**ERCOