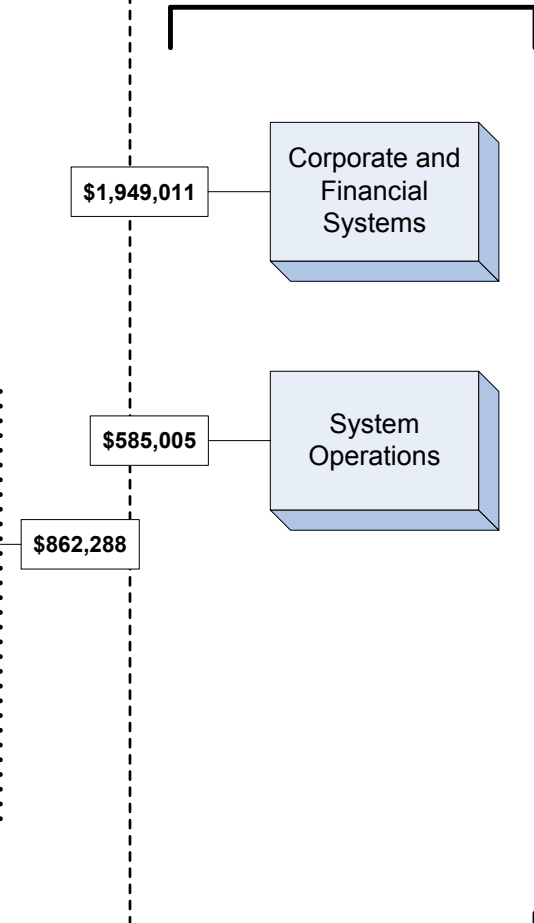
2. Review Proposed 2012 Budget 2011 HW/SW Maintenance Requirements

ERCOT 2011 Hardware & Software Support/Maintenance Budget = \$9,860,703

ERCOT Production Systems

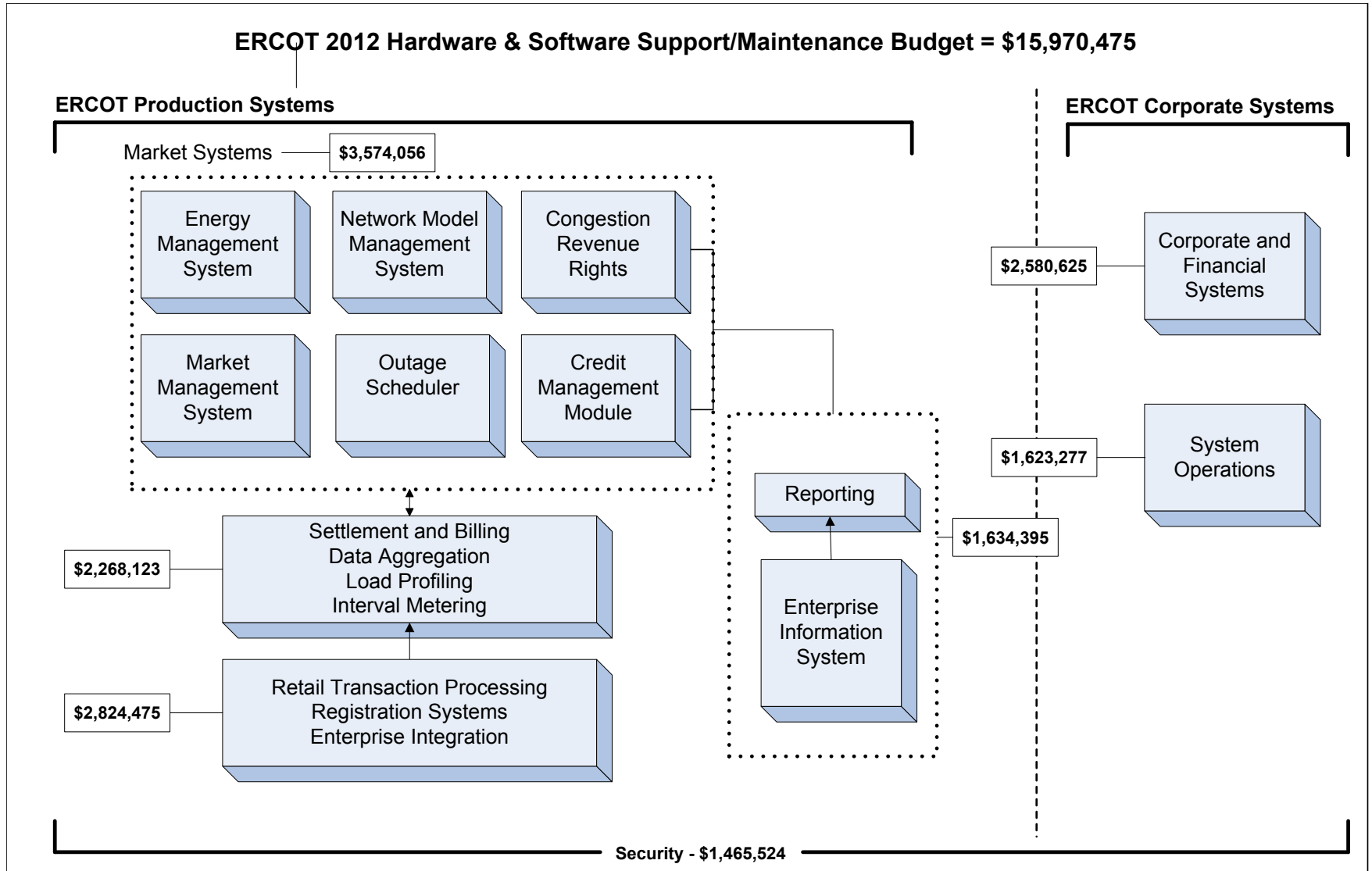


ERCOT Corporate Systems



Security - \$932,346

2. Review Proposed 2012 Budget 2012 HW/SW Maintenance Requirements



2. Review Proposed 2012 Budget 2012 Project Portfolio

- **Key Areas of Focus (Project Categories)**
 - Regulatory
 - Required by Legislature, PUCT, NERC, FERC or legal ruling
 - Technical Foundation
 - Required maintenance and upgrades
 - Technical evolution and performance
 - Systemic growth
 - Business Strategy
 - Market driven enhancements and efficiencies
 - ERCOT strategic initiatives
 - Efficiencies & Enhancements
 - Internally driven operational improvements
 - Enhanced customer service

2. Review Proposed 2012 Budget 2012 Project Portfolio

\$15M Project Portfolio

— As active projects move through the project lifecycle and new projects are considered for initiation, they will be reassessed for criticality, cost/benefit and resource availability against other projects in the portfolio.

Project Category	2012 Budget	Projects Started in Previous Years	New 2012 Projects
Technical Foundation	\$5.6M-\$11.3M	4	7
Business Strategy	\$5.2M-\$10.5M	5	15
Efficiencies & Enhancements	\$1.6M-\$3.3M	2	9
Regulatory	\$1.1M-\$2.3M	2	1
Total	\$13.5M- \$27.4M	13	32

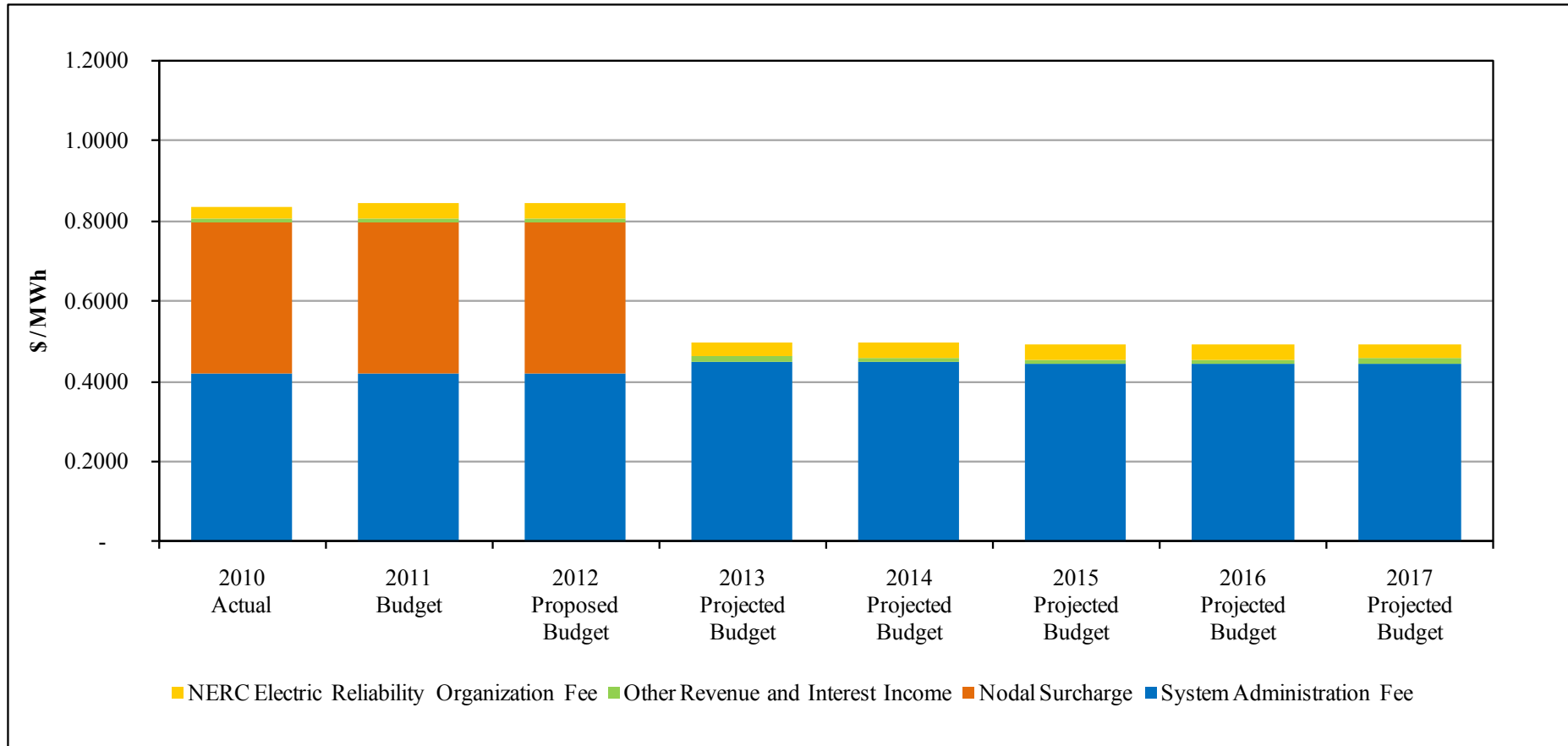
2. Review Proposed 2012 Budget 2012 Project Portfolio

Project Category	2012 Rank	Project	2012 Budget
Technical Foundation	1	Data Center Migration	\$100k-\$250k
Technical Foundation	2	Minor Cap - Critical - 2012	\$500k-\$1M
Technical Foundation	3	Information Lifecycle Mgmt Phase 2	\$500k-\$1M
Technical Foundation	4	Settlement Upgrade	\$1M-\$2M
Technical Foundation	5	Oracle 11g Upgrade	\$1M-\$2M
Technical Foundation	6	EMS Upgrade	\$1M-\$2M
Technical Foundation	7	Enterprise DW Platform Transition	\$500k-\$1M
Technical Foundation	8	Job Scheduling Upgrade v8	\$100k-\$250k
Technical Foundation	9	Siebel Upgrade	\$250k-\$500k
Technical Foundation	10	NMMS Upgrade	\$100k-\$250k
Technical Foundation	11	DC Growth & Asset Replacement - 2012	\$500k-\$1M
Business Strategy	1	TXSET4.0	\$250k-\$500k
Business Strategy	2	SCR760	\$1M-\$2M
Business Strategy	3	Cyber Security Project #1	\$50k-\$100k
Business Strategy	4	Cyber Security Project #2	<\$50k
Business Strategy	5	TSAT Wind Model	\$100k-\$250k
Business Strategy	6	PRR830/NPRR269 - Reactive Power Capability	\$250k-\$500k
Business Strategy	7	Demand Response (Look Ahead SCED)	\$500k-\$1M
Business Strategy	8	Facilities Project	\$1M-\$2M
Business Strategy	9	Cyber Security Project #3	\$500k-\$1M
Business Strategy	10	Cyber Security Project #4	\$500k-\$1M

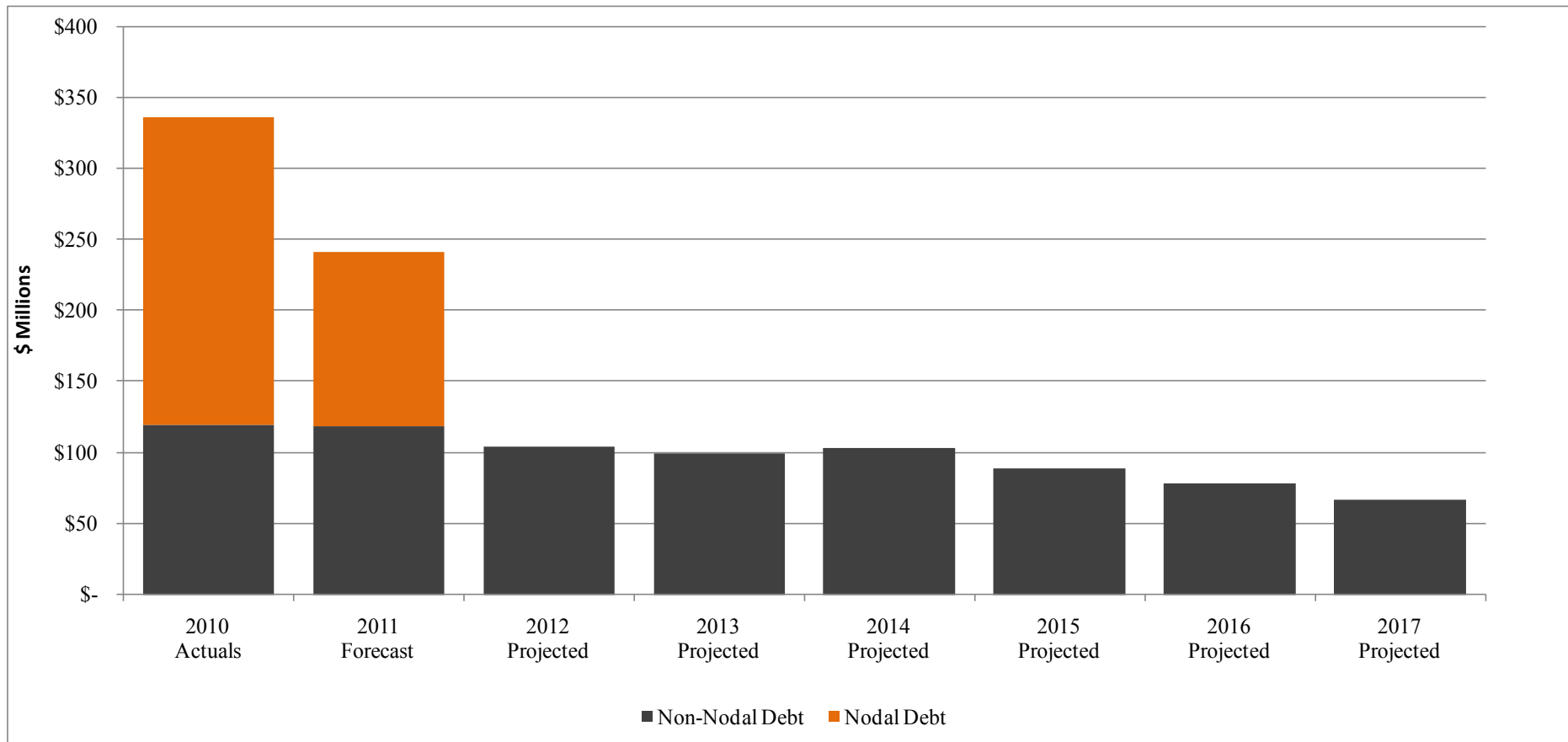
2. Review Proposed 2012 Budget 2012 Project Portfolio

Project Category	2012 Rank	Project	2012 Budget
Business Strategy	11	NPRR347 - Single Daily Invoice	\$50k-\$100k
Business Strategy	12	NPRR260 - MIS Secure Access	\$100k-\$250k
Business Strategy	13	MarkeTrak Upgrade/Enhancements	\$500k-\$1M
Business Strategy	14	TML Transition to MIS	\$100k-\$250k
Business Strategy	15	Planning Site Transition to MIS	\$100k-\$250k
Business Strategy	16	NPRR222 - Half Hour Start Clawback	<\$50k
Business Strategy	17	Cyber Security Project #5	\$100k-\$250k
Business Strategy	18	NPRR326 - Adjust RT SPP Calc.	<\$50k
Business Strategy	19	NPRR272 - Quick Start Resources	\$100k-\$250k
Business Strategy	20	NPRR207 - Unit Deselection	\$50k-\$100k
Efficiencies/Enhancements	1	Incremental Update Capability - Phase 1	\$100k-\$250k
Efficiencies/Enhancements	2	MP Online Data Entry - Ph 1	\$500k-\$1M
Efficiencies/Enhancements	3	CMS and MIR replacement	\$250k-\$500k
Efficiencies/Enhancements	4	ERCOT Website Enhancements - 2012	\$250k-\$500k
Efficiencies/Enhancements	5	Macomber Map NERC SA/Compliance Enhancements	\$250k-\$500k
Efficiencies/Enhancements	6	IGRID Implementation	<\$50k
Efficiencies/Enhancements	7	Contingency Functionality Enhmts.	<\$50k
Efficiencies/Enhancements	8	SMTNET Improvements	\$50k-\$100k
Efficiencies/Enhancements	9	MP Communications Tool	\$50k-\$100k
Efficiencies/Enhancements	10	Smartphone Interface ("MyGrid")	\$100k-\$250k
Efficiencies/Enhancements	11	OA Grid Health Operator View	<\$50k
Regulatory	1	REC Enhancements	\$500k-\$1M
Regulatory	2	CFTC Compliance	\$100k-\$250k
Regulatory	3	Compliance Software Tool	\$500k-\$1M

2. Review Proposed 2012 Budget Long-Term Outlook of Total Fees



2. Review Proposed 2012 Budget Long-Term Outlook of Outstanding Debt



2. Review Proposed 2012 Budget

Detailed Schedules

ERCOT Fiscal Year 2012 Budget

Revenue Requirements

Line	(\$ Thousands)	2010 Actual	2011 Budget	2011 Forecast	2012 Proposed Budget	2013 Projected Budget	2014 Projected Budget	2015 Projected Budget	2016 Projected Budget	2017 Projected Budget
1	O&M Expense									
2	Labor	\$ 51,572.0	\$ 70,307.3	\$ 70,600.0	\$ 73,742.2	\$ 75,585.7	\$ 77,475.4	\$ 79,412.3	\$ 81,397.6	\$ 83,432.5
3	Equipment & Tools	914.5	880.6	960.6	877.8	896.3	915.1	934.3	953.9	974.0
4	Outside Services	9,289.9	2,913.0	3,762.6	7,308.7	7,460.6	7,540.7	7,699.0	7,860.7	8,025.8
5	Utility, Maintenance, & Facilities	8,677.9	12,599.2	12,184.1	12,456.1	12,236.8	12,490.7	12,750.0	13,014.6	13,284.7
6	Hardware & Software License & Maint.	9,055.3	9,860.7	9,970.0	15,970.5	15,905.9	16,099.5	16,749.1	17,075.1	17,437.2
7	Employee Expenses	1,052.4	1,020.7	1,111.2	1,148.4	1,172.5	1,197.1	1,222.3	1,247.9	1,274.2
8	Other Expenses	3,448.8	3,670.1	3,831.0	3,837.5	3,922.7	4,010.1	4,099.6	4,191.3	4,285.2
9	Subtotal - O&M Expense	\$ 84,010.7	\$ 101,251.5	\$ 102,419.3	\$ 115,341.2	\$ 117,180.6	\$ 119,728.6	\$ 122,866.5	\$ 125,741.1	\$ 128,713.5
10	Debt Service - Interest	2,731.5	3,514.9	3,514.9	2,993.0	2,843.4	2,701.2	2,566.1	2,437.8	2,315.9
11	Debt Service - Principal	26,137.0	26,200.0	26,200.0	26,200.0	26,200.0	26,200.0	26,200.0	26,200.0	26,200.0
12	Revenue Funded Projects	21,870.9	16,758.4	12,789.8	6,000.0	6,000.0	8,000.0	8,000.0	10,000.0	10,000.0
13	Subtotal - Revenue Requirement	\$ 134,750.2	\$ 147,724.9	\$ 144,924.1	\$ 150,534.2	\$ 152,223.9	\$ 156,629.8	\$ 159,632.6	\$ 164,378.9	\$ 167,229.4
14	Less: Other Revenue	3,982.0	4,005.8	4,006.0	3,607.5	3,683.2	3,760.6	3,839.5	3,920.2	4,002.5
15	Less: Interest Income	4.9	-	-	-	-	-	-	-	-
16	Less: Extraordinary Item Revenue	16,170.5	5,000.0	5,000.0	-	-	-	-	-	-
17	2010 Carry Forward	2,400.0	14,420.0	17,599.8	-	-	-	-	-	-
18	2011 Carry Forward	(17,599.8)	-	(11,631.1)	13,064.6	-	-	-	-	-
19	Subtotal - Revenue Requirement from System Admin Fee	\$ 129,792.6	\$ 124,299.1	\$ 129,949.4	\$ 133,862.1	\$ 148,540.7	\$ 152,869.2	\$ 155,793.1	\$ 160,458.7	\$ 163,226.9
20	Subtotal - System Administration Fee - Non Mandated	\$ 0.4072	\$ 0.4004	\$ 0.4060	\$ 0.4056	\$ 0.4374	\$ 0.4339	\$ 0.4294	\$ 0.4312	\$ 0.4316
21	NERC Dues	8,295.5	11,975.0	11,975.0	12,394.5	12,654.7	12,920.5	13,191.8	13,468.8	13,751.7
22	NERC Electric Reliability Organization fee	(8,295.5)	(11,975.0)	(11,975.0)	(12,394.5)	(12,654.7)	(12,920.5)	(13,191.8)	(13,468.8)	(13,751.7)
23	Protocol Services	742.6	2,466.0	827.3	1,000.0	1,021.0	1,042.4	1,064.3	1,086.7	1,109.5
24	Market Monitoring	2,416.7	2,700.0	2,700.0	2,800.0	2,900.0	3,000.0	3,100.0	3,200.0	3,300.0
25	Subtotal - Mandated Costs	\$ 3,159.3	\$ 5,166.0	\$ 3,527.3	\$ 3,800.0	\$ 3,921.0	\$ 4,042.4	\$ 4,164.3	\$ 4,286.7	\$ 4,409.5
26	Subtotal - System Administration Fee - Mandated	\$ 0.0099	\$ 0.0166	\$ 0.0110	\$ 0.0115	\$ 0.0115	\$ 0.0115	\$ 0.0115	\$ 0.0115	\$ 0.0117
27	Total - Revenue Rqmt from System Admin Fee	\$ 132,951.9	\$ 129,465.1	\$ 133,476.7	\$ 137,662.1	\$ 152,461.7	\$ 156,911.6	\$ 159,957.4	\$ 164,745.4	\$ 167,636.4
28	Total - System Administration Fee	\$ 0.4171	\$ 0.4171	\$ 0.4171	\$ 0.4171	\$ 0.4489	\$ 0.4454	\$ 0.4408	\$ 0.4427	\$ 0.4433
29	GWh	318,752.1	310,410.0	320,044.9	330,033.6	339,615.8	352,294.1	362,840.6	372,150.2	378,177.8
30	% GWh Growth	3.4%	-2.6%	3.1%	6.3%	2.9%	3.7%	3.0%	2.6%	1.6%
31	Debt Funded Projects	32,806.4	25,137.6	19,184.7	9,000.0	9,000.0	12,000.0	12,000.0	15,000.0	15,000.0
32	Total - Project Spending	\$ 54,677.3	\$ 41,896.0	\$ 31,974.5	\$ 15,000.0	\$ 15,000.0	\$ 20,000.0	\$ 20,000.0	\$ 25,000.0	\$ 25,000.0
33	Total - Spending Authorization	\$ 179,011.3	\$ 190,003.5	\$ 179,611.1	\$ 175,728.6	\$ 177,799.7	\$ 185,592.7	\$ 188,988.8	\$ 197,134.4	\$ 200,390.6

ERCOT Fiscal Year 2012 Budget
Summary of Estimated Income Sources

				2012 Proposed Budget	
Line	Description	Protocols Reference	Calculation/Rate/Comment	\$	%
1	ERCOT System Administration Fee	9.7.1	\$0.4171 per MWh	\$ 137,662,119	90.0%
2	NERC Electric Reliability Organization Fee	NA	A federally mandated, pass-through charge established to recover an amount approved by FERC for the ERCOT region's share of the annual operating costs of the Electric Reliability Organization.	12,394,454	8.0%
3	Private Wide-Area Network Fee	9.7.6	Recovery of costs associated with the wide area network	2,785,472	2.0%
4	Generation Interconnection Study Fee	NA	Security screening study fee: Project Size <= 150 MW; Fee = \$5,000 Project Size > 150 MW; Fee = \$7,000	420,000	0.0%
5	Membership Dues	NA	\$2,000 for corporate members and \$500 for associate and adjunct members	320,000	0.0%
6	Blackstart Training	NA	Cost Sharing	65,000	0.0%
7	Qualified Scheduling Entity Application Fee	9.7.5	\$500 per entity	7,500	0.0%
8	Competitive Retailer Application Fee	9.7.5	\$500 per entity	7,500	0.0%
9	Map Sale Fee	NA	\$20 - \$40 per map request	1,000	0.0%
10	Mismatched Schedule Processing Fee	9.7.4	\$1 per mismatched event	1,000	0.0%
11					
12				<u>\$ 153,664,045</u>	100.0%
13					
14	<div> Note: In addition to the items listed above, ERCOT also collects a Nodal market surcharge which is currently \$0.3750 per MWh. The Nodal Surcharge will remain in effect until the costs of implementing the Nodal Program, as approved by the Public Utility Commission of Texas, are fully recovered. </div>				
15					
16					
17					

ERCOT Fiscal Year 2012 Budget
Outside Services

Line	Department Name	Service Description	2012 Proposed Budget
Mandated Outside Services			
1	EMMS Development	Resources required for defect fixes, performance issues, security patch management, etc. on proprietary and custom software critical to the market.	\$ 4,143,763
2	Retail Client Services & Analysis	PUCT mandated end user switch notifications.	730,400
3	Board of Directors	Expenses associated with the ongoing support and administration of the Board of Directors: <ul style="list-style-type: none"> • Independent member compensation • Member replacement • Business expense reimbursement • Special meetings and retreats 	554,000
4	General Counsel	Outside legal services for specialized legal knowledge and skills not possessed by in-house legal staff or not requiring a full time position (e.g., litigation, expert witness fees, court reporting fees, employment/employee benefits, information technology, intellectual property, security/compliance, tax/financing, governance, insurance/risk management, records management, etc.).	550,000
5	Accounting & Financial Reporting	Annual financial statement audit, which must be performed externally, is mandatory to be compliant with PUCT rules. Amount includes additional fees assumed to be necessary to account for implications from Commercial Future Trading Commission (CFTC) legislation.	145,000
6	Internal Control Management Program	Statement on Standards for Attestation Engagements (SSAE 16) audit required to be performed by external, independent certified public accounting (CPA) firm.	86,100
7	Physical Security	Cyber vulnerability assessment of the physical access control system as required by CIP 6 R2.2 and CIP 7 R8. Staff do not have technical skillset to perform this assessment.	80,000
8	Physical Security	Managed services contract for availability and reliability of physical access control system and Internet Protocol (IP) based closed-circuit television (CCTV), which is integral to NERC CIP compliance. Physical Security staff do not have skill set or bandwidth to perform monthly patching, provide system maintenance, troubleshoot system, and resolve issues associated with the application, operating system, or hardware. Information Technology office does not provide necessary support due to non-standard hardware being utilized.	32,000
9	Accounting & Financial Reporting	Required statutory audit and filing of annual Internal Revenue Service (IRS) Form 990 which provides financial information for tax-exempt entities.	20,000
10	Human Resources & Organization Dvlpmt	Actuarial support to assist with the Financial Accounting Standards Board (FASB) 106 liability for post retiree medical benefits.	15,000
11	Human Resources & Organization Dvlpmt	Federal law requires independently audited benefit plan financial statements be filed via Internal Revenue Service (IRS) Form 5500.	15,000
12			
13		Subtotal Mandated Outside Services	\$ 6,371,263

ERCOT Fiscal Year 2012 Budget
Outside Services

Line	Department Name	Service Description	2012 Proposed Budget
Discretionary Outside Services			
1	Technology Services Administration	Lawson hosting services which would require hardware and three support specialists to host internally. It is cost beneficial to procure external hosting.	\$ 336,000
2	Human Resources & Organization Dvlpmt	Specialized legal expertise in the area of Immigration Assistance, as well as, filing fees associated with hiring non-US citizens. These services assist in recruiting Power Engineers and certain Information Technology functions. A full-time position is not necessary, therefore approximately half of the estimated amount is for legal services and the remaining half is for filing fees.	190,000
3	Long-Term Planning and Policy	Modeled wind generation patterns study for use in various planning tasks and reliability analyses. Despite known improvement needs, wind patterns developed during the Competitive Renewable Energy Zones (CREZ) study are being used for multiple planning activities. Proposed study will provide updated wind patterns that are tied to facility geography, be based on numerous improvements in wind forecasting information, and provide better correlation with weather information used for load forecasting. The patterns will allow more efficiency in transmission development and improved analysis of system reserve margin needs. In addition, this data will facilitate a Loss of Load Probability analysis that NERC is requiring be performed in 2012.	75,000
4	Human Resources & Organization Dvlpmt	Partnership with University of Texas for two management leadership/training programs: <ul style="list-style-type: none"> • Professional Development Center • Cockrell School of Engineering's Center for Lifelong Engineering Education 	75,000
5	Market Training	Staff augmenting services, as needed, to assist with delivery of market participant training courses.	68,400
6	Human Resources & Organization Dvlpmt	External data and compensation reviews/comparisons for specific positions.	60,000
7	Facilities Management	Courier services necessary for mail collection, routing, and distribution.	50,000
8	Resource Integration	Develop methods and models to validate PSCAD software methodology in determining risk of subsynchronous resonance/interaction between Competitive Renewable Energy Zones (CREZ) series capacitors and generating units.	50,000
9	Accounting & Financial Reporting	Assistance with annual inventory of fixed assets.	17,000
10	Market Training	Training development support, as needed, in regards to web-based training assistance, materials, graphics art, etc.	16,000
11			
12		Subtotal Discretionary Outside Services	\$ 937,400
13			
14		Total Outside Services	\$ 7,308,663

ERCOT Fiscal Year 2012 Budget Facilities Summary

Line	Building	2010 Actual	2011 Budget	2012 Proposed Budget
1	Number of Locations	2	3	3
2	Number of Buildings	4	6	6
3	Total Square Footage	215,400	275,700	275,700
4	Total Facilities Costs	\$ 9,715,148	\$ 12,599,245	\$ 12,456,134
5				
6	Cost per Square Foot	<u>\$ 45.10</u>	<u>\$ 45.70</u>	<u>\$ 45.18</u>

Notes:

1. Facilities costs exclude allocation credits from Nodal and Texas RE in 2010.

2. 2012 includes rent for the Met Center location through June 2012, as well as, the contract termination fee of \$243 K payable in July 2012.

ERCOT Fiscal Year 2012 Budget
Facilities & Equipment Summary by Account

Line	Description	2010 Actual	2011 Budget	2012 Proposed Budget
1	<u>Building Maintenance</u>			
2	Bldg. Security Services	\$ 975,226	\$ 1,385,000	\$ 1,402,968
3	Building Maintenance	575,946	1,193,777	1,047,086
4	Miscellaneous Facilities Services	98,741	179,638	196,723
5	Custodial Service	262,342	270,378	209,375
6	Grounds Maintenance	48,668	96,995	96,254
7	Subtotal - Building Maintenance	<u>1,960,922</u>	<u>3,125,787</u>	<u>2,952,406</u>
8				
9	<u>WAN</u>	2,829,387	3,095,676	2,856,840
10				
11	<u>Property Tax</u>	1,341,850	2,443,048	2,960,004
12				
13	<u>Utilities</u>			
14	Electricity	1,694,017	2,042,000	1,885,923
15	Water/Gas/Sewer/Trash	95,458	112,894	108,996
16	Fuel Oil	10,919	25,421	72,480
17	Water Service	584	-	-
18	Subtotal - Utilities	<u>1,800,978</u>	<u>2,180,315</u>	<u>2,067,399</u>
19				
20	<u>Rent</u>			
21	Office Rental	1,002,508	882,144	891,264
22	Storage Rental	76,360	81,460	63,072
23	Miscellaneous Rental	24,750	25,270	-
24	Subtotal - Rent	<u>1,103,619</u>	<u>988,874</u>	<u>954,336</u>
25				
26	<u>Telecom</u>			
27	Web Conferencing	340,116	368,960	271,500
28	Telephone - Long Distance	121,229	153,060	168,000
29	Internet Service	136,900	150,517	95,196
30	Telephone - Local	70,072	78,797	93,600
31	Data/Voice Circuits	3,761	11,063	36,000
32	Telephone - Conf. Calls	6,313	3,147	852
33	Subtotal - Telecom	<u>678,392</u>	<u>765,545</u>	<u>665,148</u>
34				
35	<u>Nodal & Texas RE Allocations</u>	(1,036,638)	-	-
36				
37	Total - Facilities	<u>\$ 8,678,510</u>	<u>\$ 12,599,245</u>	<u>\$ 12,456,134</u>
38				
39	<u>Materials, Supplies, & Equipment</u>			
40	Equipment & Tools < \$1,000	\$ 233,615	\$ 200,000	\$ 115,065
41	Hardware < \$1,000	206,033	148,723	236,051
42	Software < \$1,000	116,354	143,704	158,406
43	Equipment Maintenance	136,222	122,571	156,000
44	Office Supplies	101,943	117,553	84,124
45	Equipment Rental	56,220	84,580	31,716
46	Chemical Supplies	47,054	50,405	52,488
47	Vehicle Maintenance	14,417	12,624	12,635
48	Toner/Ink Cartridges	225	-	-
49	Misc Equip Repairs	2,374	406	31,359
50	Total - Equipment	<u>\$ 914,458</u>	<u>\$ 880,566</u>	<u>\$ 877,844</u>
51				
52	Total - Facilities & Equipment	<u>\$ 9,592,968</u>	<u>\$ 13,479,810</u>	<u>\$ 13,333,978</u>

ERCOT Fiscal Year 2012 Budget

Employee Expenses

Line	Description	2010 Actual	2011 Budget	2012 Proposed Budget
1	<u>Employee Expenses - Training</u>			
2	Training Travel	\$ 351,427	\$ 397,248	\$ 446,967
3	College Education Reimbursement	55,320	57,649	64,864
4	Subtotal - Training	\$ 406,747	\$ 454,896	\$ 511,831
5				
6	<u>Employee Expenses - Business</u>			
7	Cellular Phone	\$ 212,424	\$ 205,988	\$ 231,770
8	Business Travel	313,691	247,756	278,765
9	Remote System Access	44,864	42,998	48,380
10	Professional Dues	35,600	35,709	40,178
11	Wireless PC Card	39,109	33,308	37,476
12	Subtotal - Business	\$ 645,688	\$ 565,760	\$ 636,569
13				
14	Total - Employee Expenses	\$ 1,052,435	\$ 1,020,656	\$ 1,148,400
15				
16	FTEs	632	584	638
17				
18	Average Cost per FTE	\$ 1,665	\$ 1,748	\$ 1,800
19	Notes: 1. 2010 based on ERCOT employee counts and employee expense costs, inclusive of project efforts. 2. 2011 through 2017 budgets based on Full Time Equivalency counts and employee expenses for Base Operations only.			
20				
21				
22				
23				

ERCOT Fiscal Year 2012 Budget

Other Expenses

Line	Description	2010 Actual	2011 Budget	2012 Proposed Budget
1	<u>Other Expenses</u>			
2	Insurance Premiums	\$ 1,808,944	\$ 1,832,639	\$ 1,855,100
3	Subscriptions-Data Services	1,283,658	1,381,180	1,343,391
4	Recruiting Expense	77,924	90,749	114,000
5	Publications - Media	10,233	10,296	112,425
6	Dues	30,967	77,335	80,163
7	Subscriptions-Training	-	60,000	80,000
8	Reward & Recognition	47,489	25,000	60,000
9	Job Posting Advertising	54,484	50,000	50,000
10	Sponsored Meetings	31,946	42,837	46,603
11	Report Printing	6,336	38,721	32,058
12	Employment Screening	-	20,000	25,000
13	Express Shipping	19,996	20,783	23,449
14	Postage & Delivery	6,175	7,375	7,714
15	Corporate Events	11,208	7,000	7,000
16	Miscellaneous	1,841	6,175	572
17	Tax - Sales, Excise & Use	57,614	-	-
18	Total - Other Expenses	\$ 3,448,815	\$ 3,670,088	\$ 3,837,474

3. Update on Commodities Exchange Act Exemption: Summary

Mark Ruane

As authorized by the Board in May, ERCOT is in the process of preparing an application for a Commodity Exchange Act exemption with the CFTC.

- ERCOT is continuing discussions with the CFTC with respect to the scope and terms of an exemption.
- The joint exemption application with the other ISOs/RTOs is expected to be filed shortly.
- At this time ERCOT expects to continue to seek Central Counterparty (CCP) status, which appears to provide setoff protections in bankruptcy.

3. Update on Commodities Exchange Act Exemption: Expected CFTC Conditions for CEA Exemption

- 1. Reduced settlement timeline**
- 2. Two-day limit to 'cure' collateral calls**
- 3. Elimination of unsecured credit for CRR market**
- 4. Limitation on unsecured credit of \$50 million**
- 5. Disallowance of netting between CRR and non-CRR markets**
- 6. Setting criteria for market participation**

3. Update on Commodities Exchange Act Exemption: Expected CFTC Conditions for CEA Exemption

	Item	Status
1.	Reduce settlement timeline	<ul style="list-style-type: none">• NPRR 347 combines invoices for day-ahead and real time markets.• NPRR 391 shortens settlement cycle by one day and eliminates Automated Clearing House (ACH) payments.
2.	Two-day limit to cure collateral calls	No action necessary.
3.	Elimination of unsecured credit in CRR market	NPRR to be filed in July.
4.	\$50 million limitation on unsecured credit	Revision to Creditworthiness Standard for CWG review in early August.
5.	Disallowance of netting between CRR and non-CRR markets	NPRR to be filed in July.
6.	Criteria for market participation	Drafting of proposals for stakeholder review expected to begin shortly.

3. Update on Commodities Exchange Act Exemption: Expected Conditions of CFTC CEA Exemption

6. Criteria for market participation

Individual ISOs/RTOs are developing participation criteria through their respective stakeholder processes. Proposals made public thus far are broadly similar in scope.

- **Management certification** - Annual officer certification attesting to:
 - Sufficiency of risk management capabilities
 - Written policies, procedures and controls
 - Framework to identify the risks to which the participant is exposed
 - In some cases, requirements for appropriate segregation of duties and use of specified risk metrics
 - Expertise in ISO/RTO markets
 - Participants must have traders complete market training
 - Traders in financial products must attend product-specific training
 - New applicants must complete training prior to participation

3. Update on Commodities Exchange Act Exemption: Expected Conditions of CFTC CEA Exemption

6. Criteria for market participation

- **Ability to respond to ISO direction**
 - Adequate operating procedures and technical abilities to respond
- **Adequate capitalization**
 - \$1 million tangible net worth (parent level), or
 - \$10 million in assets, or
 - Up to \$500,000 in additional collateral requirements for participants not meeting capitalization standards.
 - Requirements may be less for participants not active in FTR/CRR markets.
 - Additional collateral not available to support other credit requirements.

3. Update on Commodities Exchange Act Exemption: Expected Conditions of CFTC CEA Exemption

6. Criteria for market participation

In addition to attestation requirement, proposals address ISO/RTO verification of risk management capabilities.

- FTR/CRR market participants may be required to submit current risk management policies, procedures and controls for the trading entity to the ISO/RTO.
- These are reviewed by the ISO/RTO to verify broad conformance with generally accepted practices for entities trading in FTR/CRR markets.
- ‘Generally accepted practices’ may be determined by reference to external authorities.
- Ongoing market participation conditioned on acceptability of risk management and controls.

ERCOT anticipates drafting attestation and verification proposals for stakeholder review as CFTC exemption requirements are finalized.

4. Recommended Changes to Standard Forms of Letter of Credit and Market Participant Guarantee Agreements

Last year, the Finance & Audit (F&A) Committee requested that ERCOT Staff conduct a review of the Market Participant (MP) Guarantee Agreement to ensure that the standard form document adequately protects ERCOT's and MPs' interests.

In addition to formatting and non-substantive changes, ERCOT Staff recommends the following substantive changes to standard forms of the Letter of Credit and MP Guarantee Agreement:

Letter of Credit (LOC)

1. Broader demand and presentation language for drawing down on the LOC.
2. Additional time for Beneficiary (ERCOT) to present when Issuing Bank is not open for business on the expiration or termination date of the LOC.
3. Evergreen provision – automatically extended and renewed for one (1) year unless Beneficiary given sixty (60) days prior notice.
4. Corporate debt rating provision – Beneficiary may demand payment of the entire Amount of the LOC if Issuing Bank's corporate debt rating falls below that required by the ERCOT Protocols (Creditworthiness Standards).
5. Termination provision – Issuing Bank may terminate the LOC with sixty (60) days written notice. Beneficiary may demand payment within thirty (30) days before termination date if MP fails to replace the LOC.

4. Recommended Changes to Standard Forms of Letter of Credit and Market Participant Guarantee Agreements

MP Guarantee Agreement

1. Clarified additional expressed waiver provisions, such as right to receive notice of changes to Agreement or ERCOT Protocols and any claim for setoff. (Section 5)
2. Evergreen provision – automatically extended and renewed for one (1) year unless at least sixty (60) days prior to the expiration date Guarantor sends written notice to ERCOT. (Section 9)
3. Substitute Collateral provision – Agreement may be automatically terminated by Guarantor if an LOC is posted in respect of the Obligations of MP. (Section 9)
4. Added additional Guarantor representations and warranties, such as financial condition of Guarantor, default status, and subrogation to the payment of the Obligations. (Section 10)
5. Added additional Guarantor covenant to provide ERCOT with any and all financial information when requested. (Section 11)
6. Assignment rights – clarified ERCOT's written consent prior to Guarantor assignment of its rights and obligations under Agreement. (Section 22).

4. Recommended Changes to Standard Forms of Letter of Credit and Market Participant Guarantee Agreements

Joint Credit Work Group (CWG) / Market Credit Work Group (MCWG) Participation

January 30, 2011:

ERCOT Staff sent out email notice to CWG/MCWG asking for comments and proposed changes to standard forms.

February 16, 2011:

MPs submitted comments and proposed changes to standard forms.

February 23, 2011 and March 30, 2011:

ERCOT Staff discussed timeline and proposed changes at Joint CWG/MCWG meeting.

May 1, 2011:

ERCOT Staff sent out first working version drafts with proposed changes to standard forms to CWG/MCWG.

May 4, 2011:

ERCOT Staff discussed proposed changes to standard forms at Joint CWG/MCWG meeting.

May 11, 2011:

ERCOT Staff held conference call with interested parties to discuss scope of proposed changes to standard forms.

May 13, 2011:

MPs submitted additional comments and proposed changes to standard forms.

May 25, 2011:

ERCOT staff discussed final proposed changes at Joint CWG/MCWG meeting.

May 27, 2011:

ERCOT Staff distributes all documents to CWG for an email vote.

June 3, 2011:

Segment Votes – 3 Yes, 1 No (Investor Owned Utilities)

4. Recommended Changes to Standard Forms of Letter of Credit and Market Participant Guarantee Agreements

Final Points

CWVG Members who voted “No” recommended changes such as elimination of all waivers, lessen thirty (30) day notice to terminate, choice of governing law other than Texas, etc.

The following standard forms have been revised and are included herein as Attachments A – E.

1. Letter of Credit
2. Market Participant Guarantee Agreement (General Use Version)
3. Market Participant Guarantee Agreement (3rd Party Version)
4. Foreign Market Participant Guarantee Agreement (General Use Version)
5. Foreign Market Participant Guarantee Agreement (3rd Party Version)

Next Steps

ERCOT Staff recommends that the F&A Committee approve the revised versions identified above and make such recommendation for approval to the ERCOT Board of Directors as new standard forms for use by the market.

4. Recommended Changes to Standard Forms of Letter of Credit and Market Participant Guarantee Agreements

Letter of Credit attached as separate document



**IRREVOCABLE AND UNCONDITIONAL
STANDBY LETTER OF CREDIT**

“Market Participant Applicant”:

[Name]

[Address]

“Amount”: _____ U.S. Dollars

~~Expiration Date:~~

“Date of Issuance”: _____

“Issuing Bank”:

[Name]

[Address]

[Phone]

[Fax]

“Beneficiary”:

Electric Reliability Council of Texas, Inc. ~~(“ERCOT”)~~

~~Attn: Finance~~ Credit

7620 Metro Center Drive

Austin, Texas 78744

~~Attn: Finance~~

Facsimile No. –(512) 225-7020

To ~~Whom It May Concern~~ Beneficiary:

~~We~~ The undersigned Issuing Bank hereby ~~establish~~ establishes in your favor, effective immediately, ~~our an~~ Irrevocable and Unconditional Standby Letter of Credit No. _____ (**“Letter of Credit”**) ~~which~~ in the amount of _____ U.S. Dollars.

This Letter of Credit is available for payment upon ~~your advice of demand at sight at our counters~~ at: _____, upon demand to the attention of _____ by telephone at _____, or upon demand by fax at _____ and presentation to us (a) at sight at our counters, or (b) by fax of the following: (i) your written demand for payment containing the text of Exhibit I attached hereto, and (ii) your statement containing the text of Exhibit II-, Exhibit IV, Exhibit V, or Exhibit VI attached hereto. If presentation is made by facsimile, original documents will be delivered to us at the address stated above.

Funds may be drawn under this Letter of Credit, from time to time, in one or more drawings, in amounts not exceeding in the aggregate the ~~amount specified above~~ Amount specified above. Partial drawings shall reduce the Amount thereafter available for drawing under this Letter of Credit.

Upon presentation to us in conformity with the foregoing, we will, not later than the close of business on ~~the~~ its ~~our~~ next local banking day after ~~such~~ presentation, but without any other delay whatsoever, irrevocably and without reserve or condition issue payment instructions to the Federal Reserve wire transfer system in proper form to transfer to the account at the bank designated by you in the demand, the full amount demanded by you in the same-day funds which are immediately available to you in Austin, Texas— up to the Amount of this Letter of Credit.

We agree that if, on the expiration or termination date of this Letter of Credit, ~~the~~ our office specified above is not open for business, for any reason whatsoever (including without limitation an event under Article 36 of the UCP (Force Majeure)), this Letter of Credit will be duly honored if the specified ~~statements~~ documents are presented by you within ~~three~~ (thirty (30)) full banking days after such office is reopened for business.

Payment hereunder shall be made regardless of: (a) any written or oral direction, request, notice or other communication now or hereafter received by us from the Market Participant Applicant or any other person except you, including without limitation any communication regarding fraud, forgery, lack of authority or other defect not apparent on the face of the documents presented by you, but excluding solely an effective written order issued ~~otherwise~~, other than at our instance, by a court of competent jurisdiction which order is legally binding upon us and specifically orders us not to make such payment; (b) the solvency, existence or condition, financial or other, of the Market Participant Applicant or any other person or property from whom or which we may be entitled to reimbursement for such payment; and (c) without limiting clause (b) above, whether we are in receipt of or expect to receive funds or other property as reimbursement in whole or in part for such payment. We agree that we will not take any action to cause the issuance of an order described in clause (a) of the preceding sentence.

We further agree that the time set forth herein for payment of any demand(s) for payment is sufficient to enable us to examine such demand(s) and the related documents(s) referred to above with care so as to ascertain that on their face they appear to comply with the terms of this Letter of Credit and that if such demand(s) and document(s) on their face appear to so comply, failure to make any such payment within such time shall constitute dishonor of such demand(s) and this Letter of Credit.

The ~~Except as stated~~ amount ~~therein~~, payment is not subject to any condition or qualification. The only documents required to be presented for payment are Exhibit I and one of the following: Exhibit II, Exhibit IV, Exhibit V, or Exhibit VI. Our obligation under this Letter of Credit shall be our individual obligation and in no way is contingent upon reimbursement with respect thereto.

The stated Amount of this Letter of Credit may be increased or decreased, ~~and the expiration date of this Letter of Credit may be extended~~, by an amendment to this Letter of Credit in the form of Exhibit III. Any such amendment shall become effective only upon acceptance by your signature on a hard copy amendment.

You shall not be bound by any written or oral agreement of any type between us and the Market Participant Applicant or any other person relating to this Letter of Credit, whether now or hereafter existing.

We hereby engage with you that your demand(s) for payment in conformity with the terms of this Letter of Credit will be duly honored as set forth above. All fees and other costs associated with the

The undersigned does hereby certify that _____[**drawer**]_____ is the successor by operation of law to ERCOT, a beneficiary named in [Name of Issuing Bank] Letter of Credit No. _____ and we attach herewith copies of official documents proving our legal status as successor.

[Name of Issuing Bank] hereby notifies you that
~~Except so far as otherwise expressly stated herein, this~~ Irrevocable and Unconditional
Standby Letter of Credit No. _____ (“**Letter of Credit**”) in the amount of
_____ U.S. Dollars dated _____ issued by [Name of Issuing
Bank] in your favor for the account of [Name of Market Participant Applicant] will
terminate sixty (60) days following your receipt of this Notice of Termination.

In the event that we notify you in writing that we elect to terminate this Letter of Credit, you may at any time within thirty (30) days before the termination date demand payment of the entire Amount of this Letter of Credit upon presentation of (a) your written demand for payment containing the text of Exhibit I attached hereto, and (b) your statement containing the text of Exhibit VI attached hereto. The demand rights in this paragraph are in addition to any other rights under this Letter of Credit.

Notwithstanding our ability to terminate this Letter of Credit on the terms set forth above, this Letter of Credit is irrevocable and unconditional.

This Letter of Credit may not be assigned or transferred by us.

Except so far as otherwise is stated herein, this Letter of Credit shall be subject to and governed by the "Uniform Customs and Practices for Documentary Credits," UCP 600 International Chamber of Commerce, 2007 Revision (the "UCP"), in effect on the date of issuance of this Letter of Credit. This Letter of Credit shall also be governed by the laws of the State of Texas to the extent that the terms of the UCP are not applicable; provided that, in the event of any conflict between the UCP and Texas law, the UCP shall control. To the extent the terms of this Letter of Credit are inconsistent with the provisions of the UCP and/or Texas law, the terms of this Letter of Credit shall govern.

Yours faithfully,

ISSUING BANK

(Name of Issuing Bank)

By: _____

Title: _____

EXHIBIT I

DEMAND FOR PAYMENT

Re: Irrevocable and Unconditional Standby Letter of Credit

No. _____ Dated: _____, _____

To Whom It May Concern:

Demand is hereby made upon you for payment to us of \$_____ by deposit to our account no. _____ at [Name of [Issuing](#) Bank]. This demand is made under, and is subject to and governed by, your Irrevocable and Unconditional Standby Letter of Credit No. _____ dated _____, _____ in the amount of \$_____ established by you in our favor for the account of _____ as the Market Participant Applicant.

DATED: _____, _____.

Electric Reliability Council of Texas, Inc.

By: _____

Title: _____

EXHIBIT II

STATEMENT OF AMOUNT DUE

Re: Irrevocable and Unconditional Standby Letter of Credit
No. _____ Dated: _____, _____

To Whom It May Concern:

Reference is made to your Irrevocable and Unconditional Standby Letter of Credit No. _____
dated _____, _____ in the amount of \$_____ established by you in our favor for the
account of _____.

We hereby certify to you that \$_____ is due and owing to us by the Market
Participant Applicant, under and in accordance with the ERCOT Protocols.

DATED: _____, _____.

Electric Reliability Council of Texas, Inc.

By: _____

Title: _____

EXHIBIT III

AMENDMENT

Re: Irrevocable and Unconditional Standby Letter of Credit

No. _____ Dated: _____, _____

Beneficiary:

Market Participant Applicant:

Electric Reliability Council of Texas, Inc. (ERCOT)
7620 Metro Center Drive
Austin, Texas 78744
Attn: [FinanceCredit](#)

[Name and Address]

To Whom It May Concern:

The above referenced Irrevocable and Unconditional Standby Letter of Credit is hereby amended as follows: by increasing / decreasing / leaving unchanged (*strike two*) the stated amount by \$_____ to a new stated amount of \$_____ ~~or by extending the expiration date to _____ from _____.~~ All other terms and conditions of the Irrevocable and Unconditional Letter of Credit remain unchanged.

This amendment is effective only when accepted by ERCOT, which acceptance may only be valid by a signature of an authorized representative.

Dated: _____

Yours faithfully,

[Name of Issuing Bank]

By: _____

Title: _____

ACCEPTED:

Electric Reliability Council of Texas, Inc.

By: _____

Title: _____

Date: _____

EXHIBIT IV

STATEMENT REGARDING ISSUER'S NONRENEWAL

Re: Irrevocable and Unconditional Standby Letter of Credit
No. _____ Dated: _____.

To Whom It May Concern:

Reference is made to your Irrevocable and Unconditional Standby Letter of Credit No. _____
dated _____, _____ in the amount of \$ _____ established by you in our favor for the
account of _____.

We hereby certify to you that ERCOT has not received an extension or replacement of said Letter
of Credit and/or other acceptable replacement collateral from Market Participant Applicant in
accordance with the ERCOT Protocols.

DATED: _____.

_____ Electric Reliability Council of Texas, Inc.

_____ By:

_____ Title:

EXHIBIT V

STATEMENT REGARDING ISSUER RATING

Re: Irrevocable and Unconditional Standby Letter of Credit
No. _____ Dated: _____.

To Whom It May Concern:

Reference is made to your Irrevocable and Unconditional Standby Letter of Credit No.
dated _____, in the amount of \$ _____ established by you in our favor for the
account of _____.

We hereby certify to you that Issuing Bank has not maintained a corporate debt rating required by
the ERCOT Protocols and Market Participant Applicant has failed to replace the Letter of Credit in a
manner acceptable to ERCOT and/or provide other acceptable replacement collateral from Market
Participant Applicant in accordance with the ERCOT Protocols.

DATED: _____.

_____ Electric Reliability Council of Texas, Inc.

_____ By:

_____ Title:

EXHIBIT VI

STATEMENT REGARDING TERMINATION

Re: Irrevocable and Unconditional Standby Letter of Credit
No. _____ Dated: _____, _____

To Whom It May Concern:

Reference is made to your Irrevocable and Unconditional Standby Letter of Credit No. _____
dated _____, _____ in the amount of \$ _____ established by you in our favor for the
account of _____.

We hereby certify to you that ERCOT received notice that the Letter of Credit will be terminated.
We further certify that Market Participant Applicant has failed to replace the Letter of Credit in a manner
acceptable to ERCOT and/or provide ERCOT with other acceptable replacement collateral in accordance
with the ERCOT Protocols.

DATED: _____, _____.

_____ Electric Reliability Council of Texas, Inc.

_____ By:

_____ Title:

4. Recommended Changes to Standard Forms of Letter of Credit and Market Participant Guarantee Agreements

**Market Participant Guarantee Agreement (General Use Version)
attached as separate document**



MARKET PARTICIPANT GUARANTEE AGREEMENT

This MARKET PARTICIPANT GUARANTEE AGREEMENT (this “Guarantee”) is made by the undersigned entity (together with its permitted successors and assigns, the “Guarantor”) in favor of ELECTRIC RELIABILITY COUNCIL OF TEXAS, INC. (together with its successors and assigns, “ERCOT”). The Guarantor and ERCOT shall be referred to herein collectively as “Parties”.

Recitals

A. ERCOT has entered into a Standard Form Market Participant Agreement (hereinafter the “Agreement” as the same may be modified through the procedure ~~for modifying ERCOT Protocols described set forth~~ in the ERCOT Protocols, “Agreement”) with the Market Participant identified on the signature page hereof (together with its permitted successors and permitted assigns, the “Participant”).

B. Pursuant to the Agreement and the related ERCOT Protocols (as such term is defined in the Agreement), ERCOT may extend credit to Participant from time to time.

C. It is expressly agreed and understood by and among Participant, ERCOT and Guarantor that: (1) the execution and delivery to ERCOT of this Guarantee is a condition precedent to ERCOT entering into the Agreement, the continuation of transactions with Participant pursuant to the Agreement and the extension of credit to Participant pursuant to the Agreement and the related ERCOT Protocols, (2) ERCOT has relied, and will continue to rely, upon this Guarantee and the terms and representations herein in entering into transactions as contemplated by the Agreement and the related ERCOT Protocols, and (3) ERCOT would not enter into the Agreement, or otherwise enter into or continue transactions with Participant, without this Guarantee.

D. The value of the consideration and benefit received and to be received by Guarantor, directly or indirectly, as a result of ERCOT entering into the Agreement and Guarantor executing and delivering this Guarantee, is reasonably worth at least as much as the liability and obligation of Guarantor hereunder, and the extension of credit to Participant pursuant to the Agreement has or may reasonably be expected to benefit the Guarantor directly or indirectly.

E. In connection with the foregoing, Guarantor desires to guarantee to ERCOT the prompt and full payment of the Obligations (as defined below) upon the terms and conditions contained in this Guarantee.

Agreements

Section 1. In consideration of credit heretofore or hereafter granted by ERCOT to Participant pursuant to the Agreement or the related ERCOT Protocols, Guarantor hereby unconditionally, absolutely and, subject to the express provisions of Sections 9 and 20 hereof, irrevocably guarantees to ERCOT, as a primary obligor and not as a surety, the punctual payment when due (subject to any grace period applicable to the Obligations (as defined below)), whether on a scheduled date, by lapse of time, by acceleration of maturity, or otherwise any and all of the Obligations. As used in this Guarantee, the term “Obligations” means, collectively:

(a) any and all indebtedness, liabilities and sums of money now or hereafter due ~~or~~ and owing by Participant to ERCOT pursuant to, or arising under, the Agreement, the ERCOT Protocols or any of the ERCOT market and operating guides, including (without limitation) all scheduling, operating, planning, reliability and settlement policies, rules, guidelines and procedures established from time to time ~~in~~ by ERCOT;

(b) any and all interest and out-of-pocket expenses (including reasonable attorneys' fees) ~~contemplated to be paid now or hereafter due and owing~~ by Participant pursuant to the Agreement, the ERCOT Protocols or any of the ERCOT market and operating guides, in each instance whether or not allowed under any Debtor Relief Law (including all post-petition interest accruing after the commencement of any bankruptcy or insolvency proceeding by or against Participant, whether or not allowed in such proceeding), and all other amounts that would be part of the Obligations but for the operation of Debtor Relief Laws;

(c) all assessments and other amounts required to be paid by Participant to ERCOT in order to maintain the Agreement and the ability to conduct business with ERCOT notwithstanding the continuing right of Participant to dispute, contest or pursue rights of setoff of such assessments and other amounts pursuant to the alternative dispute resolution provisions of the ERCOT Protocols; and

(d) all reasonable costs, expenses and fees, including, without limitation, court costs and attorneys' fees, arising in connection with the collection of any or all amounts, indebtedness, obligations and liabilities of Participant to ERCOT described in clauses (a) through (c) of this sentence.

For purposes of this Guarantee, the term "**Debtor Relief Laws**" shall mean Title 11 of the United States Code, as now or hereafter in effect, or any other applicable law, domestic or foreign, as now or hereafter in effect, relating to bankruptcy, insolvency, liquidation, receivership, reorganization, arrangement or composition, extension or adjustment of debts, or other debtor relief, or similar laws affecting the rights of creditors.

Section 2. Notwithstanding the foregoing, the maximum amount of the Obligations for which Guarantor shall be liable personally hereunder shall not exceed the sum of the following from time to time:

(a) the then-applicable Credit Support Amount (as defined below); plus

(b) interest in respect of the Obligations (to the extent permitted by applicable state law, the Agreement, the ERCOT Protocols or any of the ERCOT market and operating guides) for periods after the date on which written demand is made for payment hereunder by ERCOT; plus

(c) Expenses (as defined below).

For purposes of this Guarantee, the term "**Credit Support Amount**" shall mean the amount designated as such on the signature page to this Guarantee as the same may be increased or decreased by written agreement between the Guarantor ~~and~~ ERCOT.

Section 3. Guarantor is liable for the full payment of the Obligations, subject to the express limitations provided in Section 2, as a primary obligor. This is a continuing guarantee ~~for~~of payment and not of collection. Guarantor acknowledges and agrees that Guarantor may be required to pay the Obligations in full without assistance or support from Participant or any other person. Guarantor agrees that if all or any part of the Obligations shall not be punctually paid when due, whether on the scheduled payment date, by lapse of time, by acceleration of maturity or otherwise, Guarantor shall pay~~-~~, at or before 5:00 P.M. Central Prevailing Time on the second Business Day (as such term is defined in the ERCOT

Protocols) immediately following the issuance of written demand by ERCOT to Guarantor, the amount due on the Obligations to ERCOT in accordance with the terms hereof. ERCOT may, but shall have no obligation to, make such demand(s) at any time coincident with or after the time for payment of all or part of the Obligations, and such demand(s) may be made from time to time with respect to the same or different items of the Obligations. Such demand(s) may be made, given and received in accordance with the notice provisions hereof; provided, however, the failure to make, give or receive any such demand (or any failure of any such demand to be made in accordance with the notice provisions hereof) shall not relieve, limit or discharge Guarantor in any respect of its obligations under this Guarantee. Guarantor hereby waives any condition or requirement with respect to any such demand under this Guarantee, and Guarantor agrees that Guarantor's obligations hereunder are absolute and immediate without requirement of presentment, protest, notice of protest, notice of nonpayment, notice of intent to accelerate, notice of acceleration or any other notice whatsoever (all of which are expressly waived), except as may expressly be required hereunder.

Section 4. If Guarantor is or becomes liable for any indebtedness or obligations owing by Participant to ERCOT other than through this Guarantee, the liability of Guarantor for such other indebtedness shall not in any manner be impaired or affected hereby or the limits contained herein, and the rights of ERCOT hereunder shall be cumulative of any and all other rights that ERCOT may have against Guarantor. If Participant is or becomes indebted to ERCOT for any indebtedness other than the Obligations, any payment received or recovery realized upon any such other indebtedness of Participant to ERCOT may be applied, in ERCOT's sole discretion, to indebtedness of Participant to ERCOT other than the Obligations, except to the extent paid by the Guarantor specifically in respect of the Obligations or as otherwise required by Law or written agreement of ERCOT to be applied to the Obligations. This Guarantee is independent of, and shall not be limited by, any other guaranty or collateral posted by or on behalf of Guarantor, in each instance whether now existing or hereafter given. Further, Guarantor's liability under this Guarantee is in addition to any and all other liability Guarantor may have in any other capacity, including, without limitation, its capacity as a general partner or managing member of Participant.

Section 5. Except as otherwise set forth in this Guarantee, Guarantor hereby expressly waives:

(a) any right to ~~revoke~~terminate this Guarantee with respect to the Obligations except as set forth in Section 9 below;

(b) any right to receive notice of any renewal, extension, modification, supplement or other change in the terms of the Agreement or the ERCOT Protocols;

(c) any right relating to the timing, manner or conduct of ERCOT's enforcement of rights against Participant's assets or any collateral from time to time pledged by, or on behalf of, Participant to secure the Obligations; ~~and~~

(d) if Guarantor and Participant (or any other person) have each pledged assets to secure the Obligations, any right to require ERCOT to proceed first against collateral pledged by Participant (or any other person) before proceeding against ~~the~~ collateral pledged by Guarantor; ~~and~~

(e) any claim for setoff or any defense which Participant could assert on the Obligations, including, without limitation, force majeure, breach of contract, breach of warranty, and fraud;

(f) promptness, diligence, notice of any default, notice of nonpayment or nonperformance, notice of acceleration or intent to accelerate, acceptance or notice of acceptance of this Guarantee, presentment, protest, notice of protest, notice of dishonor, notice of the incurring by Participant of additional indebtedness, notice of any suit or other action by ERCOT against Participant or any other person, any notice to any person liable for the obligation which is the subject of the suit or action, and all other notices and demands with respect to the Obligations and this Guarantee; ~~and~~

(g) any and all rights to which it may be entitled by virtue of the laws of the State of Texas governing suretyship and guarantees, including, without limitation, any rights under Rule 31, Texas Rules of Civil Procedure, Section 17.001 of the Texas Civil Practice and Remedies Code and Chapter 34 of the Texas Business and Commerce Code, as any or all of the same may be amended or construed from time to time, or the common law of the State of Texas at all relevant times; ~~and~~

(h) any defense due to the Guarantor's failure to review the activities of Participant or any changes in the Agreement, the ERCOT Protocols or the related ERCOT market and operating guides (it being acknowledged and agreed that Guarantor bears all responsibility for monitoring the activities of the Participant in the ERCOT markets); ~~and~~

(i) any and all other demands and notices to Guarantor or Participant, and any and all other formalities of any kind, the omission of or delay in performance of which might but for the provisions of this Section constitute legal or equitable grounds for relieving or discharging Guarantor in whole or in part from its irrevocable, absolute and continuing obligations hereunder.

In furtherance of the foregoing, Guarantor agrees that (i) it is not necessary for ERCOT, in order to enforce Guarantor's payment hereunder, first to proceed against Participant or resort to any collateral, security or other guarantors or obligors, if any, or pursue any other remedy available to ERCOT with respect to the Obligations, and (ii) the Agreement, the ERCOT Protocols, and any collateral, security or obligations of any other guarantors or obligors, if any, may be renewed, extended, amended, modified, supplemented, sold, released, surrendered, exchanged, settled, compromised, waived, subordinated or modified, in each case without consideration and on any terms or conditions, without notice to, or further assent from, the Guarantor.

Section 6. The obligations of Guarantor hereunder are absolute and unconditional irrespective of:

(a) the invalidity or unenforceability of the Agreement; ~~and~~

(b) the bankruptcy or insolvency of, or the effect of application of any Debtor Relief Laws to, the Participant; ~~and~~

(c) any claim for setoff or any defense which Participant could assert on the Obligations, including, without limitation, force majeure, breach of contract, breach of warranty, and fraud; ~~and~~

(d) any substitution, release or exchange of any other guaranty of or security for any of the Obligations; ~~and~~

(e) the existence or terms of any other agreements between Guarantor and any party, including Participant; and

(f) to the fullest extent permitted by applicable law, irrespective of any other circumstances whatsoever that might otherwise constitute a legal or equitable discharge or defense of a guarantor, it being the intent of this Guarantee that the obligations of Guarantor hereunder shall be absolute and unconditional under any and all circumstances: (except as otherwise set forth in this Guarantee).

Section 7. All rights of Guarantor to proceed against Participant in respect of payment hereunder, by subrogation or otherwise

(a) are hereby subordinated and deferred to and until the full and final payment and discharge of the Obligations; and

(b) Guarantor may not exercise any rights it may acquire by way of subrogation under this Guarantee, by payment made hereunder or otherwise, until all of the Obligations then due and payable have been fully and finally paid. Subject to the subordination herein provided, with respect to any payments made by Guarantor to ERCOT under this Guarantee, Guarantor may succeed to any rights of Participant under the Agreement and the ERCOT Protocols. Guarantor does not waive or release any rights of subrogation, reimbursement or contribution which Guarantor may have after full and final payment of the then due and unpaid Obligations.

Section 8. All remedies, rights, powers and privileges granted to ERCOT pursuant to this Guarantee are cumulative. The exercise of any or all such rights by ERCOT shall not reduce, limit, impair, discharge, terminate, or otherwise affect the liability of Guarantor. No failure or delay by ERCOT in exercising any remedy, right, power or privilege pursuant to this Guarantee shall operate as a waiver, and any such remedy, right, power or privilege may be exercised by ERCOT at any time. No partial exercise of any such rights shall preclude further exercise or the exercise of any other remedy, right, power or privilege. No notice or demand by ERCOT upon Guarantor or any other guarantor of the Obligations shall preclude ERCOT from taking further action without notice or demand.

Section 9. The term of this Guarantee shall be for a period of one (1) year, commencing on the date set forth below—and expiring one (1) year later.

(a) Notwithstanding the foregoing, this Guarantee shall be automatically renewed and extended without amendment for one (1) year from the expiration date hereof, or one (1) year from any future expiration date, unless at least sixty (60) days prior to the expiration date the Guarantor sends written notice to ERCOT stating that Guarantor elects not to renew or extend this Guarantee;

(b) Notwithstanding the foregoing, this Guarantee may be terminated by Guarantor at any time by:

(i) a written notification of termination given by Guarantor to ERCOT ~~at the address shown below. Such termination, or~~

(ii) posting, or causing to be posted, in respect of the Obligations of Participant, a letter of credit in an amount and form

determined by ERCOT in accordance with the ERCOT Protocols (the "Substitute Collateral").

Termination pursuant to Section 9(b)(i) shall be effective thirty (30) days after the receipt by ERCOT of such written notification of termination. ~~Guarantor~~ Termination pursuant to Section 9(b)(ii) shall be effective upon ERCOT's confirmation of receipt of the Substitute Collateral;

(c) If Guarantor elects not to renew or extend this Guarantee in accordance with sSection 9(a) or Guarantor terminates this Guarantee in accordance with Section 9(b), Guarantor shall remain liable for any Obligations hereunder arising before the effective date of nonrenewal, non-extension, or termination. Guarantor expressly agrees and acknowledges that this Guarantee applies to all Obligations arising or committed to prior to the effective date of the termination of this Guarantee, whether by notification of nonrenewal, non-extension, or termination, or by expiration of the term; and

(d) Notwithstanding any other provision in this Guarantee, this Guarantee shall continue in effect or shall automatically be reinstated if at any time payment, or any part thereof, made by Participant or Guarantor to ERCOT during the term of this Guarantee with respect to any of the Obligations is rescinded or set aside for any reason, or must otherwise be repaid by ERCOT as a result of application of any Debtor Relief Laws or otherwise.

Section 10. Guarantor hereby represents and warrants to ERCOT, which representations shall be deemed repeated continually during the term hereof, that:

(a) this Guarantee is duly authorized and valid, and is binding upon and enforceable against Guarantor (subject, in each instance, to the effect of applicable Debtor Relief Laws); and the person executing this AgreementGuarantee on behalf of the Guarantor has full power and authority to bind the Guarantor to this AgreementGuarantee;

(b) the execution and delivery of, and the performance by Guarantor of its obligations under this Guarantee do not contravene or conflict with (i) any provision of the Guarantor's organizational, constituent or governing documents, or (ii) any law, regulation, decree, order, judgment, resolution or any contractual restriction binding on Guarantor or its assets that could affect, in a materially adverse manner, the ability of the Guarantor to perform any of its obligations hereunder;

(c) Guarantor (i) is duly organized, validly existing, and in good standing under the laws of the state of its organization and (ii) and has full power and authority to enter into, and to perform its obligations under, this Guarantee;

(d) there is no litigation pending or, to the knowledge of Guarantor, threatened, before or by any tribunal against or affecting Guarantor which seeks to limit, prevent, enjoin or delay the Guarantor's performance of its obligations under this Guarantee, except as may be disclosed by the Guarantor to ERCOT or in the Guarantor's filing with the Securities and Exchange Commission;

_____(e) no bankruptcy or insolvency proceedings are pending or, to the best of Guarantor's knowledge, contemplated by or against Guarantor under any Debtor Relief Laws;

_____(f) ***NEITHER ERCOT NOR ANY AFFILIATE, EMPLOYEE, AGENT, OR REPRESENTATIVE OF ERCOT HAS MADE ANY REPRESENTATION, WARRANTY OR STATEMENT TO GUARANTOR IN ORDER TO INDUCE GUARANTOR TO EXECUTE THIS GUARANTEE, AND GUARANTOR HEREBY EXPRESSLY WAIVES ANY CLAIM OF FRAUDULENT INDUCEMENT TO EXECUTE THIS GUARANTEE AND FURTHER DISCLAIMS ANY RELIANCE ON STATEMENTS OR REPRESENTATIONS OF ERCOT OR ANY AFFILIATE, EMPLOYEE, AGENT, OR REPRESENTATIVE OF ERCOT IN WAIVING SUCH A CLAIM;***~~and~~

_____(g) any and all balance sheets, net worth statements, and other financial information with respect to Guarantor which have heretofore been given to ERCOT by Guarantor fairly and accurately present the financial condition of Guarantor as of the respective dates thereof;

(h) to the best of its knowledge, Guarantor is not in default under any agreements or contracts which may adversely affect Guarantor's ability to fulfill its obligations under this Guarantee;

(i) any indebtedness of Participant to Guarantor now or hereafter existing is hereby subordinated to the payment of the Obligations. As long as Participant is not in default on payment of the Obligations, Participant may make payments to Guarantor on any subordinated indebtedness in the ordinary course of business. After default by Participant on payment of the Obligations, any payments by Participant to Guarantor on account of such subordinated indebtedness shall be collected and received by Guarantor in trust for ERCOT and shall be paid over to ERCOT on account of the Obligations without impairing or releasing the obligations of Guarantor hereunder; and

(j) Guarantor has, independently and without reliance upon ERCOT, and based upon such documents and information as Guarantor has deemed appropriate, made its own analysis and decision to enter into this Guarantee.

Section 11. Guarantor hereby further covenants and agrees to ERCOT that:

_____(a) Guarantor will keep itself fully apprised of Participant's financial and business condition, and Guarantor shall be responsible, to the extent deemed necessary or advisable by Guarantor, for obtaining for itself information regarding Participant, the Agreement, the ERCOT Protocols and the ERCOT market and operating guides, and Guarantor acknowledges and agrees that ERCOT shall have no duty at any time to notify Guarantor of any information which ERCOT may have or acquire concerning Participant or to investigate or inform Guarantor of the financial or business condition or affairs of Participant or any change therein;~~and~~

_____(b) Guarantor will provide ERCOT with any and all financial information required to be submitted under ERCOT's credit policy and other financial information reasonably requested by ERCOT concerning or relating to Guarantor's financial condition within twenty (20) days after such written request by ERCOT.

Financial information shall include, at a minimum: most recent tax return, a balance sheet; an income and expense statement; a statement showing contingent liabilities; detailed cash flow statements; and any supporting schedules or documentation which ERCOT may require and is acceptable to ERCOT; and

(c) Guarantor's representations, warranties, covenants, waivers and agreements set forth in this Guarantee are a material inducement to ERCOT to enter into the Agreement and extend credit to Participant and shall survive the execution hereof and any bankruptcy, foreclosure, transfer of security or other event affecting Participant, Guarantor, any other person, or any security for all or any part of the Obligations.

Section 12. This Guarantee is executed and delivered as an incident to a transaction(s) negotiated and consummated in Travis County, Texas, and shall be governed by and construed in accordance with the Laws of the State of Texas, other than the conflicts of laws principles thereof. Guarantor, for itself and its successors and assigns, hereby irrevocably (i) submits to the non-exclusive jurisdiction of the state and federal courts in the State of Texas, (ii) waives, to the fullest extent permitted by Law, any objection that may now or in the future have as to the venue of any action, proceeding or litigation arising out of or in connection with this Guarantee brought in the District Court of Travis County, Texas, or in the United States District Court for the Western District of Texas, Austin Division, and (iii) agrees that any legal action or proceeding against Guarantor arising out of or in connection with this Guarantee may be brought in any one of the foregoing courts. Guarantor hereby agrees that service of process upon Guarantor may be made by certified or registered mail, return receipt requested, at its address specified herein. Nothing herein shall affect the right of ERCOT to serve process in any other manner permitted by law or shall limit the right of ERCOT to bring any action or proceeding against Guarantor or with respect to any of Guarantor's property in courts in other jurisdictions. Any action or proceeding by Guarantor against ERCOT shall be brought only in a court located in Travis County, Texas. The scope of each of the foregoing waivers is intended to be all encompassing of any and all disputes that may be filed in any court and that relate to the subject matter of this transaction, including, without limitation, contract claims, tort claims, breach of duty claims, and all other common law and statutory claims. Guarantor acknowledges that these waivers are a material inducement to ERCOT's agreement to enter into the Agreement, that ERCOT has already relied on these waivers and will continue to rely on each of these waivers in related future dealings. The waivers in Section 12 are irrevocable on the part of both ERCOT and Guarantor and may not be modified without the agreement of both ERCOT and Guarantor in writing as required pursuant to Section 23 below; these waivers apply to any future renewals, extensions, amendments, modifications, replacements or renewals of this Guarantee.

Section 13. If any provision or any part of any provision of this Guarantee or the application thereof to any person or circumstance shall, for any reason and to any extent, be judicially declared to be invalid or unenforceable, then neither the remaining provisions of this Guarantee nor the application of such provision to any other person or circumstance shall be affected thereby, and the remaining provisions of this Guarantee, or the applicability of such provision to other persons or circumstances, as the case may be, rather shall remain in effect and be enforceable to the maximum extent permitted by applicable law.

Section 14. From time to time, at the reasonable request of ERCOT, Guarantor will (a) promptly correct any ministerial or administrative defect, error or omission which may be discovered in the contents of this Guarantee; (b) execute, acknowledge and deliver (or cause to be executed, acknowledged and delivered) such further documents and instruments and perform such further acts and provide such further assurances as may be necessary, desirable, or proper, in ERCOT's opinion, (i) to

carry out more effectively the purposes of this Guarantee and the transactions contemplated hereunder, or (ii) to confirm the continuation of the rights created under this Guarantee for the benefit of ERCOT, including reaffirmation of the obligations hereunder from time to time upon the renewal hereof and the applicability of any changes in the Credit Support Amount.

Section 15. Time is of the essence in this Guarantee with respect to all of Guarantor's obligations hereunder.

Section 16. The recitals and introductory paragraphs hereof are a part hereof, form a basis for this Guarantee and shall be considered *prima facie* evidence of the facts and documents referred to therein.

Section 17. The Article, Section and Subsection entitlements hereof are inserted for convenience of reference only and shall in no way alter, modify, define, limit, amplify or be used in construing the text, scope or intent of such Articles, Sections or Subsections or any provisions hereof. Furthermore, words used in the singular shall include the plural and vice-versa, and any gender shall be deemed to include the other. Further, each party hereby acknowledges that such party and its counsel have reviewed and considered the effect of this Guarantee. As such, the terms of this Guarantee shall be fairly construed and the usual rule of construction, to the effect that any ambiguities herein should be resolved against the drafting party, shall not be employed in the interpretation of this Guarantee or any amendments, modifications, or exhibits.

Section 18. All sums payable under this Guarantee shall be by wire transfer of immediately available funds, without offset, in lawful money of the United States of America, which shall at the time of payment be legal tender for the payment of public and private debts. All payments shall be remitted to ERCOT's bank account as designated by written notice to Guarantor, whether through demand for payment or otherwise.

Section 19. EACH OF GUARANTOR AND ERCOT, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, HEREBY KNOWINGLY, INTENTIONALLY, IRREVOCABLY, UNCONDITIONALLY AND VOLUNTARILY, WITH, AND UPON THE ADVICE OF COMPETENT COUNSEL, WAIVES, RELINQUISHES AND FOREVER FORGOES ALL RIGHT TO A TRIAL BY JURY IN ANY ACTION, SUIT, PROCEEDING, OR COUNTERCLAIM BASED UPON, ARISING OUT OF, OR IN ANY WAY RELATING TO THIS GUARANTEE OR ANY CONDUCT, ACT, FAILURE TO ACT OR OMISSION OF OR BY ERCOT OR GUARANTOR, OR ANY OF THEIR RESPECTIVE DIRECTORS, OFFICERS, PARTNERS, MEMBERS, EMPLOYEES, AGENTS OR ATTORNEYS, OR ANY OTHER PERSONS AFFILIATED WITH ERCOT OR GUARANTOR, IN EACH OF THE FOREGOING CASES, WHETHER SOUNDING IN CONTRACT, TORT OR OTHERWISE, OR IN THE ENFORCEMENT OF ANY OF THE TERMS OR PROVISIONS OF THIS GUARANTEE. IT IS AGREED AND UNDERSTOOD BY EACH OF GUARANTOR AND ERCOT THAT THIS WAIVER CONSTITUTES A WAIVER OF TRIAL BY JURY OF ALL CLAIMS AGAINST ALL PARTIES TO SUCH ACTIONS OR PROCEEDINGS, INCLUDING CLAIMS AGAINST PARTIES WHO ARE NOT PARTIES TO THIS GUARANTEE. THIS WAIVER IS KNOWINGLY, WILLINGLY AND VOLUNTARILY MADE BY GUARANTOR AND ERCOT, AND EACH OF GUARANTOR AND ERCOT HEREBY REPRESENTS THAT NO REPRESENTATIONS OF FACT OR OPINION HAVE BEEN MADE BY ANY INDIVIDUAL TO INDUCE THIS WAIVER OF TRIAL BY JURY OR TO IN ANY WAY MODIFY OR NULLIFY ITS EFFECT. EACH OF GUARANTOR AND ERCOT FURTHER REPRESENTS AND WARRANTS THAT IT HAS BEEN REPRESENTED IN THE SIGNING OF THIS GUARANTEE AND IN THE MAKING OF THIS WAIVER BY INDEPENDENT LEGAL COUNSEL, OR HAS HAD THE OPPORTUNITY TO BE

REPRESENTED BY INDEPENDENT LEGAL COUNSEL SELECTED OF ITS OWN FREE WILL, AND THAT IT HAS HAD THE OPPORTUNITY TO DISCUSS THIS WAIVER WITH COUNSEL.

Section 20. Guarantor agrees to pay to ERCOT, upon demand, all reasonable out-of-pocket costs and expenses, including, without limitation, reasonable third-party attorneys' fees, that may be incurred by ERCOT in attempting to cause satisfaction of Guarantor's liability under this Guarantee ("Expenses").

Section 21. All notices or other communications hereunder shall be made by hand delivery, by next day delivery service or by certified mail, return receipt requested (receipt effective upon scheduled weekday delivery day) or facsimile (receipt effective upon receipt of evidence, including facsimile evidence, that facsimile was received) to the addresses for ERCOT and Guarantor set forth on the signature page of this Guarantee. For purposes of giving any required notices hereunder, the addresses, telephone numbers, and facsimile numbers of the ~~parties~~Parties are as set forth on the signature page of this Guarantee.

Section 22. This Guarantee shall bind the successors and assigns of Guarantor and shall inure to the benefit of ERCOT, its successors and assigns pursuant to the terms of the Agreement.

(a) ERCOT shall be permitted to assign its rights and delegate its obligations under this Guarantee, in whole or in part, without the consent of Guarantor or Participant.

(b) The Guarantor may not assign its rights nor delegate its obligations under this Guarantee, in whole or in part, without the prior written consent of ERCOT, and any. Any purported assignment or delegation absent such ERCOT'S written consent is void, except for an assignment and delegation.

(c) Subject to the written consent of ERCOT in its sole discretion, Guarantor may assign and delegate of all of the Guarantor's rights and obligations hereunder in whatever form the Guarantor determines may be appropriate to a partnership, corporation, trust or other organization in whatever form entity that succeeds to all or substantially all of the Guarantor's assets and business and that assumes such obligations by contract, operation of law or otherwise to the satisfaction of ERCOT in its sole discretion. Upon written acknowledgment of said assumption in accordance with the foregoing to the satisfaction of. Upon Guarantor's receipt of ERCOT's written consent and the execution by assignee of any and all documents required by ERCOT, the Guarantor shall be relieved of and fully discharged from all obligations hereunder, whether such obligations arose before or after such delegation and assumption. If ERCOT does not consent to the assignment (which, for the avoidance of doubt, shall not constitute a default under this Guarantee), ERCOT shall provide written notice to Guarantor that it does not consent to the assignment and upon receipt of such written notice, Guarantor shall be permitted to terminate the Guarantee in accordance with Section 9(b).

Section 23. No modification of this Guarantee or waiver shall be valid unless in writing and signed by ERCOT and Guarantor and then only to the extent specifically set forth in such writing.

Section 24. This Guarantee supersedes and terminates any prior guarantee to ERCOT by Guarantor on behalf of Participant.

<signature page follows>

Participant: _____

_____ [Name of Participant]

a _____

[Type of entity/jurisdiction of organization]

Effective Date of Standard Form Market Participant Agreement: _____, 200__.

"CREDIT SUPPORT AMOUNT:" is \$ _____

EXECUTED by GUARANTOR this _____ day of _____, 20__:

[Name of Guarantor]

Address: _____

a _____

[Type of entity/jurisdiction of organization]

Telephone: _____

Facsimile: _____

By: _____

Name: _____

Title: _____

ACCEPTED by ERCOT this _____ day of _____, 20__:

ELECTRIC RELIABILITY COUNCIL OF TEXAS, INC.

Address: 7620 Metro Center Drive

Austin, Texas 78744

[For notice and payment]

By: _____

Name: _____

Telephone: _____

Title: _____

Facsimile: 512.225.7020

4. Recommended Changes to Standard Forms of Letter of Credit and Market Participant Guarantee Agreements

**Market Participant Guarantee Agreement (3rd Party Version)
attached as separate document**



MARKET PARTICIPANT GUARANTEE AGREEMENT

This MARKET PARTICIPANT GUARANTEE AGREEMENT (this “Guarantee”) is made by the undersigned entity (together with its permitted successors and assigns, the “Guarantor”) in favor of ELECTRIC RELIABILITY COUNCIL OF TEXAS, INC. (together with its successors and assigns, “ERCOT”). The Guarantor and ERCOT shall be referred to herein collectively as “Parties”.

Recitals

A. ERCOT has entered into a Standard Form Market Participant Agreement (hereinafter the “Agreement”) as the same may be modified through the procedure for modifying ERCOT Protocols described set forth in the ERCOT Protocols, “Agreement”) with the Market Participant identified on the signature page hereof (together with its permitted successors and permitted assigns, the “Participant”).

B. Pursuant to the Agreement and the related ERCOT Protocols (as such term is defined in the Agreement), ERCOT may extend credit to Participant from time to time.

C. It is expressly agreed and understood by and among Participant, ERCOT and Guarantor that: (1) the execution and delivery to ERCOT of this Guarantee is a condition precedent to ERCOT entering into the Agreement, the continuation of transactions with Participant pursuant to the Agreement and the extension of credit to Participant pursuant to the Agreement and the related ERCOT Protocols, (2) ERCOT has relied, and will continue to rely, upon this Guarantee and the terms and representations herein in entering into transactions as contemplated by the Agreement and the related ERCOT Protocols, and (3) ERCOT would not enter into the Agreement, or otherwise enter into or continue transactions with Participant, without this Guarantee.

D. Pursuant to that certain INSERT TITLE OF AGREEMENT (“Reimbursement Agreement”), Guarantor has contracted with Participant for the express purpose of providing this Guarantee for the benefit of ERCOT.

E. In connection with the foregoing, Guarantor desires to guarantee to ERCOT the prompt and full payment of the Obligations (as defined below) upon the terms and conditions contained in this Guarantee.

Agreements

Section 1. In consideration of credit heretofore or hereafter granted by ERCOT to Participant pursuant to the Agreement or the related ERCOT Protocols, Guarantor hereby unconditionally, absolutely and, subject to the express provisions of Sections 9 and 20 hereof, irrevocably guarantees to ERCOT, as a primary obligor and not as a surety, the punctual payment when due (subject to any grace period applicable to the Obligations (as defined below)), whether on a scheduled date, by lapse of time, by acceleration of maturity, or otherwise any and all of the Obligations. As used in this Guarantee, the term “Obligations” means, collectively:

(a) any and all indebtedness, liabilities and sums of money now or hereafter due ~~or~~and owing by Participant to ERCOT pursuant to, or arising under, the Agreement, the ERCOT Protocols or any of the ERCOT market and operating guides, including (without limitation) all scheduling, operating, planning, reliability and settlement policies, rules, guidelines and procedures established from time to time ~~in by~~ERCOT;

(b) any and all interest and out-of-pocket expenses (including reasonable attorneys' fees) ~~contemplated to be paid now or hereafter due and owing~~ by Participant pursuant to the Agreement, the ERCOT Protocols or any of the ERCOT market and operating guides, in each instance whether or not allowed under any Debtor Relief Law (including all post-petition interest accruing after the commencement of any bankruptcy or insolvency proceeding by or against Participant, whether or not allowed in such proceeding), and all other amounts that would be part of the Obligations but for the operation of Debtor Relief Laws;

(c) all assessments and other amounts required to be paid by Participant to ERCOT in order to maintain the Agreement and the ability to conduct business with ERCOT notwithstanding the continuing right of Participant to dispute, contest or pursue rights of setoff of such assessments and other amounts pursuant to the alternative dispute resolution provisions of the ERCOT Protocols; and

(d) all reasonable costs, expenses and fees, including, without limitation, court costs and attorneys' fees, arising in connection with the collection of any or all amounts, indebtedness, obligations and liabilities of Participant to ERCOT described in clauses (a) through (c) of this sentence.

For purposes of this Guarantee, the term "**Debtor Relief Laws**" shall mean Title 11 of the United States Code, as now or hereafter in effect, or any other applicable law, domestic or foreign, as now or hereafter in effect, relating to bankruptcy, insolvency, liquidation, receivership, reorganization, arrangement or composition, extension or adjustment of debts, or other debtor relief, or similar laws affecting the rights of creditors.

Section 2. Notwithstanding the foregoing, the maximum amount of the Obligations for which Guarantor shall be liable personally hereunder shall not exceed the sum of the following from time to time: (a) the then-applicable Credit Support Amount (as defined below); plus (b) interest in respect of the Obligations (to the extent permitted by applicable state law, the Agreement, the ERCOT Protocols or any of the ERCOT market and operating guides) for periods after the date on which written demand is made for payment hereunder by ERCOT; plus (c) Expenses (as defined below). For purposes of this Guarantee, the term "**Credit Support Amount**" shall mean the amount designated as such on the signature page to this Guarantee as the same may be increased or decreased by written agreement between the Guarantor and ERCOT.

Section 3. Guarantor is liable for the full payment of the Obligations, subject to the express limitations provided in Section 2, as a primary obligor. This is a continuing guarantee ~~for of~~ payment and not of collection. Guarantor acknowledges and agrees that Guarantor may be required to pay the Obligations in full without assistance or support from Participant or any other person. Guarantor agrees that if all or any part of the Obligations shall not be punctually paid when due, whether on the scheduled payment date, by lapse of time, by acceleration of maturity or otherwise, Guarantor shall pay, at or before 5:00 P.M. Central Prevailing Time on the second Business Day (as such term is defined in the ERCOT Protocols) immediately following the issuance of written demand by ERCOT to Guarantor, the amount due on the Obligations to ERCOT in accordance with the terms hereof. ERCOT may, but shall have no obligation to, make such demand(s) at any time coincident with or after the time for payment of all or part of the Obligations, and such demand(s) may be made from time to time with respect to the same or different items of the Obligations. Such demand(s) may be made, given and received in accordance with the notice provisions hereof; provided, however, the failure to make, give or receive any such demand (or any failure of any such demand to be made in accordance with the notice provisions hereof) shall not

relieve, limit or discharge Guarantor in any respect of its obligations under this Guarantee. Guarantor hereby waives any condition or requirement with respect to any such demand under this Guarantee, and Guarantor agrees that Guarantor's obligations hereunder are absolute and immediate without requirement of presentment, protest, notice of protest, notice of nonpayment, notice of intent to accelerate, notice of acceleration or any other notice whatsoever (all of which are expressly waived), except as may expressly be required hereunder.

Section 4. If Guarantor is or becomes liable for any indebtedness or obligations owing by Participant to ERCOT other than through this Guarantee, the liability of Guarantor for such other indebtedness shall not in any manner be impaired or affected hereby or the limits contained herein, and the rights of ERCOT hereunder shall be cumulative of any and all other rights that ERCOT may have against Guarantor. If Participant is or becomes indebted to ERCOT for any indebtedness other than the Obligations, any payment received or recovery realized upon any such other indebtedness of Participant to ERCOT may be applied, in ERCOT's sole discretion, to indebtedness of Participant to ERCOT other than the Obligations, except to the extent paid by the Guarantor specifically in respect of the Obligations or as otherwise required by Law or written agreement of ERCOT to be applied to the Obligations. This Guarantee is independent of, and shall not be limited by, any other guaranty or collateral posted by or on behalf of Guarantor, in each instance whether now existing or hereafter given. Further, Guarantor's liability under this Guarantee is in addition to any and all other liability Guarantor may have in any other capacity, including, without limitation, its capacity as a general partner or managing member of Participant.

Section 5. Except as otherwise set forth in this Guarantee. Guarantor hereby expressly waives:

(a) any right to ~~revoke-terminate~~ this Guarantee with respect to the Obligations except as- set forth in Section 9 below;

(b) any right to receive notice of any renewal, extension, modification, supplement or other change in the terms of the Agreement or the ERCOT Protocols;

~~(bc)~~ any right relating to the timing, manner or conduct of ERCOT's enforcement of rights against Participant's assets or any collateral from time to time pledged by, or on behalf of, Participant to secure the Obligations;

~~(ed)~~ if Guarantor and Participant (or any other person) have each pledged assets to secure the Obligations, any right to require ERCOT to proceed first against collateral pledged by Participant (or any other person) before proceeding against ~~the~~ collateral pledged by Guarantor;

(e) any claim for setoff or any defense which Participant could assert on the Obligations, including, without limitation, force majeure, breach of contract, breach of warranty, and fraud;

~~(ef)~~ promptness, diligence, notice of any default, notice of nonpayment or nonperformance, notice of acceleration or intent to accelerate, acceptance or notice of acceptance of this Guarantee, presentment, protest, notice of protest, notice of dishonor, notice of the incurring by Participant of additional indebtedness, notice of any suit or other action by ERCOT against Participant or any other person, any notice to any person

liable for the obligation which is the subject of the suit or action, and all other notices and demands with respect to the Obligations and this Guarantee;

~~(eg)~~ any and all rights to which it may be entitled by virtue of the laws of the State of Texas governing suretyship and guarantees, including, without limitation, any rights under Rule 31, Texas Rules of Civil Procedure, Section 17.001 of the Texas Civil Practice and Remedies Code and Chapter 34 of the Texas Business and Commerce Code, as any or all of the same may be amended or construed from time to time, or the common law of the State of Texas at all relevant times; ~~and~~

~~(fh)~~ any defense due to the Guarantor's failure to review the activities of Participant or any changes in the Agreement, the ERCOT Protocols or the related ERCOT market and operating guides (it being acknowledged and agreed that Guarantor bears all responsibility for monitoring the activities of the Participant in the ERCOT markets).

(i) any and all other demands and notices to Guarantor or Participant, and any and all other formalities of any kind, the omission of or delay in performance of which might but for the provisions of this Section constitute legal or equitable grounds for relieving or discharging Guarantor in whole or in part from its irrevocable, absolute and continuing obligations hereunder.

In furtherance of the foregoing, Guarantor agrees that (i) it is not necessary for ERCOT, in order to enforce Guarantor's payment hereunder, first to proceed against Participant or resort to any collateral, security or other guarantors or obligors, if any, or pursue any other remedy available to ERCOT with respect to the Obligations and (ii) the Agreement, the ERCOT Protocols, and any collateral, security or obligations of any other guarantors or obligors, if any, may be renewed, extended, amended, modified, supplemented, sold, released, surrendered, exchanged, settled, compromised, waived, subordinated or modified, in each case without consideration and on any terms or conditions, without notice to, or further assent from, the Guarantor.

Section 6. The obligations of Guarantor hereunder are absolute and unconditional irrespective of:

~~-(a)~~ the invalidity or unenforceability of the Agreement~~;~~

~~(b)~~ the bankruptcy or insolvency of, or the effect of application of any Debtor Relief Laws to, the Participant~~;~~

~~(c)~~ any claim for setoff or any defense which Participant could assert on the Obligations, including, without limitation, force majeure, breach of contract, breach of warranty, and fraud~~;~~

~~(d)~~ any substitution, release or exchange of any other guaranty of or security for any of the Obligations~~;~~

~~(e)~~ the existence or terms of any other agreements between Guarantor and any party, including Participant~~;~~ and

(f) to the fullest extent permitted by applicable law, irrespective of any other circumstances whatsoever that might otherwise constitute a legal or equitable discharge or defense of a guarantor, it being the intent of this Guarantee that the obligations of Guarantor hereunder shall be absolute and unconditional under any and all circumstances: (except as otherwise set forth in this Guarantee).

Section 7. All rights of Guarantor to proceed against Participant in respect of payment hereunder, by subrogation or otherwise (a) are hereby subordinated and deferred to and until the full and final payment and discharge of the Obligations and (b) Guarantor may not exercise any rights it may acquire by way of subrogation under this Guarantee, by payment made hereunder or otherwise, until all of the Obligations then due and payable have been fully and finally paid. Subject to the subordination herein provided, with respect to any payments made by Guarantor to ERCOT under this Guarantee, Guarantor may succeed to any rights of Participant under the Agreement and the ERCOT Protocols. Guarantor does not waive or release any rights of subrogation, reimbursement or contribution which Guarantor may have after full and final payment of the then due and unpaid Obligations.

Section 8. All remedies, rights, powers and privileges granted to ERCOT pursuant to this Guarantee are cumulative. The exercise of any or all such rights by ERCOT shall not reduce, limit, impair, discharge, terminate, or otherwise affect the liability of Guarantor. No failure or delay by ERCOT in exercising any remedy, right, power or privilege pursuant to this Guarantee shall operate as a waiver, and any such remedy, right, power or privilege may be exercised by ERCOT at any time. No partial exercise of any such rights shall preclude further exercise or the exercise of any other remedy, right, power or privilege. No notice or demand by ERCOT upon Guarantor or any other guarantor of the Obligations shall preclude ERCOT from taking further action without notice or demand.

Section 9. The term of this Guarantee shall be for a period of one (1) year, commencing on the date set forth below and expiring one (1) year later.

(a) Notwithstanding the foregoing, this Guarantee shall be automatically renewed and extended without amendment for one (1) year from the expiration date hereof, or one (1) year from any future expiration date, unless at least sixty (60) days prior to the expiration date the Guarantor sends written notice to ERCOT stating that Guarantor elects not to renew or extend this Guarantee;

(b) Notwithstanding the foregoing, this Guarantee may be terminated by Guarantor at any time by:

(i) a written notification of termination given by Guarantor to ERCOT at the address shown below, or

(ii) posting, or causing to be posted, in respect of the Obligations of Participant, a letter of credit in an amount and form determined by ERCOT in accordance with the ERCOT Protocols (the "Substitute Collateral").

Such termination Termination pursuant to Section 9(b)(i) shall be effective thirty (30) days after the receipt by ERCOT of such written notification of termination. Guarantor Termination pursuant to Section 9(b)(ii) shall be effective upon ERCOT's confirmation of receipt of the Substitute Collateral;

(c) If Guarantor elects not to renew or extend this Guarantee in accordance with Section 9(a) or Guarantor terminates this Guarantee in accordance with Section 9(b), Guarantor shall remain liable for any Obligations hereunder arising before the effective date of nonrenewal, non-extension, or termination. Guarantor expressly agrees and acknowledges that this Guarantee applies to all Obligations arising or committed to prior to the effective date of the termination of this Guarantee, whether by ~~notification of nonrenewal, non-extension, or~~ termination, ~~or by expiration of the term;~~ and

(d)- Notwithstanding any other provision in this Guarantee, this Guarantee shall automatically continue in effect or shall be reinstated if at any time payment, or any part thereof, made by Participant or Guarantor to ERCOT during the term of this Guarantee with respect to any of the Obligations is rescinded or set aside for any reason, or must otherwise be repaid by ERCOT as a result of application of any Debtor Relief Laws or otherwise.

Section 10. Guarantor hereby represents and warrants to ERCOT, which representations shall be deemed repeated continually during the term hereof that:

(a) this Guarantee is duly authorized and valid, and is binding upon and enforceable against Guarantor (subject, in each instance, to the effect of applicable Debtor Relief Laws); and the person executing this Guarantee on behalf of the Guarantor has full power and authority to bind the Guarantor to this Guarantee;

(b) the execution and delivery of, and the performance by Guarantor of its obligations under this Guarantee do not contravene or conflict with (i) any provision of the Guarantor's organizational, constituent or governing documents, or (ii) any law, regulation, decree, order, judgment, resolution or any contractual restriction binding on Guarantor or its assets that could affect, in a materially adverse manner, the ability of the Guarantor to perform any of its obligations hereunder;

(c) Guarantor (i) is duly organized, validly existing, and in good standing under the laws of the state of its organization and (ii) ~~and~~ has full power and authority to enter into, and to perform its obligations under, this Guarantee;

(d) there is no litigation pending or, to the knowledge of Guarantor, threatened, before or by any tribunal against or affecting Guarantor which seeks to limit, prevent, enjoin or delay the Guarantor's performance of its obligations under this Guarantee, except as may be disclosed by the Guarantor to ERCOT or in the Guarantor's filing with the Securities and Exchange Commission;

(e) no bankruptcy or insolvency proceedings are pending or, to the best of Guarantor's knowledge, contemplated by or against Guarantor under any Debtor Relief Laws;

(f) **NEITHER ERCOT NOR ANY AFFILIATE, EMPLOYEE, AGENT, OR REPRESENTATIVE OF ERCOT HAS MADE ANY**

REPRESENTATION, WARRANTY OR STATEMENT TO GUARANTOR IN ORDER TO INDUCE GUARANTOR TO EXECUTE THIS GUARANTEE, AND GUARANTOR HEREBY EXPRESSLY WAIVES ANY CLAIM OF FRAUDULENT INDUCEMENT TO EXECUTE THIS GUARANTEE AND FURTHER DISCLAIMS ANY RELIANCE ON STATEMENTS OR REPRESENTATIONS OF ERCOT OR ANY AFFILIATE OF ERCOT, EMPLOYEE, AGENT, OR REPRESENTATIVE IN WAIVING SUCH A CLAIM; ~~and~~

(g) any and all balance sheets, net worth statements, and other financial information with respect to Guarantor which have heretofore been given to ERCOT by Guarantor fairly and accurately present the financial condition of Guarantor as of the respective dates thereof;

(h) to the best of its knowledge, Guarantor is not in default under any agreements or contracts which may adversely affect Guarantor's ability to fulfill its obligations under this Guarantee;

(i) any indebtedness of Participant to Guarantor now or hereafter existing is hereby subordinated to the payment of the Obligations. As long as Participant is not in default on payment of the Obligations, Participant may make payments to Guarantor on any subordinated indebtedness in the ordinary course of business. After default by Participant on payment of the Obligations, any payments by Participant to Guarantor on account of such subordinated indebtedness shall be collected and received by Guarantor in trust for ERCOT and shall be paid over to ERCOT on account of the Obligations without impairing or releasing the obligations of Guarantor hereunder; and

(gi) Guarantor has, independently and without reliance upon ERCOT, and based upon such documents and information as Guarantor has deemed appropriate, made its own analysis and decision to enter into this Guarantee.

Section 11. Guarantor hereby further covenants and agrees to ERCOT that:

(a) Guarantor will keep itself fully apprised of Participant's financial and business condition, and Guarantor shall be responsible, to the extent deemed necessary or advisable by Guarantor, for obtaining for itself information regarding Participant, the Agreement, the ERCOT Protocols and the ERCOT market and operating guides, and Guarantor acknowledges and agrees that ERCOT shall have no duty at any time to notify Guarantor of any information which ERCOT may have or acquire concerning Participant or to investigate or inform Guarantor of the financial or business condition or affairs of Participant or any change therein; ~~and~~

(b) Guarantor will provide ERCOT with any and all financial information required to be submitted under ERCOT's credit policy and other financial information reasonably requested by ERCOT concerning or relating to Guarantor's financial condition within twenty (20) days after such written request by ERCOT. Financial information shall include, at a minimum: most recent tax return, a balance sheet; an income and expense statement; a statement showing contingent liabilities; detailed cash flow statements; and any supporting schedules or documentation which ERCOT may require and is acceptable to ERCOT; and

(bc) Guarantor's representations, warranties, covenants, waivers and agreements set forth in this Guarantee are a material inducement to ERCOT to enter into the Agreement and extend credit to Participant and shall survive the execution hereof and any bankruptcy, foreclosure, transfer of security or other event affecting Participant, Guarantor, any other person, or any security for all or any part of the Obligations.

Section 12. This Guarantee is executed and delivered as an incident to a transaction(s) negotiated and consummated in Travis County, Texas, and shall be governed by and construed in accordance with the Laws of the State of Texas, other than the conflicts of laws principles thereof. Guarantor, for itself and its successors and assigns, hereby irrevocably (i) submits to the non-exclusive jurisdiction of the state and federal courts in the State of Texas, (ii) waives, to the fullest extent permitted by Law, any objection that may now or in the future have as to the venue of any action, proceeding or litigation arising out of or in connection with this Guarantee brought in the District Court of Travis County, Texas, or in the United States District Court for the Western District of Texas, Austin Division, and (iii) agrees that any legal action or proceeding against Guarantor arising out of or in connection with this Guarantee may be brought in any one of the foregoing courts. Guarantor hereby agrees that service of process upon Guarantor may be made by certified or registered mail, return receipt requested, at its address specified herein. Nothing herein shall affect the right of ERCOT to serve process in any other manner permitted by law or shall limit the right of ERCOT to bring any action or proceeding against Guarantor or with respect to any of Guarantor's property in courts in other jurisdictions. Any action or proceeding by Guarantor against ERCOT shall be brought only in a court located in Travis County, Texas. The scope of each of the foregoing waivers is intended to be all encompassing of any and all disputes that may be filed in any court and that relate to the subject matter of this transaction, including, without limitation, contract claims, tort claims, breach of duty claims, and all other common law and statutory claims. Guarantor acknowledges that these waivers are a material inducement to ERCOT's agreement to enter into the Agreement, that ERCOT has already relied on these waivers and will continue to rely on each of these waivers in related future dealings. The waivers in Section 12 are irrevocable on the part of both ERCOT and Guarantor and may not be modified without the agreement of both ERCOT and Guarantor in writing as required pursuant to Section 23 below; these waivers apply to any future renewals, extensions, amendments, modifications, replacements or renewals of this Guarantee.

Section 13. If any provision or any part of any provision of this Guarantee or the application thereof to any person or circumstance shall, for any reason and to any extent, be judicially declared to be invalid or unenforceable, then neither the remaining provisions of this Guarantee nor the application of such provision to any other person or circumstance shall be affected thereby, and the remaining provisions of this Guarantee, or the applicability of such provision to other persons or circumstances, as the case may be, rather shall remain in effect and be enforceable to the maximum extent permitted by applicable law.

Section 14. From time to time, at the reasonable request of ERCOT, Guarantor will (a) promptly correct any ministerial or administrative defect, error or omission which may be discovered in the contents of this Guarantee; (b) execute, acknowledge and deliver (or cause to be executed, acknowledged and delivered) such further documents and instruments and perform such further acts and provide such further assurances as may be necessary, desirable, or proper, in ERCOT's opinion, (i) to carry out more effectively the purposes of this Guarantee and the transactions contemplated hereunder, or (ii) to confirm the continuation of the rights created under this Guarantee for the benefit of ERCOT,

including reaffirmation of the obligations hereunder from time to time upon the renewal hereof and the applicability of any changes in the Credit Support Amount.

Section 15. Time is of the essence in this Guarantee with respect to all of Guarantor's obligations hereunder.

Section 16. The recitals and introductory paragraphs hereof are a part hereof, form a basis for this Guarantee and shall be considered *prima facie* evidence of the facts and documents referred to therein.

Section 17. The Article, Section and Subsection entitlements hereof are inserted for convenience of reference only and shall in no way alter, modify, define, limit, amplify or be used in construing the text, scope or intent of such Articles, Sections or Subsections or any provisions hereof. Furthermore, words used in the singular shall include the plural and vice-versa, and any gender shall be deemed to include the other. Further, each party hereby acknowledges that such party and its counsel have reviewed and considered the effect of this Guarantee. As such, the terms of this Guarantee shall be fairly construed and the usual rule of construction, to the effect that any ambiguities herein should be resolved against the drafting party, shall not be employed in the interpretation of this Guarantee or any amendments, modifications, or exhibits.

Section 18. All sums payable under this Guarantee shall be by wire transfer of immediately available funds, without offset, in lawful money of the United States of America, which shall at the time of payment be legal tender for the payment of public and private debts. All payments shall be remitted to ERCOT's bank account as designated by written notice to Guarantor, whether through demand for payment or otherwise.

Section 19. EACH OF GUARANTOR AND ERCOT, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, HEREBY KNOWINGLY, INTENTIONALLY, IRREVOCABLY, UNCONDITIONALLY AND VOLUNTARILY, WITH, AND UPON THE ADVICE OF COMPETENT COUNSEL, WAIVES, RELINQUISHES AND FOREVER FORGOES ALL RIGHT TO A TRIAL BY JURY IN ANY ACTION, SUIT, PROCEEDING, OR COUNTERCLAIM BASED UPON, ARISING OUT OF, OR IN ANY WAY RELATING TO THIS GUARANTEE OR ANY CONDUCT, ACT, FAILURE TO ACT OR OMISSION OF OR BY ERCOT OR GUARANTOR, OR ANY OF THEIR RESPECTIVE DIRECTORS, OFFICERS, PARTNERS, MEMBERS, EMPLOYEES, AGENTS OR ATTORNEYS, OR ANY OTHER PERSONS AFFILIATED WITH ERCOT OR GUARANTOR, IN EACH OF THE FOREGOING CASES, WHETHER SOUNDING IN CONTRACT, TORT OR OTHERWISE, OR IN THE ENFORCEMENT OF ANY OF THE TERMS OR PROVISIONS OF THIS GUARANTEE. IT IS AGREED AND UNDERSTOOD BY EACH OF GUARANTOR AND ERCOT THAT THIS WAIVER CONSTITUTES A WAIVER OF TRIAL BY JURY OF ALL CLAIMS AGAINST ALL PARTIES TO SUCH ACTIONS OR PROCEEDINGS, INCLUDING CLAIMS AGAINST PARTIES WHO ARE NOT PARTIES TO THIS GUARANTEE. THIS WAIVER IS KNOWINGLY, WILLINGLY AND VOLUNTARILY MADE BY GUARANTOR AND ERCOT, AND EACH OF GUARANTOR AND ERCOT HEREBY REPRESENTS THAT NO REPRESENTATIONS OF FACT OR OPINION HAVE BEEN MADE BY ANY INDIVIDUAL TO INDUCE THIS WAIVER OF TRIAL BY JURY OR TO IN ANY WAY MODIFY OR NULLIFY ITS EFFECT. EACH OF GUARANTOR AND ERCOT FURTHER REPRESENTS AND WARRANTS THAT IT HAS BEEN REPRESENTED IN THE SIGNING OF THIS GUARANTEE AND IN THE MAKING OF THIS WAIVER BY INDEPENDENT LEGAL COUNSEL, OR HAS HAD THE OPPORTUNITY TO BE

REPRESENTED BY INDEPENDENT LEGAL COUNSEL SELECTED OF ITS OWN FREE WILL, AND THAT IT HAS HAD THE OPPORTUNITY TO DISCUSS THIS WAIVER WITH COUNSEL.

Section 20. Guarantor agrees to pay to ERCOT, upon demand, all reasonable out-of-pocket costs and expenses, including, without limitation, reasonable third-party attorneys' fees, that may be incurred by ERCOT in attempting to cause satisfaction of Guarantor's liability under this Guarantee ("*Expenses*").

Section 21. All notices or other communications hereunder shall be made by hand delivery, by next day delivery service or by certified mail, return receipt requested (receipt effective upon scheduled weekday delivery day) or facsimile (receipt effective upon receipt of evidence, including facsimile evidence, that facsimile was received) to the addresses for ERCOT and Guarantor set forth on the signature page of this Guarantee. For purposes of giving any required notices hereunder, the addresses, telephone numbers, and facsimile numbers of the ~~parties~~ Parties are as set forth on the signature page of this Guarantee.

Section 22. This Guarantee shall bind the successors and assigns of Guarantor and shall inure to the benefit of ERCOT, its successors and assigns pursuant to the terms of the Agreement.

(a) ERCOT shall be permitted to assign its rights and delegate its obligations under this Guarantee, in whole or in part, without the consent of Guarantor or Participant.

~~—~~ (b) The Guarantor may not assign its rights nor delegate its obligations under this Guarantee, in whole or in part, without the prior written consent of ERCOT, ~~and any~~ Any purported assignment or delegation absent ~~such~~ ERCOT's written consent is void, ~~except for an assignment and delegation.~~

(c) Subject to the written consent of ERCOT in its sole discretion, Guarantor may assign and delegate of all of the Guarantor's rights and obligations hereunder in ~~whatever form the Guarantor determines may be appropriate~~ to a partnership, corporation, trust or other ~~organization in whatever form entity~~ that succeeds to all or substantially all of the Guarantor's assets and business and that assumes such obligations by contract, operation of law or otherwise. ~~to the satisfaction of ERCOT in its sole discretion. Upon written acknowledgment of said assumption in accordance with the foregoing to the satisfaction of~~ Upon Guarantor's receipt of ERCOT's written consent and the execution by assignee of any and all documents required by ERCOT, the Guarantor shall be relieved of and fully discharged from all obligations hereunder, whether such obligations arose before or after such delegation and assumption. If ERCOT does not consent to the assignment (which, for the avoidance of doubt, shall not constitute a default under this Guarantee), ERCOT shall provide written notice to Guarantor that it does not consent to the assignment and upon receipt of such written notice, Guarantor shall be permitted to terminate the Guarantee in accordance with Section 9(b).

Section 23. No modification of this Guarantee or waiver shall be valid unless in writing and signed by ERCOT and Guarantor and then only to the extent specifically set forth in such writing.

Section 24. This Guarantee supersedes and terminates any prior guarantee to ERCOT by Guarantor on behalf of Participant.

<signature page follows>

Participant: _____

| _____[Name of Participant]

a _____

[Type of entity/jurisdiction of organization]

Effective Date of Standard Form Market Participant Agreement: _____, 20____.

|

"CREDIT SUPPORT AMOUNT:" is \$ _____

EXECUTED by GUARANTOR this _____ day of _____, 20__:

[Name of Guarantor]

Address: _____

a _____
[Type of entity/jurisdiction of organization]

Telephone: _____

Facsimile: _____

By: _____

Name: _____

Title: _____

ACCEPTED by ERCOT this _____ day of _____, 20__:

ELECTRIC RELIABILITY COUNCIL OF TEXAS, INC.

Address: 7620 Metro Center Drive
Austin, Texas 78744
[For notice and payment]

By: _____

Name: _____

Title: _____

Telephone: _____

Facsimile: 512.225.7020

4. Recommended Changes to Standard Forms of Letter of Credit and Market Participant Guarantee Agreements

Foreign Market Participant Guarantee Agreement (General Use Version) attached as separate document



FOREIGN MARKET PARTICIPANT GUARANTEE AGREEMENT

This FOREIGN MARKET PARTICIPANT GUARANTEE AGREEMENT (this “Guarantee”) is made by the undersigned entity (together with its permitted successors and assigns, the “Guarantor”) in favor of ELECTRIC RELIABILITY COUNCIL OF TEXAS, INC. (together with its successors and assigns, “ERCOT”). The Guarantor and ERCOT shall be referred to herein collectively as “Parties”.

Recitals

A. ERCOT has entered into a Standard Form Market Participant Agreement (hereinafter the “Agreement” as the same may be modified through the procedure ~~for modifying ERCOT Protocols described set forth~~ in the ERCOT Protocols, “Agreement”) with the Market Participant identified on the signature page hereof (together with its permitted successors and permitted assigns, the “Participant”).

B. Pursuant to the Agreement and the related ERCOT Protocols (as such term is defined in the Agreement), ERCOT may extend credit to Participant from time to time.

C. It is expressly agreed and understood by and among Participant, ERCOT and Guarantor that: (1) the execution and delivery to ERCOT of this Guarantee is a condition precedent to ERCOT entering into the Agreement, the continuation of transactions with Participant pursuant to the Agreement and the extension of credit to Participant pursuant to the Agreement and the related ERCOT Protocols, (2) ERCOT has relied, and will continue to rely, upon this Guarantee and the terms and representations herein in entering into transactions as contemplated by the Agreement and the related ERCOT Protocols, and (3) ERCOT would not enter into the Agreement, or otherwise enter into or continue transactions with Participant, without this Guarantee.

D. The value of the consideration and benefit received and to be received by Guarantor, directly or indirectly, as a result of ERCOT entering into the Agreement and Guarantor executing and delivering this Guarantee, is reasonably worth at least as much as the liability and obligation of Guarantor hereunder, and the extension of credit to Participant pursuant to the Agreement has or may reasonably be expected to benefit the Guarantor directly or indirectly.

E. In connection with the foregoing, Guarantor desires to guarantee to ERCOT the prompt and full payment of the Obligations (as defined below) upon the terms and conditions contained in this Guarantee.

Agreements

Section 1. In consideration of credit heretofore or hereafter granted by ERCOT to Participant pursuant to the Agreement or the related ERCOT Protocols, Guarantor hereby unconditionally, absolutely and, subject to the express provisions of Sections 9 and 20 hereof, irrevocably guarantees to ERCOT, as a primary obligor and not as a surety, the punctual payment when due (subject to any grace period applicable to the Obligations (as defined below)), whether on a scheduled date, by lapse of time, by acceleration of maturity, or otherwise any and all of the Obligations. As used in this Guarantee, the term “Obligations” means, collectively:

(a) any and all indebtedness, liabilities and sums of money now or hereafter due ~~or~~ and owing by Participant to ERCOT pursuant to, or arising under, the Agreement, the ERCOT Protocols or any of the ERCOT market and operating guides, including (without limitation) all scheduling, operating, planning, reliability and settlement policies, rules, guidelines and procedures established from time to time ~~in~~ by ERCOT;

(b) any and all interest and out-of-pocket expenses (including reasonable attorneys' fees) ~~contemplated to be paid now or hereafter due and owing~~ by Participant pursuant to the Agreement, the ERCOT Protocols or any of the ERCOT market and operating guides, in each instance whether or not allowed under any Debtor Relief Law (including all post-petition interest accruing after the commencement of any bankruptcy or insolvency proceeding by or against Participant, whether or not allowed in such proceeding), and all other amounts that would be part of the Obligations but for the operation of Debtor Relief Laws;

(c) all assessments and other amounts required to be paid by Participant to ERCOT in order to maintain the Agreement and the ability to conduct business with ERCOT notwithstanding the continuing right of Participant to dispute, contest or pursue rights of setoff of such assessments and other amounts pursuant to the alternative dispute resolution provisions of the ERCOT Protocols; and

(d) all reasonable costs, expenses and fees, including, without limitation, court costs and attorneys' fees, arising in connection with the collection of any or all amounts, indebtedness, obligations and liabilities of Participant to ERCOT described in clauses (a) through (c) of this sentence. For purposes of this Guarantee, the term "***Debtor Relief Laws***" shall mean Title 11 of the United States Code, as now or hereafter in effect, or any other applicable law, domestic or foreign, as now or hereafter in effect, relating to bankruptcy, insolvency, liquidation, receivership, reorganization, arrangement or composition, extension or adjustment of debts, or other debtor relief, or similar laws affecting the rights of creditors.

Section 2. Notwithstanding the foregoing, the maximum amount of the Obligations for which Guarantor shall be liable personally hereunder shall not exceed the sum of the following from time to time: (a) the then-applicable Credit Support Amount (as defined below); plus (b) interest in respect of the Obligations (to the extent permitted by applicable state law, the Agreement, the ERCOT Protocols or any of the ERCOT market and operating guides) for periods after the date on which written demand is made for payment hereunder by ERCOT; plus (c) Expenses (as defined below). For purposes of this Guarantee, the term "***Credit Support Amount***" shall mean the amount designated as such on the signature page to this Guarantee as the same may be increased or decreased by written agreement between the Guarantor and ERCOT.

Section 3. Guarantor is liable for the full payment of the Obligations, subject to the express limitations provided in Section 2, as a primary obligor. This is a continuing guarantee ~~for of~~ payment and not of collection. Guarantor acknowledges and agrees that Guarantor may be required to pay the Obligations in full without assistance or support from Participant or any other person. Guarantor agrees that if all or any part of the Obligations shall not be punctually paid when due, whether on the scheduled payment date, by lapse of time, by acceleration of maturity or otherwise, Guarantor shall pay, at or before 5:00 P.M. Central Prevailing Time on the second Business Day (as such term is defined in the ERCOT Protocols) immediately following the issuance of written demand by ERCOT to Guarantor, the amount due on the Obligations to ERCOT in accordance with the terms hereof. ERCOT may, but shall have no obligation to, make such demand(s) at any time coincident with or after the time for payment of all or part of the Obligations, and such demand(s) may be made from time to time with respect to the same or different items of the Obligations. Such demand(s) may be made, given and received in accordance with the notice provisions hereof; provided, however, the failure to make, give or receive any such demand (or any failure of any such demand to be made in accordance with the notice provisions hereof) shall not relieve, limit or discharge Guarantor in any respect of its obligations under this Guarantee. Guarantor hereby waives any condition or requirement with respect to any such demand under this Guarantee, and Guarantor agrees that Guarantor's obligations hereunder are absolute and immediate without requirement

of presentment, protest, notice of protest, notice of nonpayment, notice of intent to accelerate, notice of acceleration or any other notice whatsoever (all of which are expressly waived), except as may expressly be required hereunder.

Section 4. If Guarantor is or becomes liable for any indebtedness or obligations owing by Participant to ERCOT other than through this Guarantee, the liability of Guarantor for such other indebtedness shall not in any manner be impaired or affected hereby or the limits contained herein, and the rights of ERCOT hereunder shall be cumulative of any and all other rights that ERCOT may have against Guarantor. If Participant is or becomes indebted to ERCOT for any indebtedness other than the Obligations, any payment received or recovery realized upon any such other indebtedness of Participant to ERCOT may be applied, in ERCOT's sole discretion, to indebtedness of Participant to ERCOT other than the Obligations, except to the extent paid by the Guarantor specifically in respect of the Obligations or as otherwise required by Law or written agreement of ERCOT to be applied to the Obligations. This Guarantee is independent of, and shall not be limited by, any other guaranty or collateral posted by or on behalf of Guarantor, in each instance whether now existing or hereafter given. Further, Guarantor's liability under this Guarantee is in addition to any and all other liability Guarantor may have in any other capacity, including, without limitation, its capacity as a general partner or managing member of Participant.

Section 5. Except as otherwise set forth in this Guarantee. Guarantor hereby expressly waives:

(a) any right to ~~revoke-terminate~~ this Guarantee with respect to the Obligations except as set forth in Section 9 below;

(b) any right to receive notice of any renewal, extension modification, supplement or other change in the terms of the Agreement or the ERCOT Protocols;

~~(bc)~~ any right relating to the timing, manner or conduct of ERCOT's enforcement of rights against Participant's assets or any collateral from time to time pledged by, or on behalf of, Participant to secure the Obligations;

~~(ed)~~ if Guarantor and Participant (or any other person) have each pledged assets to secure the Obligations, any right to require ERCOT to proceed first against collateral pledged by Participant (or any other person) before proceeding against ~~the~~ collateral pledged by Guarantor;

(e) any claim for setoff or any defense which Participant could assert on the Obligations, including, without limitation, force majeure, breach of contract, breach of warranty, and fraud;

~~(fd)~~ promptness, diligence, notice of any default, notice of nonpayment or nonperformance, notice of acceleration or intent to accelerate, acceptance or notice of acceptance of this Guarantee, presentment, protest, notice of protest, notice of dishonor, notice of the incurring by Participant of additional indebtedness, notice of any suit or other action by ERCOT against Participant or any other person, any notice to any person liable for the obligation which is the subject of the suit or action, and all other notices and demands with respect to the Obligations and this Guarantee;

~~(eg)~~ any and all rights to which it may be entitled by virtue of the laws of the State of Texas governing suretyship and guarantees, including, without limitation, any rights under Rule 31, Texas Rules of Civil Procedure, Section 17.001 of the Texas Civil Practice and Remedies

Code and Chapter 34 of the Texas Business and Commerce Code, as any or all of the same may be amended or construed from time to time, or the common law of the State of Texas at all relevant times; ~~and~~

(~~fh~~) any defense due to the Guarantor's failure to review the activities of Participant or any changes in the Agreement, the ERCOT Protocols or the related ERCOT market and operating guides (it being acknowledged and agreed that Guarantor bears all responsibility for monitoring the activities of the Participant in the ERCOT markets); ~~and-~~

(i) any and all other demands and notices to Guarantor or Participant, and any and all other formalities of any kind, the omission of or delay in performance of which might but for the provisions of this Section constitute legal or equitable grounds for relieving or discharging Guarantor in whole or in part from its irrevocable, absolute and continuing obligations hereunder.

-In furtherance of the foregoing, Guarantor agrees that (i) it is not necessary for ERCOT, in order to enforce Guarantor's payment hereunder, first to proceed against Participant or resort to any collateral, security or other guarantors or obligors, if any, or pursue any other remedy available to ERCOT with respect to the Obligations and (ii) the Agreement, the ERCOT Protocols, and any collateral, security or obligations of any other guarantors or obligors, if any, may be renewed, extended, amended, modified, supplemented, sold, released, surrendered, exchanged, settled, compromised, waived, subordinated or modified, in each case without consideration and on any terms or conditions, without notice to, or further assent from, the Guarantor.

Section 6. The obligations of Guarantor hereunder are absolute and unconditional irrespective of:

(a) the invalidity or unenforceability of the Agreement;~~;~~

(b) the bankruptcy or insolvency of, or the effect of application of any Debtor Relief Laws to, the Participant;~~;~~

(c) any claim for setoff or any defense which Participant could assert on the Obligations, including, without limitation, force majeure, breach of contract, breach of warranty, and fraud;~~;~~

(d) any substitution, release or exchange of any other guaranty of or security for any of the Obligations;~~;~~

(e) the existence or terms of any other agreements between Guarantor and any party, including Participant;~~;~~ and

(f) to the fullest extent permitted by applicable law, irrespective of any other circumstances whatsoever that might otherwise constitute a legal or equitable discharge or defense of a guarantor, it being the intent of this Guarantee that the obligations of Guarantor hereunder shall be absolute and unconditional under any and all circumstances- (except as otherwise set forth in this Guarantee).

Section 7. All rights of Guarantor to proceed against Participant in respect of payment hereunder, by subrogation or otherwise (a) are hereby subordinated and deferred to and until the full and final payment and discharge of the Obligations and (b) Guarantor may not exercise any rights it may

acquire by way of subrogation under this Guarantee, by payment made hereunder or otherwise, until all of the Obligations then due and payable have been fully and finally paid. Subject to the subordination herein provided, with respect to any payments made by Guarantor to ERCOT under this Guarantee, Guarantor may succeed to any rights of Participant under the Agreement and the ERCOT Protocols. Guarantor does not waive or release any rights of subrogation, reimbursement or contribution which Guarantor may have after full and final payment of the then due and unpaid Obligations.

Section 8. All remedies, rights, powers and privileges granted to ERCOT pursuant to this Guarantee are cumulative. The exercise of any or all such rights by ERCOT shall not reduce, limit, impair, discharge, terminate, or otherwise affect the liability of Guarantor. No failure or delay by ERCOT in exercising any remedy, right, power or privilege pursuant to this Guarantee shall operate as a waiver, and any such remedy, right, power or privilege may be exercised by ERCOT at any time. No partial exercise of any such rights shall preclude further exercise or the exercise of any other remedy, right, power or privilege. No notice or demand by ERCOT upon Guarantor or any other guarantor of the Obligations shall preclude ERCOT from taking further action without notice or demand.

Section 9. The term of this Guarantee shall be for a period of one (1) year, commencing on the date set forth below and expiring one (1) year later.

(a) Notwithstanding the foregoing, this Guarantee shall be automatically renewed and extended without amendment for one (1) year from the expiration date hereof, or one (1) year from any future expiration date, unless at least sixty (60) days prior to the expiration date the Guarantor sends written notice to ERCOT stating that Guarantor elects not to renew or extend this Guarantee;

(b) Notwithstanding the foregoing, this Guarantee may be terminated by Guarantor at any time by:

(i) -a written notification of termination given by Guarantor to ERCOT ~~at the address shown below. Such termination, or~~

(ii) posting, or causing to be posted, in respect of the Obligations of Participant, a letter of credit in an amount and form determined by ERCOT in accordance with the ERCOT Protocols (the "Substitute Collateral").

Termination pursuant to Section 9(b)(i) shall be effective thirty (30) days after the receipt by ERCOT of such written notification of termination. ~~Guarantor Termination pursuant to Section 9(b)(ii) shall be effective upon ERCOT's confirmation of receipt of the Substitute Collateral;~~

(c) If Guarantor elects not to renew or extend this Guarantee in accordance with Section 9(a) or Guarantor terminates this Guarantee in accordance with Section 9(b), Guarantor shall remain liable for any Obligations hereunder arising before the effective date of nonrenewal, non-extension, or termination. Guarantor expressly agrees and acknowledges that this Guarantee applies to all Obligations arising or committed to prior to the effective date of the termination of this Guarantee, whether by ~~notification of nonrenewal, non-extension, or termination, or by expiration of the term; and~~

(d) Notwithstanding any other provision in this Guarantee, this Guarantee shall continue in effect or shall automatically be reinstated if at any time payment, or any part thereof, made by Participant or Guarantor to ERCOT during the term of this Guarantee with respect to any of the Obligations is rescinded or set aside for any reason, or must otherwise be repaid by ERCOT as a result of application of any Debtor Relief Laws or otherwise.

Section 10. Guarantor hereby represents and warrants to ERCOT, which representations shall be deemed repeated continually during the term hereof that:

(a) this Guarantee is duly authorized and valid, and is binding upon and enforceable against Guarantor (subject, in each instance, to the effect of applicable Debtor Relief Laws~~);~~ and the person executing this Guarantee on behalf of the Guarantor has full power and authority to bind the Guarantor to this Guarantee;

(b) the execution and delivery of, and the performance by Guarantor of its obligations under this Guarantee do not contravene or conflict with (i) any provision of the Guarantor's organizational, constituent or governing documents, or (ii) any law, regulation, decree, order, judgment, resolution or any contractual restriction binding on Guarantor or its assets that could affect, in a materially adverse manner, the ability of the Guarantor to perform any of its obligations hereunder;

(c) Guarantor (i) is duly organized, validly existing, and in good standing under the laws of the state of its organization and (ii) ~~and~~ has full power and authority to enter into, and to perform its obligations under, this Guarantee;

(d) there is no litigation pending or, to the knowledge of Guarantor, threatened, before or by any tribunal against or affecting Guarantor which seeks to limit, prevent, enjoin or delay the Guarantor's performance of its obligations under this Guarantee, except as may be disclosed by the Guarantor to ERCOT or in the Guarantor's filing with the Securities and Exchange Commission;

(e) no bankruptcy or insolvency proceedings are pending or, to the best of Guarantor's knowledge, contemplated by or against Guarantor under any Debtor Relief Laws;

(f) ***NEITHER ERCOT NOR ANY AFFILIATE, EMPLOYEE AGENT, OR REPRESENTATIVE OF ERCOT HAS MADE ANY REPRESENTATION, WARRANTY OR STATEMENT TO GUARANTOR IN ORDER TO INDUCE GUARANTOR TO EXECUTE THIS GUARANTEE, AND GUARANTOR HEREBY EXPRESSLY WAIVES ANY CLAIM OF FRAUDULENT INDUCEMENT TO EXECUTE THIS GUARANTEE AND FURTHER DISCLAIMS ANY RELIANCE ON STATEMENTS OR REPRESENTATIONS OF ERCOT OR ANY AFFILIATE, EMPLOYEE, AGENT, OR REPRESENTATIVE OF ERCOT IN WAIVING SUCH A CLAIM; and***

(g) any and all balance sheets, net worth statements, and other financial information with respect to Guarantor which have heretofore been given to ERCOT by Guarantor fairly and accurately present the financial condition of Guarantor as of the respective dates thereof;

(h) to the best of its knowledge, Guarantor is not in default under any agreements or contracts which may adversely affect Guarantor's ability to fulfill its obligations under this Guarantee;

(i) any indebtedness of Participant to Guarantor now or hereafter existing is hereby subordinated to the payment of the Obligations. As long as Participant is not in default on payment of the Obligations, Participant may make payments to Guarantor on any subordinated indebtedness in the

ordinary course of business. After default by Participant on payment of the Obligations, any payments by Participant to Guarantor on account of such subordinated indebtedness shall be collected and received by Guarantor in trust for ERCOT and shall be paid over to ERCOT on account of the Obligations without impairing or releasing the obligations of Guarantor hereunder; and

(gj) Guarantor has, independently and without reliance upon ERCOT, and based upon such documents and information as Guarantor has deemed appropriate, made its own analysis and decision to enter into this Guarantee.

Section 11. Guarantor hereby further covenants and agrees to ERCOT that:

(a) Guarantor will keep itself fully apprised of Participant's financial and business condition, and Guarantor shall be responsible, to the extent deemed necessary or advisable by Guarantor, for obtaining for itself information regarding Participant, the Agreement, the ERCOT Protocols and the ERCOT market and operating guides, and Guarantor acknowledges and agrees that ERCOT shall have no duty at any time to notify Guarantor of any information which ERCOT may have or acquire concerning Participant or to investigate or inform Guarantor of the financial or business condition or affairs of Participant or any change therein; ~~and~~

(b) Guarantor will provide ERCOT with any and all financial information required to be submitted under ERCOT's credit policy and other financial information reasonably requested by ERCOT concerning or relating to Guarantor's financial condition within twenty (20) days after such written request by ERCOT. Financial information shall include, at a minimum: most recent tax return, a balance sheet; an income and expense statement; a statement showing contingent liabilities; detailed cash flow statements; and any supporting schedules or documentation which ERCOT may require and is acceptable to ERCOT; and

(bc) Guarantor's representations, warranties, covenants, waivers and agreements set forth in this Guarantee are a material inducement to ERCOT to enter into the Agreement and extend credit to Participant and shall survive the execution hereof and any bankruptcy, foreclosure, transfer of security or other event affecting Participant, Guarantor, any other person, or any security for all or any part of the Obligations.

Section 12. This Guarantee is executed and delivered as an incident to a transaction(s) negotiated and consummated in Travis County, Texas, and shall be governed by and construed in accordance with the Laws of the State of Texas, other than the conflicts of laws principles thereof.

Guarantor, for itself and its successors and assigns, hereby irrevocably agrees:

(a) (i) to submit to the non-exclusive jurisdiction of the state and federal courts in the State of Texas, (ii) to waive, to the fullest extent permitted by Law, any objection that may now or in the future have as to the venue of any action, proceeding or litigation arising out of or in connection with this Guarantee brought in the District Court of Travis County, Texas, or in the United States District Court for the Western District of Texas, Austin Division, and (iii) that any legal action or proceeding against Guarantor arising out of or in connection with this Guarantee may be brought in any one of the foregoing courts. Guarantor hereby agrees that service of process upon Guarantor may be made by certified or registered mail, return receipt requested, at its address specified herein, or at the address of its Process Agent (as defined in Section 25 hereof). Nothing

herein shall affect the right of ERCOT to serve process in any other manner permitted by law or shall limit the right of ERCOT to bring any action or proceeding against Guarantor or with respect to any of Guarantor's property in courts in other jurisdictions. Any action or proceeding by Guarantor against ERCOT shall be brought only in a court located in Travis County, Texas. The scope of each of the foregoing waivers is intended to be all encompassing of any and all disputes that may be filed in any court and that relate to the subject matter of this transaction, including, without limitation, contract claims, tort claims, breach of duty claims, and all other common law and statutory claims. Guarantor acknowledges that these waivers are a material inducement to ERCOT's agreement to enter into the Agreement, that ERCOT has already relied on these waivers and will continue to rely on each of these waivers in related future dealings. The waivers in Section 12 are irrevocable on the part of both ERCOT and Guarantor and may not be modified without the agreement of both ERCOT and Guarantor in writing as required pursuant to Section 23 below; these waivers apply to any future renewals, extensions, amendments, modifications, replacements or renewals of this Guarantee; or, alternatively,

(b) to resolve any dispute relating in any manner to this Guarantee through binding arbitration. Arbitration proceedings shall be conducted pursuant to the International Arbitration Rules of the American Arbitration Association (AAA) in effect at the time the dispute first arises, by one (1) or three (3) arbitrator(s) appointed in accordance with such Rules within ten (10) calendar days of submission of the dispute. The number of arbitrators forming the arbitral panel shall be mutually agreed upon by the parties, but if they cannot agree, then the AAA shall determine same. The arbitration shall be held in such city as is agreed upon by the parties, but if they cannot agree, then such arbitration shall be held in Austin, State of Texas, United States of America. The arbitration shall be conducted simultaneously in English and in the primary language of Guarantor. The English version of this Guarantee shall be the controlling document in the arbitration proceeding. The procedural laws of the civil district courts of the State of Texas, U.S.A. shall govern the arbitral proceeding regardless of the situs of the arbitration. The arbitral panel shall set a limited time period and establish procedures designed to reduce the cost and time for discovery, while allowing the parties an adequate opportunity, in the discretion of the arbitral panel, to discover relevant information from opposing parties about the subject matter of the dispute. The arbitral panel shall award actual damages to the prevailing party, but may not award any special, indirect, punitive or consequential damages nor reasonable attorneys' fees and arbitration costs to either party. The arbitral award shall fully and finally settle the dispute. Recognition and enforcement of the arbitral award shall be governed by the 1958 New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards. Judgment upon the award may be entered in any court in any country, or application may be made to such court for a judicial acceptance of the award and an order of enforcement, as the law of such jurisdiction may require or allow. Each party shall bear its own costs and fees, including, but not limited to its share of any arbitration fees, unless otherwise ordered by the arbitrator(s).

BY AGREEING TO BINDING ARBITRATION, EACH OF THE PARTIES IRREVOCABLY AND VOLUNTARILY WAIVES ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY CLAIM. FURTHERMORE, WITHOUT INTENDING IN ANY WAY TO LIMIT THIS AGREEMENT TO ARBITRATE, TO THE EXTENT ANY CLAIM IS NOT ARBITRATED, EACH OF THE PARTIES IRREVOCABLY AND VOLUNTARILY WAIVE ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF SUCH CLAIM. THIS PROVISION IS A MATERIAL INDUCEMENT FOR THE PARTIES ENTERING INTO THIS GUARANTEE.

Section 13. If any provision or any part of any provision of this Guarantee or the application thereof to any person or circumstance shall, for any reason and to any extent, be judicially declared to be invalid or unenforceable, then neither the remaining provisions of this Guarantee nor the application of such provision to any other person or circumstance shall be affected thereby, and the remaining provisions of this Guarantee, or the applicability of such provision to other persons or circumstances, as the case may be, rather shall remain in effect and be enforceable to the maximum extent permitted by applicable law.

Section 14. From time to time, at the reasonable request of ERCOT, Guarantor will (a) promptly correct any ministerial or administrative defect, error or omission which may be discovered in the contents of this Guarantee; (b) execute, acknowledge and deliver (or cause to be executed, acknowledged and delivered) such further documents and instruments and perform such further acts and provide such further assurances as may be necessary, desirable, or proper, in ERCOT's opinion, (i) to carry out more effectively the purposes of this Guarantee and the transactions contemplated hereunder, or (ii) to confirm the continuation of the rights created under this Guarantee for the benefit of ERCOT, including reaffirmation of the obligations hereunder from time to time upon the renewal hereof and the applicability of any changes in the Credit Support Amount.

Section 15. Time is of the essence in this Guarantee with respect to all of Guarantor's obligations hereunder.

Section 16. The recitals and introductory paragraphs hereof are a part hereof, form a basis for this Guarantee and shall be considered *prima facie* evidence of the facts and documents referred to therein.

Section 17. The Article, Section and Subsection entitlements hereof are inserted for convenience of reference only and shall in no way alter, modify, define, limit, amplify or be used in construing the text, scope or intent of such Articles, Sections or Subsections or any provisions hereof. Furthermore, words used in the singular shall include the plural and vice-versa, and any gender shall be deemed to include the other. Further, each party hereby acknowledges that such party and its counsel have reviewed and considered the effect of this Guarantee. As such, the terms of this Guarantee shall be fairly construed and the usual rule of construction, to the effect that any ambiguities herein should be resolved against the drafting party, shall not be employed in the interpretation of this Guarantee or any amendments, modifications, or exhibits.

Section 18. Each of Guarantor and ERCOT hereby agrees that:

(a) All sums payable under this Guarantee shall be by wire transfer of immediately available funds, without offset, in lawful money of the United States of America, which shall at the time of payment be legal tender for the payment of public and private debts. All payments shall be remitted to ERCOT's bank account as designated by written notice to Guarantor, whether through demand for payment or otherwise.

(b) All references in this Guarantee to sums denominated in dollars or with the symbol "\$" refer to the lawful currency of the United States of America. If, for the purposes of obtaining or enforcing judgment against Guarantor in any court in any jurisdiction in connection with this Guarantee, it becomes necessary to convert into any other currency (such other currency being referred to as the "**Judgment Currency**") an amount due in any currency ("**Obligation Currency**") other than the Judgment Currency

under this Guarantee, the conversion shall be made at the rate of exchange prevailing on the Business Day immediately preceding the date of actual payment of the amount due, in the case of any proceeding in the courts of the State of Texas or in the courts of any other jurisdiction that would give effect to such conversion being made on such date, or, the date on which the judgment is given, in the case of any proceeding in the courts of any other jurisdiction (the applicable date as of which such conversion is made pursuant to this paragraph being hereinafter referred to as the “**Judgment Conversion Date**”). If, in the case of any proceeding in the court of any jurisdiction referred to in the preceding sentence, there is a change in the rate of exchange prevailing between the Judgment Conversion Date and the date of actual receipt for value of the amount due, Guarantor shall pay such additional amount (if any and in any event not a lesser amount) as may be necessary to ensure that the amount actually received in the Judgment Currency, when converted at the rate of exchange prevailing on the date of payment, will produce the amount of the Obligation Currency which could have been purchased with the amount of the Judgment Currency stipulated in the judgment or judicial order at the rate of exchange prevailing on the Judgment Conversion Date. The term “rate of exchange” in this paragraph means the spot rate of exchange at which ERCOT would, on the relevant date at or about 12:00 noon, be prepared to sell the Obligation Currency against the Judgment Currency.

Section 19. EACH OF GUARANTOR AND ERCOT, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, HEREBY KNOWINGLY, INTENTIONALLY, IRREVOCABLY, UNCONDITIONALLY AND VOLUNTARILY, WITH, AND UPON THE ADVICE OF COMPETENT COUNSEL, WAIVES, RELINQUISHES AND FOREVER FORGOES ALL RIGHT TO A TRIAL BY JURY IN ANY ACTION, SUIT, PROCEEDING, OR COUNTERCLAIM BASED UPON, ARISING OUT OF, OR IN ANY WAY RELATING TO THIS GUARANTEE OR ANY CONDUCT, ACT, FAILURE TO ACT OR OMISSION OF OR BY ERCOT OR GUARANTOR, OR ANY OF THEIR RESPECTIVE DIRECTORS, OFFICERS, PARTNERS, MEMBERS, EMPLOYEES, AGENTS OR ATTORNEYS, OR ANY OTHER PERSONS AFFILIATED WITH ERCOT OR GUARANTOR, IN EACH OF THE FOREGOING CASES, WHETHER SOUNDING IN CONTRACT, TORT OR OTHERWISE, OR IN THE ENFORCEMENT OF ANY OF THE TERMS OR PROVISIONS OF THIS GUARANTEE. IT IS AGREED AND UNDERSTOOD BY EACH OF GUARANTOR AND ERCOT THAT THIS WAIVER CONSTITUTES A WAIVER OF TRIAL BY JURY OF ALL CLAIMS AGAINST ALL PARTIES TO SUCH ACTIONS OR PROCEEDINGS, INCLUDING CLAIMS AGAINST PARTIES WHO ARE NOT PARTIES TO THIS GUARANTEE. THIS WAIVER IS KNOWINGLY, WILLINGLY AND VOLUNTARILY MADE BY GUARANTOR AND ERCOT, AND EACH OF GUARANTOR AND ERCOT HEREBY REPRESENTS THAT NO REPRESENTATIONS OF FACT OR OPINION HAVE BEEN MADE BY ANY INDIVIDUAL TO INDUCE THIS WAIVER OF TRIAL BY JURY OR TO IN ANY WAY MODIFY OR NULLIFY ITS EFFECT. EACH OF GUARANTOR AND ERCOT FURTHER REPRESENTS AND WARRANTS THAT IT HAS BEEN REPRESENTED IN THE SIGNING OF THIS GUARANTEE AND IN THE MAKING OF THIS WAIVER BY INDEPENDENT LEGAL COUNSEL, OR HAS HAD THE OPPORTUNITY TO BE REPRESENTED BY INDEPENDENT LEGAL COUNSEL SELECTED OF ITS OWN FREE WILL, AND THAT IT HAS HAD THE OPPORTUNITY TO DISCUSS THIS WAIVER WITH COUNSEL.

Section 20. Guarantor agrees to pay to ERCOT, upon demand, all reasonable out-of-pocket costs and expenses, including, without limitation, reasonable third-party attorneys'-attorneys' fees, that may be incurred by ERCOT in attempting to cause satisfaction of Guarantor's-Guarantor's liability under this Guarantee (“**Expenses**”).

Section 21. All notices or other communications hereunder shall be made by hand delivery, by next day delivery service or by certified mail, return receipt requested (receipt effective upon scheduled weekday delivery day) or facsimile (receipt effective upon receipt of evidence, including

facsimile evidence, that facsimile was received) to the addresses for ERCOT and Guarantor set forth on the signature page of this Guarantee. For purposes of giving any required notices hereunder, the addresses, telephone numbers, and facsimile numbers of the ~~parties~~ Parties and the Guarantor's email address are as set forth on the signature page of this Guarantee. Such information regarding a party may be changed by such party by written notice to the other party. In addition, Guarantor shall maintain, at all times, a registered agent in Texas (the "Process Agent"). Guarantor hereby irrevocably appoints its Process Agent as its true and lawful agent and attorney-in-fact in its name, place and stead to accept such service of any and all writs, processes and summonses. Guarantor further agrees that the failure of its Process Agent to give any notice of any such service of process to Guarantor shall not impair or affect the validity of such service or of any judgment based thereon. Guarantor consents and agrees that such service shall constitute in every respect, valid and effective service. Guarantor's Process Agent in Texas is set forth on the signature page of this Guarantee, and Guarantor shall provide ERCOT with written notification of any change of its Process Agent or the address thereof.

Section 22. This Guarantee shall bind the successors and assigns of Guarantor and shall inure to the benefit of ERCOT, its successors and assigns pursuant to the terms of the Agreement.

(a) ERCOT shall be permitted to assign its rights and delegate its obligations under this Guarantee, in whole or in part, without the consent of Guarantor or Participant.

(b) The Guarantor may not assign its rights nor delegate its obligations under this Guarantee, in whole or in part, without the prior written consent of ERCOT, ~~and any~~ Any purported assignment or delegation absent ~~such~~ ERCOT's written consent is void, ~~except for an assignment and delegation~~

(c) Subject to the written consent of ERCOT in its sole discretion, Guarantor may assign and delegate of all of the Guarantor's rights and obligations hereunder in whatever form the Guarantor determines may be appropriate to a partnership, corporation, trust or other organization in whatever form entity that succeeds to all or substantially all of the Guarantor's assets and business and that assumes such obligations by contract, operation of law or otherwise, to the satisfaction of ERCOT in its sole discretion. Upon written acknowledgment of said assumption in accordance with the foregoing to the satisfaction of Upon Guarantor's receipt of ERCOT's written consent and the execution by assignee of any and all documents required by ERCOT, the Guarantor shall be relieved of and fully discharged from all obligations hereunder, whether such obligations arose before or after such delegation and assumption. If ERCOT does not consent to the assignment (which, for the avoidance of doubt, shall not constitute a default under this Guarantee), ERCOT shall provide written notice to Guarantor that it does not consent to the assignment and upon receipt of such written notice, Guarantor shall be permitted to terminate the Guarantee in accordance with Section 9(b).

Section 23. No modification of this Guarantee or waiver shall be valid unless in writing and signed by ERCOT and Guarantor and then only to the extent specifically set forth in such writing.

Section 24. This Guarantee supersedes and terminates any prior guarantee to ERCOT by Guarantor on behalf of Participant.

<signature page follows>

Participant: _____

_____ [Name of Participant]

a _____

[Type of entity/jurisdiction of organization]

Effective Date of Standard Form Market Participant Agreement: _____, 20____.

“CREDIT SUPPORT AMOUNT” is \$ _____

EXECUTED by GUARANTOR this _____ day of _____, 20__:

[Name of Guarantor]

Address: _____

a _____
[Type of entity/jurisdiction of organization]

Telephone: _____

By: _____
Name: _____
Title: _____

Facsimile: _____
Email Address: _____

Guarantor's Process Agent in Texas:

By: _____

Name: _____

Title: _____

Address: _____

ACCEPTED by ERCOT this _____ day of _____, 20__:

ELECTRIC RELIABILITY COUNCIL OF TEXAS, INC.

Address: 7620 Metro Center Drive
Austin, Texas 78744
[For notice and payment]

By: _____
Name: _____
Title: _____

Telephone: _____
Facsimile: 512.225.7020

4. Recommended Changes to Standard Forms of Letter of Credit and Market Participant Guarantee Agreements

**Foreign Market Participant Guarantee Agreement (3rd Party Version)
attached as separate document**



FOREIGN MARKET PARTICIPANT GUARANTEE AGREEMENT

This FOREIGN MARKET PARTICIPANT GUARANTEE AGREEMENT (this “*Guarantee*”) is made by the undersigned entity (together with its permitted successors and assigns, the “*Guarantor*”) in favor of ELECTRIC RELIABILITY COUNCIL OF TEXAS, INC. (together with its successors and assigns, “*ERCOT*”). The Guarantor and ERCOT shall be referred to herein collectively as “Parties”.

Recitals

A. ERCOT has entered into a Standard Form Market Participant Agreement (hereinafter the “Agreement” as the same may be modified through the procedure ~~for modifying ERCOT Protocols described set forth~~ in the ERCOT Protocols, “*Agreement*”) with the Market Participant identified on the signature page hereof (together with its permitted successors and permitted assigns, the “*Participant*”).

B. Pursuant to the Agreement and the related ERCOT Protocols (as such term is defined in the Agreement), ERCOT may extend credit to Participant from time to time.

C. It is expressly agreed and understood by and among Participant, ERCOT and Guarantor that: (1) the execution and delivery to ERCOT of this Guarantee is a condition precedent to ERCOT entering into the Agreement, the continuation of transactions with Participant pursuant to the Agreement and the extension of credit to Participant pursuant to the Agreement and the related ERCOT Protocols, (2) ERCOT has relied, and will continue to rely, upon this Guarantee and the terms and representations herein in entering into transactions as contemplated by the Agreement and the related ERCOT Protocols, and (3) ERCOT would not enter into the Agreement, or otherwise enter into or continue transactions with Participant, without this Guarantee.

D. Pursuant to that certain INSERT TITLE OF AGREEMENT (“*Reimbursement Agreement*”), Guarantor has contracted with Participant for the express purpose of providing this Guarantee for the benefit of ERCOT.

E. In connection with the foregoing, Guarantor desires to guarantee to ERCOT the prompt and full payment of the Obligations (as defined below) upon the terms and conditions contained in this Guarantee.

Agreements

Section 1. In consideration of credit heretofore or hereafter granted by ERCOT to Participant pursuant to the Agreement or the related ERCOT Protocols, Guarantor hereby unconditionally, absolutely and, subject to the express provisions of Sections 9 and 20 hereof, irrevocably guarantees to ERCOT, as a primary obligor and not as a surety, the punctual payment when due (subject to any grace period applicable to the Obligations (as defined below)), whether on a scheduled date, by lapse of time, by acceleration of maturity, or otherwise any and all of the Obligations. As used in this Guarantee, the term “*Obligations*” means, collectively:

(a) any and all indebtedness, liabilities and sums of money now or hereafter due ~~or~~ and owing by Participant to ERCOT pursuant to, or arising under, the Agreement, the ERCOT Protocols or any of the ERCOT market and operating guides, including (without limitation) all scheduling, operating, planning, reliability and settlement policies, rules, guidelines and procedures established from time to time ~~in~~ by ERCOT;

(b) any and all interest and out-of-pocket expenses (including reasonable attorneys' fees) ~~contemplated to be paid now or hereafter due and owing~~ by Participant pursuant to the Agreement, the ERCOT Protocols or any of the ERCOT market and operating guides, in each instance whether or not allowed under any Debtor Relief Law (including all post-petition interest accruing after the commencement of any bankruptcy or insolvency proceeding by or against Participant, whether or not allowed in such proceeding), and all other amounts that would be part of the Obligations but for the operation of Debtor Relief Laws;

(c) all assessments and other amounts required to be paid by Participant to ERCOT in order to maintain the Agreement and the ability to conduct business with ERCOT notwithstanding the continuing right of Participant to dispute, contest or pursue rights of setoff of such assessments and other amounts pursuant to the alternative dispute resolution provisions of the ERCOT Protocols; and

(d) all reasonable costs, expenses and fees, including, without limitation, court costs and attorneys' fees, arising in connection with the collection of any or all amounts, indebtedness, obligations and liabilities of Participant to ERCOT described in clauses (a) through (c) of this sentence.

For purposes of this Guarantee, the term "**Debtor Relief Laws**" shall mean Title 11 of the United States Code, as now or hereafter in effect, or any other applicable law, domestic or foreign, as now or hereafter in effect, relating to bankruptcy, insolvency, liquidation, receivership, reorganization, arrangement or composition, extension or adjustment of debts, or other debtor relief, or similar laws affecting the rights of creditors.

Section 2. Notwithstanding the foregoing, the maximum amount of the Obligations for which Guarantor shall be liable personally hereunder shall not exceed the sum of the following from time to time:

(a) the then-applicable Credit Support Amount (as defined below); plus

(b) interest in respect of the Obligations (to the extent permitted by applicable state law, the Agreement, the ERCOT Protocols or any of the ERCOT market and operating guides) for periods after the date on which written demand is made for payment hereunder by ERCOT; plus

(c) Expenses (as defined below).

For purposes of this Guarantee, the term "**Credit Support Amount**" shall mean the amount designated as such on the signature page to this Guarantee as the same may be increased or decreased by written agreement between the Guarantor ~~and~~ ERCOT.

Section 3. Guarantor is liable for the full payment of the Obligations, subject to the express limitations provided in Section 2, as a primary obligor. This is a continuing guarantee ~~for of~~ payment and not of collection. Guarantor acknowledges and agrees that Guarantor may be required to pay the Obligations in full without assistance or support from Participant or any other person. Guarantor agrees that if all or any part of the Obligations shall not be punctually paid when due, whether on the scheduled payment date, by lapse of time, by acceleration of maturity or otherwise, Guarantor shall pay, at or before 5:00 P.M. Central Prevailing Time on the second Business Day (as such term is defined in the ERCOT Protocols) immediately following the issuance of written demand by ERCOT to Guarantor, the amount due on the Obligations to ERCOT in accordance with the terms hereof. ERCOT may, but shall have no

obligation to, make such demand(s) at any time coincident with or after the time for payment of all or part of the Obligations, and such demand(s) may be made from time to time with respect to the same or different items of the Obligations. Such demand(s) may be made, given and received in accordance with the notice provisions hereof; provided, however, the failure to make, give or receive any such demand (or any failure of any such demand to be made in accordance with the notice provisions hereof) shall not relieve, limit or discharge Guarantor in any respect of its obligations under this Guarantee. Guarantor hereby waives any condition or requirement with respect to any such demand under this Guarantee, and Guarantor agrees that Guarantor's obligations hereunder are absolute and immediate without requirement of presentment, protest, notice of protest, notice of nonpayment, notice of intent to accelerate, notice of acceleration or any other notice whatsoever (all of which are expressly waived), except as may expressly be required hereunder.

Section 4. If Guarantor is or becomes liable for any indebtedness or obligations owing by Participant to ERCOT other than through this Guarantee, the liability of Guarantor for such other indebtedness shall not in any manner be impaired or affected hereby or the limits contained herein, and the rights of ERCOT hereunder shall be cumulative of any and all other rights that ERCOT may have against Guarantor. If Participant is or becomes indebted to ERCOT for any indebtedness other than the Obligations, any payment received or recovery realized upon any such other indebtedness of Participant to ERCOT may be applied, in ERCOT's sole discretion, to indebtedness of Participant to ERCOT other than the Obligations, except to the extent paid by the Guarantor specifically in respect of the Obligations or as otherwise required by Law or written agreement of ERCOT to be applied to the Obligations. This Guarantee is independent of, and shall not be limited by, any other guaranty or collateral posted by or on behalf of Guarantor, in each instance whether now existing or hereafter given. Further, Guarantor's liability under this Guarantee is in addition to any and all other liability Guarantor may have in any other capacity, including, without limitation, its capacity as a general partner or managing member of Participant.

Section 5. Except as otherwise set forth in this Guarantee, Guarantor hereby expressly waives:

(a) any right to ~~revoke-terminate~~ this Guarantee with respect to the Obligations except set forth in Section 9 below;

(b) any right to receive notice of any renewal, extension, modification, supplement or other change in the terms of the Agreement or the ERCOT Protocols;

~~(bc)~~ any right relating to the timing, manner or conduct of ERCOT's enforcement of rights against Participant's assets or any collateral from time to time pledged by, or on behalf of, Participant to secure the Obligations;

~~(ed)~~ if Guarantor and Participant (or any other person) have each pledged assets to secure the Obligations, any right to require ERCOT to proceed first against collateral pledged by Participant (or any other person) before proceeding against ~~the~~ collateral pledged by Guarantor;

(e) any claim for setoff or any defense which Participant could assert on the Obligations, including, without limitation, force majeure, breach of contract, breach of warranty, and fraud;

~~(df)~~ promptness, diligence, notice of any default, notice of nonpayment or nonperformance, notice of acceleration or intent to accelerate, acceptance or notice of acceptance

of this Guarantee, presentment, protest, notice of protest, notice of dishonor, notice of the incurring by Participant of additional indebtedness, notice of any suit or other action by ERCOT against Participant or any other person, any notice to any person liable for the obligation which is the subject of the suit or action, and all other notices and demands with respect to the Obligations and this Guarantee;

(eg) any and all rights to which it may be entitled by virtue of the laws of the State of Texas governing suretyship and guarantees, including, without limitation, any rights under Rule 31, Texas Rules of Civil Procedure, Section 17.001 of the Texas Civil Practice and Remedies Code and Chapter 34 of the Texas Business and Commerce Code, as any or all of the same may be amended or construed from time to time, or the common law of the State of Texas at all relevant times; ~~and~~

(fh) any defense due to the Guarantor's failure to review the activities of Participant or any changes in the Agreement, the ERCOT Protocols or the related ERCOT market and operating guides (it being acknowledged and agreed that Guarantor bears all responsibility for monitoring the activities of the Participant in the ERCOT markets).

(i) any and all other demands and notices to Guarantor or Participant, and any and all other formalities of any kind, the omission of or delay in performance of which might but for the provisions of this Section constitute legal or equitable grounds for relieving or discharging Guarantor in whole or in part from its irrevocable, absolute and continuing obligations hereunder.

In furtherance of the foregoing, Guarantor agrees that (i) it is not necessary for ERCOT, in order to enforce Guarantor's payment hereunder, first to proceed against Participant or resort to any collateral, security or other guarantors or obligors, if any, or pursue any other remedy available to ERCOT with respect to the Obligations and (ii) the Agreement, the ERCOT Protocols, and any collateral, security or obligations of any other guarantors or obligors, if any, may be renewed, extended, amended, modified, supplemented, sold, released, surrendered, exchanged, settled, compromised, waived, subordinated or modified, in each case without consideration and on any terms or conditions, without notice to, or further assent from, the Guarantor.

Section 6. The obligations of Guarantor hereunder are absolute and unconditional irrespective of:

(a) the invalidity or unenforceability of the Agreement;~~;~~

(b) the bankruptcy or insolvency of, or the effect of application of any Debtor Relief Laws to, the Participant;~~;~~

(c) any claim for setoff or any defense which Participant could assert on the Obligations, including, without limitation, force majeure, breach of contract, breach of warranty, and fraud;~~;~~

(d) any substitution, release or exchange of any other guaranty of or security for any of the Obligations;~~;~~

(e) the existence or terms of any other agreements between Guarantor and any party, including Participant;~~;~~ and

(f) to the fullest extent permitted by applicable law, irrespective of any other circumstances whatsoever that might otherwise constitute a legal or equitable discharge or defense of a guarantor, it being the intent of this Guarantee that the obligations of Guarantor hereunder shall be absolute and unconditional under any and all circumstances (except as otherwise set forth in this Guarantee).

Section 7. All rights of Guarantor to proceed against Participant in respect of payment hereunder, by subrogation or otherwise

(a) are hereby subordinated and deferred to and until the full and final payment and discharge of the Obligations; and

(b) Guarantor may not exercise any rights it may acquire by way of subrogation under this Guarantee, by payment made hereunder or otherwise, until all of the Obligations then due and payable have been fully and finally paid. Subject to the subordination herein provided, with respect to any payments made by Guarantor to ERCOT under this Guarantee, Guarantor may succeed to any rights of Participant under the Agreement and the ERCOT Protocols. Guarantor does not waive or release any rights of subrogation, reimbursement or contribution which Guarantor may have after full and final payment of the then due and unpaid Obligations.

Section 8. All remedies, rights, powers and privileges granted to ERCOT pursuant to this Guarantee are cumulative. The exercise of any or all such rights by ERCOT shall not reduce, limit, impair, discharge, terminate, or otherwise affect the liability of Guarantor. No failure or delay by ERCOT in exercising any remedy, right, power or privilege pursuant to this Guarantee shall operate as a waiver, and any such remedy, right, power or privilege may be exercised by ERCOT at any time. No partial exercise of any such rights shall preclude further exercise or the exercise of any other remedy, right, power or privilege. No notice or demand by ERCOT upon Guarantor or any other guarantor of the Obligations shall preclude ERCOT from taking further action without notice or demand.

~~Section 9.~~ The term of this Guarantee shall be for a period of one (1) year, commencing on the date set forth below and expiring one (1) year later. -

(a) Notwithstanding the foregoing, this Guarantee shall be automatically renewed and extended without amendment for one (1) year from the expiration date hereof, or one (1) year from any future expiration date, unless at least sixty (60) days prior to the expiration date the Guarantor sends written notice to ERCOT stating that Guarantor elects not to renew or extend this Guarantee;

(b) Notwithstanding the foregoing, this Guarantee may be terminated by Guarantor at any time by:

(i) -a written notification of termination given by Guarantor to ERCOT ~~at the address shown below, or~~

ii) posting, or causing to be posted, in respect of the Obligations of Participant, a letter of credit in an amount and form determined by ERCOT in accordance with the ERCOT Protocols (the "Substitute Collateral").

~~Such termination~~ Termination pursuant to Section 9(b)(i) shall be effective thirty (30) days after the receipt by ERCOT of such written notification of termination. ~~Guarantor~~ Termination pursuant to Section 9(b)(ii) shall be effective upon ERCOT's confirmation of receipt of the Substitute Collateral;

(c) If Guarantor elects not to renew or extend this Guarantee in accordance with Section 9(a) or Guarantor terminates this Guarantee in accordance with Section 9(b), Guarantor shall remain liable for any Obligations hereunder arising before the effective date of nonrenewal, non-extension, or termination. Guarantor expressly agrees and acknowledges that this Guarantee applies to all Obligations arising or committed to prior to the effective date of the termination of this Guarantee, whether by ~~notification of nonrenewal, non-extension, or termination; and, or by expiration of the term.~~

(d) Notwithstanding any other provision in this Guarantee, this Guarantee shall continue in effect or shall automatically be reinstated if at any time payment, or any part thereof, made by Participant or Guarantor to ERCOT during the term of this Guarantee with respect to any of the Obligations is rescinded or set aside for any reason, or must otherwise be repaid by ERCOT as a result of application of any Debtor Relief Laws or otherwise.

Section 10. Guarantor hereby represents and warrants to ERCOT, which representations shall be deemed repeated continually during the term hereof that:

——(a) this Guarantee is duly authorized and valid, and is binding upon and enforceable against Guarantor (subject, in each instance, to the effect of applicable Debtor Relief Laws) and the person executing this Guarantee on behalf of the Guarantor has full power and authority to bind the Guarantor to this Guarantee;

——(b) the execution and delivery of, and the performance by Guarantor of its obligations under this Guarantee do not contravene or conflict with (i) any provision of the Guarantor's organizational, constituent or governing documents, or (ii) any law, regulation, decree, order, judgment, resolution or any contractual restriction binding on Guarantor or its assets that could affect, in a materially adverse manner, the ability of the Guarantor to perform any of its obligations hereunder;

——(c) Guarantor (i) is duly organized, validly existing, and in good standing under the laws of the state of its organization and (ii) ~~and~~ has full power and authority to enter into, and to perform its obligations under, this Guarantee;

——(d) there is no litigation pending or, to the knowledge of Guarantor, threatened, before or by any tribunal against or affecting Guarantor which seeks to limit, prevent, enjoin or delay the Guarantor's performance of its obligations under this Guarantee, except as may be disclosed by the Guarantor to ERCOT or in the Guarantor's filing with the Securities and Exchange Commission;

——(e) no bankruptcy or insolvency proceedings are pending or to the best of Guarantor's knowledge, contemplated by or against Guarantor under any Debtor Relief Laws;

——(f) ***NEITHER ERCOT NOR ANY AFFILIATE, EMPLOYEE, AGENT, OR REPRESENTATIVE OF ERCOT HAS MADE ANY REPRESENTATION, WARRANTY OR STATEMENT TO GUARANTOR IN ORDER TO INDUCE GUARANTOR TO EXECUTE THIS GUARANTEE, AND GUARANTOR HEREBY EXPRESSLY WAIVES ANY CLAIM OF FRAUDULENT INDUCEMENT TO EXECUTE THIS GUARANTEE AND***

FURTHER DISCLAIMS ANY RELIANCE ON STATEMENTS OR REPRESENTATIONS OF ERCOT OR ANY AFFILIATE, EMPLOYEE, AGENT, OR REPRESENTATIVE OF ERCOT IN WAIVING SUCH A CLAIM; and

(g) any and all balance sheets, net worth statements, and other financial information with respect to Guarantor which have heretofore been given to ERCOT by Guarantor fairly and accurately present the financial condition of Guarantor as of the respective dates thereof;

(h) to the best of its knowledge, Guarantor is not in default under any agreements or contracts which may adversely affect Guarantor's ability to fulfill its obligations under this Guarantee;

(i) any indebtedness of Participant to Guarantor now or hereafter existing is hereby subordinated to the payment of the Obligations. As long as Participant is not in default on payment of the Obligations, Participant may make payments to Guarantor on any subordinated indebtedness in the ordinary course of business. After default by Participant on payment of the Obligations, any payments by Participant to Guarantor on account of such subordinated indebtedness shall be collected and received by Guarantor in trust for ERCOT and shall be paid over to ERCOT on account of the Obligations without impairing or releasing the obligations of Guarantor hereunder; and

~~(gj)~~ Guarantor has, independently and without reliance upon ERCOT, and based upon such documents and information as Guarantor has deemed appropriate, made its own analysis and decision to enter into this Guarantee.

Section 11. Guarantor hereby further covenants and agrees to ERCOT that:

~~(a)~~ Guarantor will keep itself fully apprised of Participant's financial and business condition, and Guarantor shall be responsible, to the extent deemed necessary or advisable by Guarantor, for obtaining for itself information regarding Participant, the Agreement, the ERCOT Protocols and the ERCOT market and operating guides, and Guarantor acknowledges and agrees that ERCOT shall have no duty at any time to notify Guarantor of any information which ERCOT may have or acquire concerning Participant or to investigate or inform Guarantor of the financial or business condition or affairs of Participant or any change therein; ~~and~~

(b) Guarantor will provide ERCOT with any and all financial information required to be submitted under ERCOT's credit policy and other financial information reasonably requested by ERCOT concerning or relating to Guarantor's financial condition within twenty (20) days after such written request by ERCOT. Financial information shall include, at a minimum: most recent tax return, a balance sheet; an income and expense statement; a statement showing contingent liabilities; detailed cash flow statements; and any supporting schedules or documentation which ERCOT may require and is acceptable to ERCOT; and

~~(bc)~~ Guarantor's representations, warranties, covenants, waivers and agreements set forth in this Guarantee are a material inducement to ERCOT to enter into

the Agreement and extend credit to Participant and shall survive the execution hereof and any bankruptcy, foreclosure, transfer of security or other event affecting Participant, Guarantor, any other person, or any security for all or any part of the Obligations.

Section 12. This Guarantee is executed and delivered as an incident to a transaction(s) negotiated and consummated in Travis County, Texas, and shall be governed by and construed in accordance with the Laws of the State of Texas, other than the conflicts of laws principles thereof.

Guarantor, for itself and its successors and assigns, hereby irrevocably agrees:

(a) (i) to submit to the non-exclusive jurisdiction of the state and federal courts in the State of Texas, (ii) to waive, to the fullest extent permitted by Law, any objection that may now or in the future have as to the venue of any action, proceeding or litigation arising out of or in connection with this Guarantee brought in the District Court of Travis County, Texas, or in the United States District Court for the Western District of Texas, Austin Division, and (iii) that any legal action or proceeding against Guarantor arising out of or in connection with this Guarantee may be brought in any one of the foregoing courts. Guarantor hereby agrees that service of process upon Guarantor may be made by certified or registered mail, return receipt requested, at its address specified herein, or at the address of its Process Agent (as defined in Section 25 hereof). Nothing herein shall affect the right of ERCOT to serve process in any other manner permitted by law or shall limit the right of ERCOT to bring any action or proceeding against Guarantor or with respect to any of Guarantor's property in courts in other jurisdictions. Any action or proceeding by Guarantor against ERCOT shall be brought only in a court located in Travis County, Texas. The scope of each of the foregoing waivers is intended to be all encompassing of any and all disputes that may be filed in any court and that relate to the subject matter of this transaction, including, without limitation, contract claims, tort claims, breach of duty claims, and all other common law and statutory claims. Guarantor acknowledges that these waivers are a material inducement to ERCOT's agreement to enter into the Agreement, that ERCOT has already relied on these waivers and will continue to rely on each of these waivers in related future dealings. The waivers in Section 12 are irrevocable on the part of both ERCOT and Guarantor and may not be modified without the agreement of both ERCOT and Guarantor in writing as required pursuant to Section 23 below; these waivers apply to any future renewals, extensions, amendments, modifications, replacements or renewals of this Guarantee; or, alternatively,

(b) to resolve any dispute relating in any manner to this Guarantee through binding arbitration. Arbitration proceedings shall be conducted pursuant to the International Arbitration Rules of the American Arbitration Association (AAA) in effect at the time the dispute first arises, by one (1) or three (3) arbitrator(s) appointed in accordance with such Rules within ten (10) calendar days of submission of the dispute. The number of arbitrators forming the arbitral panel shall be mutually agreed upon by the parties, but if they cannot agree, then the AAA shall determine same. The arbitration shall be held in such city as is agreed upon by the parties, but if they cannot agree, then such arbitration shall be held in Austin, State of Texas, United States of America. The arbitration shall be conducted simultaneously in English and in the primary language of Guarantor. The English version of this Guarantee shall be the controlling document in the arbitration proceeding. The procedural laws of the civil district courts of the State of Texas, U.S.A. shall govern the arbitral proceeding regardless of the situs of the arbitration. The arbitral panel shall set a limited time period and establish procedures designed to reduce the cost and time for discovery, while allowing the parties an adequate opportunity, in the discretion of the arbitral panel, to discover relevant information from opposing parties about the subject matter of the dispute. The arbitral panel shall award actual damages to the prevailing party, but may not award

any special, indirect, punitive or consequential damages nor reasonable attorneys' fees and arbitration costs to either party. The arbitral award shall fully and finally settle the dispute. Recognition and enforcement of the arbitral award shall be governed by the 1958 New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards. Judgment upon the award may be entered in any court in any country, or application may be made to such court for a judicial acceptance of the award and an order of enforcement, as the law of such jurisdiction may require or allow. Each party shall bear its own costs and fees, including, but not limited to its share of any arbitration fees, unless otherwise ordered by the arbitrator(s).

BY AGREEING TO BINDING ARBITRATION, EACH OF THE PARTIES IRREVOCABLY AND VOLUNTARILY WAIVES ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY CLAIM. FURTHERMORE, WITHOUT INTENDING IN ANY WAY TO LIMIT THIS AGREEMENT TO ARBITRATE, TO THE EXTENT ANY CLAIM IS NOT ARBITRATED, EACH OF THE PARTIES IRREVOCABLY AND VOLUNTARILY WAIVE ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF SUCH CLAIM. THIS PROVISION IS A MATERIAL INDUCEMENT FOR THE PARTIES ENTERING INTO THIS GUARANTEE.

Section 13. If any provision or any part of any provision of this Guarantee or the application thereof to any person or circumstance shall, for any reason and to any extent, be judicially declared to be invalid or unenforceable, then neither the remaining provisions of this Guarantee nor the application of such provision to any other person or circumstance shall be affected thereby, and the remaining provisions of this Guarantee, or the applicability of such provision to other persons or circumstances, as the case may be, rather shall remain in effect and be enforceable to the maximum extent permitted by applicable law.

Section 14. From time to time, at the reasonable request of ERCOT, Guarantor will (a) promptly correct any ministerial or administrative defect, error or omission which may be discovered in the contents of this Guarantee; (b) execute, acknowledge and deliver (or cause to be executed, acknowledged and delivered) such further documents and instruments and perform such further acts and provide such further assurances as may be necessary, desirable, or proper, in ERCOT's opinion, (i) to carry out more effectively the purposes of this Guarantee and the transactions contemplated hereunder, or (ii) to confirm the continuation of the rights created under this Guarantee for the benefit of ERCOT, including reaffirmation of the obligations hereunder from time to time upon the renewal hereof and the applicability of any changes in the Credit Support Amount.

Section 15. Time is of the essence in this Guarantee with respect to all of Guarantor's obligations hereunder.

Section 16. The recitals and introductory paragraphs hereof are a part hereof, form a basis for this Guarantee and shall be considered *prima facie* evidence of the facts and documents referred to therein.

Section 17. The Article, Section and Subsection entitlements hereof are inserted for convenience of reference only and shall in no way alter, modify, define, limit, amplify or be used in construing the text, scope or intent of such Articles, Sections or Subsections or any provisions hereof. Furthermore, words used in the singular shall include the plural and vice-versa, and any gender shall be deemed to include the other. Further, each party hereby acknowledges that such party and its counsel have reviewed and considered the effect of this Guarantee. As such, the terms of this Guarantee shall be fairly construed and the usual rule of construction, to the effect that any ambiguities herein should be resolved against the

drafting party, shall not be employed in the interpretation of this Guarantee or any amendments, modifications, or exhibits.

Section 18. Each of Guarantor and ERCOT hereby agrees that:

(a) All sums payable under this Guarantee shall be by wire transfer of immediately available funds, without offset, in lawful money of the United States of America, which shall at the time of payment be legal tender for the payment of public and private debts. All payments shall be remitted to ERCOT's bank account as designated by written notice to Guarantor, whether through demand for payment or otherwise.

(b) All references in this Guarantee to sums denominated in dollars or with the symbol "\$" refer to the lawful currency of the United States of America. If, for the purposes of obtaining or enforcing judgment against Guarantor in any court in any jurisdiction in connection with this Guarantee, it becomes necessary to convert into any other currency (such other currency being referred to as the "**Judgment Currency**") an amount due in any currency ("**Obligation Currency**") other than the Judgment Currency under this Guarantee, the conversion shall be made at the rate of exchange prevailing on the Business Day immediately preceding the date of actual payment of the amount due, in the case of any proceeding in the courts of the State of Texas or in the courts of any other jurisdiction that would give effect to such conversion being made on such date, or, the date on which the judgment is given, in the case of any proceeding in the courts of any other jurisdiction (the applicable date as of which such conversion is made pursuant to this paragraph being hereinafter referred to as the "**Judgment Conversion Date**"). If, in the case of any proceeding in the court of any jurisdiction referred to in the preceding sentence, there is a change in the rate of exchange prevailing between the Judgment Conversion Date and the date of actual receipt for value of the amount due, Guarantor shall pay such additional amount (if any and in any event not a lesser amount) as may be necessary to ensure that the amount actually received in the Judgment Currency, when converted at the rate of exchange prevailing on the date of payment, will produce the amount of the Obligation Currency which could have been purchased with the amount of the Judgment Currency stipulated in the judgment or judicial order at the rate of exchange prevailing on the Judgment Conversion Date. The term "rate of exchange" in this paragraph means the spot rate of exchange at which ERCOT would, on the relevant date at or about 12:00 noon, be prepared to sell the Obligation Currency against the Judgment Currency.

Section 19. EACH OF GUARANTOR AND ERCOT, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, HEREBY KNOWINGLY, INTENTIONALLY, IRREVOCABLY, UNCONDITIONALLY AND VOLUNTARILY, WITH, AND UPON THE ADVICE OF COMPETENT COUNSEL, WAIVES, RELINQUISHES AND FOREVER FORGOES ALL RIGHT TO A TRIAL BY JURY IN ANY ACTION, SUIT, PROCEEDING, OR COUNTERCLAIM BASED UPON, ARISING OUT OF, OR IN ANY WAY RELATING TO THIS GUARANTEE OR ANY CONDUCT, ACT, FAILURE TO ACT OR OMISSION OF OR BY ERCOT OR GUARANTOR, OR ANY OF THEIR RESPECTIVE DIRECTORS, OFFICERS, PARTNERS, MEMBERS, EMPLOYEES, AGENTS OR ATTORNEYS, OR ANY OTHER PERSONS AFFILIATED WITH ERCOT OR GUARANTOR, IN EACH OF THE FOREGOING CASES, WHETHER SOUNDING IN CONTRACT, TORT OR OTHERWISE, OR IN THE ENFORCEMENT OF ANY OF THE TERMS OR PROVISIONS OF THIS GUARANTEE. IT IS AGREED AND UNDERSTOOD BY EACH OF GUARANTOR AND ERCOT THAT THIS WAIVER CONSTITUTES A WAIVER OF TRIAL BY JURY OF ALL CLAIMS AGAINST ALL PARTIES TO SUCH ACTIONS OR PROCEEDINGS, INCLUDING CLAIMS AGAINST PARTIES WHO ARE NOT PARTIES TO THIS GUARANTEE. THIS WAIVER IS KNOWINGLY, WILLINGLY AND VOLUNTARILY MADE BY GUARANTOR AND ERCOT, AND

EACH OF GUARANTOR AND ERCOT HEREBY REPRESENTS THAT NO REPRESENTATIONS OF FACT OR OPINION HAVE BEEN MADE BY ANY INDIVIDUAL TO INDUCE THIS WAIVER OF TRIAL BY JURY OR TO IN ANY WAY MODIFY OR NULLIFY ITS EFFECT. EACH OF GUARANTOR AND ERCOT FURTHER REPRESENTS AND WARRANTS THAT IT HAS BEEN REPRESENTED IN THE SIGNING OF THIS GUARANTEE AND IN THE MAKING OF THIS WAIVER BY INDEPENDENT LEGAL COUNSEL, OR HAS HAD THE OPPORTUNITY TO BE REPRESENTED BY INDEPENDENT LEGAL COUNSEL SELECTED OF ITS OWN FREE WILL, AND THAT IT HAS HAD THE OPPORTUNITY TO DISCUSS THIS WAIVER WITH COUNSEL.

Section 20. Guarantor agrees to pay to ERCOT, upon demand, all reasonable out-of-pocket costs and expenses, including, without limitation, reasonable third-party attorneys' fees, that may be incurred by ERCOT in attempting to cause satisfaction of Guarantor's liability under this Guarantee ("Expenses").

Section 21. All notices or other communications hereunder shall be made by hand delivery, by next day delivery service or by certified mail, return receipt requested (receipt effective upon scheduled weekday delivery day) or facsimile (receipt effective upon receipt of evidence, including facsimile evidence, that facsimile was received) to the addresses for ERCOT and Guarantor set forth on the signature page of this Guarantee. For purposes of giving any required notices hereunder, the addresses, telephone numbers, and facsimile numbers of the ~~parties~~ Parties and the Guarantor's email address are set forth on the signature page of this Guarantee. Such information regarding a party may be changed by such party by written notice to the other party. In addition, Guarantor shall maintain, at all times, a registered agent in Texas (the "Process Agent"). Guarantor hereby irrevocably appoints its Process Agent as its true and lawful agent and attorney-in-fact in its name, place and stead to accept such service of any and all writs, processes and summonses. Guarantor further agrees that the failure of its Process Agent to give any notice of any such service of process to Guarantor shall not impair or affect the validity of such service or of any judgment based thereon. Guarantor consents and agrees that such service shall constitute in every respect, valid and effective service. Guarantor's Process Agent in Texas is set forth on the signature page of this Guarantee, and Guarantor shall provide ERCOT with written notification of any change of its Process Agent or the address thereof.

Section 22. This Guarantee shall bind the successors and assigns of Guarantor and shall inure to the benefit of ERCOT, its successors and assigns pursuant to the terms of the Agreement.

(a) ERCOT shall be permitted to assign its rights and delegate its obligations under this Guarantee, in whole or in part, without the consent of Guarantor or Participant.

~~-(b)~~ The Guarantor may not assign its rights nor delegate its obligations under this Guarantee, in whole or in part, without the prior written consent of ERCOT, and any Any purported assignment or delegation absent such ERCOT's written consent is void, except for an assignment and delegation.

(c) Subject to the written consent of ERCOT in its sole discretion, Guarantor may assign and delegate of all of the Guarantor's rights and obligations hereunder in whatever form the Guarantor determines may be appropriate to a partnership, corporation, trust or other organization in whatever form entity that succeeds to all or substantially all of the Guarantor's assets and business and that assumes such obligations by contract, operation of law or otherwise to the satisfaction of ERCOT in its sole discretion. Upon written acknowledgment of said assumption in accordance with the

~~foregoing to the satisfaction of.~~ Upon Guarantor's receipt of ERCOT's written consent and the execution by assignee of any and all documents required by ERCOT, the Guarantor shall be relieved of and fully discharged from all obligations hereunder, whether such obligations arose before or after such delegation and assumption. If ERCOT does not consent to the assignment (which, for the avoidance of doubt, shall not constitute a default under this Guarantee), ERCOT shall provide written notice to Guarantor that it does not consent to the assignment and upon receipt of such written notice, Guarantor shall be permitted to terminate the Guarantee in accordance with Section 9(b).

Section 23. No modification of this Guarantee or waiver shall be valid unless in writing and signed by ERCOT and Guarantor and then only to the extent specifically set forth in such writing.

Section 24. This Guarantee supersedes and terminates any prior guarantee to ERCOT by Guarantor on behalf of Participant.

<signature page follows>

Participant: _____

[Name of Participant]

a _____

[Type of entity/jurisdiction of organization]

Effective Date of Standard Form Market Participant Agreement: _____, 200____.

|

"CREDIT SUPPORT AMOUNT" is: \$ _____

EXECUTED by GUARANTOR this _____ day of _____, 200__:

[Name of Guarantor]

Address: _____

a _____
[Type of entity/jurisdiction of organization]

Telephone: _____

By: _____

Facsimile: _____

Email _____ Address: _____

Name: _____
Title: _____

Guarantor's Process Agent in Texas:

By: _____

Name: _____

Title: _____

Address: _____

ACCEPTED by ERCOT this _____ day of _____, 200__:

ELECTRIC RELIABILITY COUNCIL OF TEXAS, INC.

Address: 7620 Metro Center Drive
Austin, Texas 78744
[For notice and payment]

By: _____

Name: _____

Title: _____

Telephone: _____

Facsimile: 512.225.7020

5. Credit Update – Procedures for Setting Nodal Day-Ahead Market Credit Requirement Parameters <Vote>

- **Protocol Section 4.4.10, Credit Requirement for DAM Bids and Offers, requires Board approval of any revision to the *Procedures for Setting Nodal Day-Ahead Market Credit Requirement Parameters*.**
- **The May 25, 2011 Credit Work Group and June 15, 2011 Wholesale Market Subcommittee (WMS) recommended revisions to the Day Ahead Market credit parameters procedures to:**
 - Simplify the procedure for new Counter Parties entering the market;
 - Allow ERCOT greater flexibility in setting pre-Day Ahead Market collateral requirements; and
 - Delete references to the initial days of the Nodal market.
- **On July 7, 2011, TAC unanimously voted to recommend approval of the revised “Procedures for Setting Nodal Day-Ahead Market Credit Requirement Parameters” as recommended by the Credit Work Group and WMS.**

6. Committee Briefs

ERCOT Market Credit Status

as of 5/31/2011						as of 6/30/2011					
	# of CPs*	Total Potential Exposure (\$)	% of TPE	Total Unsec Credit Limit / Security Posted			# of CPs*	Total Potential Exposure (\$)	% of TPE	Total Unsec Credit Limit / Security Posted	
Exposure in the ERCOT Market (owed to ERCOT)											
<u>QSEs that meet ERCOT Creditworthiness Standards</u>											
Ratings over BBB-	15	35,127,442	10%	596,324,605	U		10	32,076,383	6%	521,324,605	U
<u>QSEs that do not meet ERCOT Creditworthiness Standards</u>											
Ratings below BBB- or not rated											
Cash & Letters of Credit	69	179,323,991	49%	1,356,736,065	S		82	283,065,380	54%	1,023,084,578	S
Guarantee Agreements	24	150,617,425	41%	737,202,271	S		28	210,976,473	40%	798,702,271	S
Total Exposure	108	365,068,858	100%				120	526,118,236	100%		
Other QSEs in the ERCOT Market (ERCOT owes)											
<u>QSEs that meet ERCOT Creditworthiness Standards</u>											
Ratings over BBB-	12	(1,245,777)	-15%	269,726,310	U		16	(395,343)	-4%	364,011,267	U
<u>QSEs that do not meet ERCOT Creditworthiness Standards</u>											
Ratings below BBB- or not rated											
Cash & Letters of Credit	87	(6,845,448)	-85%	218,553,073	S		78	(10,950,060)	-97%	65,773,556	S
Guarantee Agreements	11	-	0%	129,006,298	S		10	-	0%	91,506,298	S
Total	110	(8,091,225)	-100%				104	(11,345,403)	-100%		
Total	218						224				

U: For QSEs that meet ERCOT's Creditworthiness Standards, amount of unsecured credit granted.

S: For QSEs that do not meet ERCOT's Creditworthiness Standards, amount of Security posted.

Note 1: Guarantee Agreements provided to meet a QSE's collateral requirements by entities that meet ERCOT's Creditworthiness Standards.

Guarantee Agreements provided to meet financial statement requirements by entities that do not meet ERCOT's Creditworthiness Standards are not included on this schedule.

Note 2: With the finalization of the Balance of Year (BOY) auction: The FCE component went up by approximately \$ 100 million, increasing overall TPE; Of the 75 CPs with changes in FCE, 35 CP's FCE went down (generally as the result of increased holdings of Options); 28 CPs had increases of less than \$2 million and 12 CPs had increases in their FCE component of more than \$ 2 million Collateral was reduced by approximately \$460 million - primarily the result of the CRR BOY Auction being finalized and CRR Invoices being paid

Summary Benchmark Report as of June 30, 2011

	# of CPs	Ave Gen Vol (in MWh)	Ave Load Vol (in MWh)	% CPs	% Gen Vol	% Load Vol	CP TPE (in 000's)	Low Benchmark (in 000's)	High Benchmark (in 000's)
Between High and Low									
w/ No Load and No Generation	93						22,073	16,899	26,222
w/ Load and/or Generation	71	780,290	987,938				288,416	184,133	823,191
Total	164	780,290	987,938	73%	71%	89%	310,489	201,032	849,413
Above High									
w/ No Load and No Generation	24	-	-				17,732	3,971	7,080
w/ Load and/or Generation	30	273,899	113,224				197,226	44,861	97,859
Total	54	273,899	113,224	24%	25%	10%	214,958	48,832	104,938
Below Low									
w/ No Load and No Generation	3	-	-				(817)	84	83
w/ Load and/or Generation	3	51,896	14,095				(9,858)	716	6,955
Total	6	51,896	14,095	3%	5%	1%	(10,675)	800	7,038
Total as of June 30, 2011	224	1,106,085	1,115,257	100%	100%	100%	514,773	250,664	961,390
Total as of May 31, 2011	218	882,258	889,746				356,978	133,610	599,067

Benchmark Assumptions

		Forward Risk Estimate				
		Volume Component			Price Component	
Historical Risk		Basis	# of days	Factor	Basis	Price volatility factor
Low Benchmark						
Counter-Parties - Load only	Outstanding receivable/payable - invoiced and estimated	30-day average total load volume	2	1.0	Avg real time price - floor - \$25, cap - \$50	1.0
Counter-Parties - Generation only	Outstanding receivable/payable - invoiced and estimated	30-day average total generation volume	2	0.2	Avg real time price - floor - \$25, cap - \$50	1.0
Counter-Parties - neither Load or Generation	Outstanding receivable/payable - invoiced and estimated	30-day average imbalance volume (real time activity)	2	1.0	Avg real time price - floor - \$25, cap - \$50	1.0
High Benchmark						
Counter-Parties - Load only	Outstanding receivable/payable - invoiced and estimated	Highest total load volume over past 30-days	9	1.0	Same	1.5
Counter-Parties - Generation only	Outstanding receivable/payable - invoiced and estimated	Highest total generation volume over past 30-days	6	0.2	Same	1.5
Counter-Parties - neither Load or Generation	Outstanding receivable/payable - invoiced and estimated	Highest imbalance volume over past 30-days (real time activity)	6	1.0	Same	1.5
		Highest DAM sales volume over past 30-days	2	1.0	Same	1.5

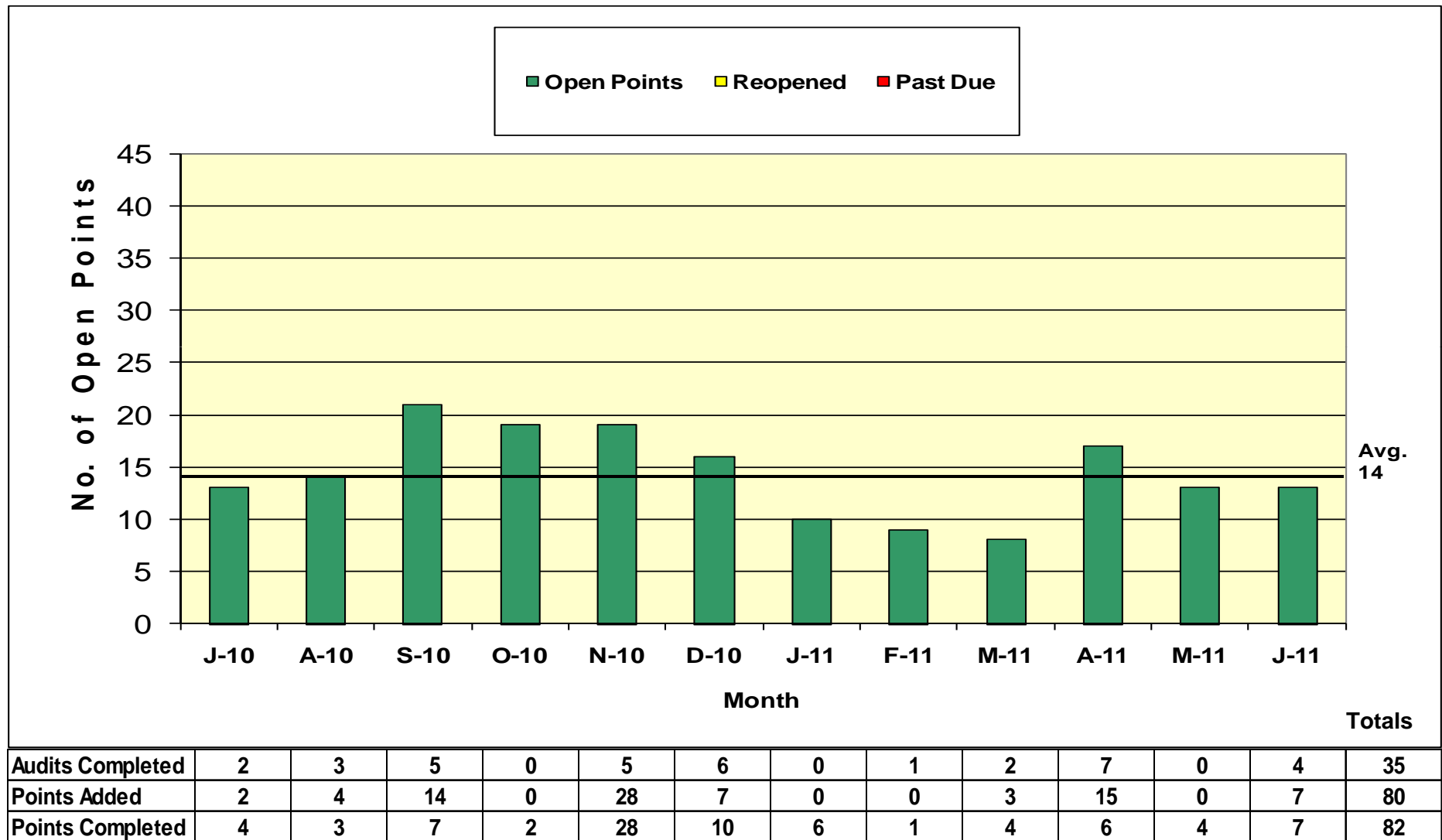
Note 1: If an entity has both load and generation volume, the greater of the two estimates is used in the Benchmark

ERCOT
Summary of Investments
June 30, 2011

Counter Party	Treasury	Treasury and Treasury Repo	Total Invested	Percentage of Investments
	----- \$ millions -----			
Fidelity	\$ 50.0	\$ 49.9	\$ 99.9	17%
BlackRock	50.0	48.9	99.0	17%
Federated	48.0	48.9	97.0	17%
Wells Fargo	49.9	34.9	84.9	15%
Morgan Stanley	49.0	30.0	79.0	14%
JPMorgan	-	42.6	42.6	7%
Invesco	-	39.2	39.2	7%
Bank of America	-	33.9	33.9	6%
Total	\$ 247.0	\$ 328.5	\$ 575.5	100%

6. Committee Brief ICMP: Status of Open Audit Points

Cheryl Moseley



All audit points except one expected to be complete by 12/31/11.

6. Committee Brief: ICMP – Audits Cheryl Moseley

Audits Completed

(last 3 months)

Internal Audits

- Software/System Development Lifecycle
- Government Grant Contract Compliance
- Nodal Protocol 17.3 Required Audit – ERCOT Market Data Collection & Use
- Q1 2011 Fraud Auditing
- Employee Compensation and Benefit Plan Practices – HR
- ADP – Payroll & Benefits
- Standard for Black Start & EILS Agreements

External Audits

- None

Audits in Progress

Internal Audits

- Assessment of Completed Projects
- Control Program & ControlPath System Evaluation
- Q2 2011 Fraud Auditing
- Data Center Relocation

External Audits

- 401K Benefit Plan (Maxwell, Locke & Ritter)
- 2011 Type 2 SSAE 16 (SAS 70) Audit (BrightLine CPAs & Associates, Inc.)

Planned Audits

(next 3 months)

Internal Audits

- Business Integration Testing
- Q3 2011 Fraud Auditing
- Cash and Investments
- Storage and Capacity Planning
- Protocol 1.4 Required Audit – Ethics
- Market Credit and Credit Risk Model
- Business Continuity Plan (Including Disaster Recovery)

External Audits

- None



July 18, 2011

Finance & Audit Committee Meeting

6. Committee Brief: ICMP – Security Assessments

Cheryl Moseley

Consultation/Analysis Reports Completed

(last 3 months)

Assessments

- None

Open Consultation/ Analysis Reviews

(in progress)

Assessments

- None

























Planned Consultation/ Analysis Reviews

(next 3 months)

Assessments

- None


ELECTRIC RELIABILITY COUNCIL OF TEXAS, INC.
RISK MANAGEMENT EVENT PROFILE MATRIX (as of 1st July 2011)

Strategic	Operational Excellence	Market Facilitation	Grid Reliability	Reporting	Legal and Regulatory Compliance
 Strategy Development <i>Corporate objective setting adequately incorporates informed stakeholder input, market realities and management expertise.</i>	 Performance Monitoring <i>Clearly defined and actively monitored performance metrics linked to mission and goals - Performance status communicated and corrective action taken.</i>	 Market Operations <i>Effectively manage the evolution of the wholesale and retail markets to meet the changing business environment.</i>	 Grid Operations <i>Information required to operate the grid is efficiently gathered. Appropriate tools are prudently configured to efficiently operate the system.</i>	 Review Practices <i>Prudent measures are taken to insure that company disclosures are properly vetted and not misleading.</i>	 Legal & Legislative <i>Operations are conducted in compliance with all laws and regulations. Impacts of current and proposed legislation are understood and communicated.</i>
					It appears likely that in order to gain an exemption from CFTC oversight ERCOT will have to become a central counterparty and implement a number of changes to credit policies and protocols. Discussions with CFTC are ongoing and implementation issues are being reviewed.
 Mission and Goals <i>Corporate objectives and performance standards are understood and followed.</i>	 Business Practices <i>Business planning, processes and management standards are effective and efficient.</i>	 Nodal Systems Stabilization <i>Manage the deployment and stabilization of the nodal market systems</i>	 Planning <i>Long-range planning methods enable efficient responses to system changes that are necessary to maintain reliability standards.</i>	 Disclosure <i>Reporting and other disclosures to intended parties is timely, accurate and effective.</i>	 Internal Control Compliance <i>Internal Control Compliance processes and management standards are effective, efficient, and provide stakeholders with required assurances of quality.</i>
Strategic Plan has been approved since July of 2010 . Proposed 2011 KPIs under review by HR&G Committee.			Demand for planning studies continues to grow. ERCOT has received two awards totaling \$3.5 million to produce long-term resource and transmission planning studies in 2011. Hiring is completed. In the scoping phase of the studies. Project completion 2013. Options under review for implementation of a revised fee structure applicable to interconnection studies.		A limited SAS 70 Audit was completed in January (Type I). No control issues were identified. Testing for the SSAE16 audit is underway. No issues have been identified to date.
 Reputation <i>Positive perceptions by stakeholders lead to less cost and greater flexibility resulting in enhanced enterprise value.</i>	 Workforce <i>Organization design, managerial and technical skills, bench strength and reward systems aligned with corporate goals.</i>	 Counterparty Credit <i>Maintain credit risk exposure for overall market within acceptable limits.</i>	 Bulk System Resources <i>Market Participants construct and make available adequate bulk electric grid resources.</i>	 Communication <i>Internal & external communications are timely and effective.</i>	 Industry Standards <i>Business and operational activities in compliance with all applicable regulatory, financial & accounting requirements, standards, & directives.</i>
Reassessed reputation risk as a result of February cold weather event.	Employee retention risk likely to increase as economy continues to improve.	Color remains yellow pending the review of risk factors in the Nodal market requested by F&A. <i>Work is proceeding on the CFTC application for the CEA exemption expected to be filed in July</i>	The December update of the CDR report forecasts reserve margins in 2013 and 2016 falling below the 13.75% target reserve margin. ERCOT continues to evaluate reserve margin scenarios. <i>A Level 1 EEA was issued by ERCOT on June 27th in response to low available capacity.</i>	An updated external communications plan has been issued following the February Energy Emergency Alert.	Compliance is believed to be on target for 'spot checks' of CIP compliance later in 2011.
 Fiscal Management <i>ISO design requires competent, prudent and cost effective provision of services.</i>	 Technology Infrastructure <i>Information systems, supporting facilities and data are effectively managed and are reliable.</i>	 Administration, Settlement & Billing <i>Market rules fairly applied to all participants. Accounting is timely and accurately reflects electricity production and delivery.</i>	 Operational Responsibility <i>Market participant conduct their operations in a manner which facilitates consistent grid reliability.</i>	 Adequacy and Integrity <i>Robust processes exist to support management assertions embodied within financial reports.</i>	 Regulatory Filings <i>Evidence, testimony and other supporting materials are compelling and successful.</i>
			Operational impacts of increasing amounts of intermittent renewable generation on the system is uncertain. ERCOT has established a Resource Integration department devoted to analyzing and proposing solutions to the issues.		

Notes:

Changes to Risk Categories / Descriptions shown in **Green**

Elevated risk level indicated by 

Reduced risk level indicated by downward green arrow ()

ERCOT

Finance and Audit Committee

2011 Annual Meeting Planner and Future Agenda Items - ASSUMING NO NOVEMBER MEETING

Task Description	Charter Page #	J F M A M J J A S O N D											
		J	F	M	A	M	J	J	A	S	O	N	D
1 Elect Committee officers and designate a secretary	2 & 7	A											
2 Review and assess adequacy of Committee charter	6	A	A										
3 Review and recommend investment standard	3			A									
4 Review and recommend financial standard	3			A									
5 Handling of complaints regarding financial matters	5		A										
6 Hiring former employees of the independent auditor	4		A										
7 Review and recommend credit standard	3			A									
8 Receive periodic report on Credit Work Group activity	na												
9 Approve Credit Work Group Charter	na			A									
10 Appoint Credit Work Group Chair and Vice Chair	na		A										
11 Review risk policies and risk management practices	6					A							
12 Undertake annual self-evaluation	8	A											
13 Periodic meeting with senior management	6												
14 Review and approve internal audit charter	6			A									
15 Periodic meeting with Chief Audit Executive	6 & 7	A	A	A	A	A	A	A					
16 Review internal audit reports	6	A	A	A	A	A	A	A					
17 Review Ethics Point issues	na	A	A	A	A	A	A	A					
18 Review effectiveness of internal audit functions	6												
19 Review and approve annual internal audit plan	6												
20 Review performance of the Chief Audit Executive	7												
21 Recommend selection of independent auditor	4												
22 Receive independence report from independent auditor	4												
23 Periodic meeting with independent auditor	5				A								
24 Discuss audited financial statements	5				A								
25 Review and accept financial statement audit	5				A								
26 Review and recommend proposed budget	3					A	A	A					
27 Review and recommend debt structure	3						A	A					
28 Review IRS Form 990	na												
29 Review and accept 401(k) audit report	6												
30 Review and accept SSAE 16 audit report	5			A									
31 Review Committee briefs	na	A	A	A	A	A	A	A					
32 Receive periodic investment report	na		A			A							
33 Receive periodic liquidity report	na			A									
34 Quarterly Committee education on accounting developments	5			A			A						
35 Review financial institutions - market participants	6			A									
36 Receive periodic Potential Future Exposure report	na												
37 Preapprove non-audit services	4				A								
38 Review any report by independent auditor	4	Performed on as-needed basis											
39 Review effect of regulatory accounting initiatives	5	Performed on as-needed basis											
40 Review complaints regarding financial statements	5			A	A								
41 Review press stories regarding financial statements	5	Performed on as-needed basis											
42 Periodic meeting with 401(k) auditor	na	Performed on as-needed basis											
43 Periodic meeting with SSAE 16 auditor	na	Performed on as-needed basis											
44 Review proposed audit of the nodal program	na		A										
45 Review credit procedures, practices, and judgments	na		A	A	A	A							
46 CFTC/FERC Credit Rule compliance	na				A	A	A						
47 Generation interconnection fee	na				A		A						

8. Other Business

Mike Petterson
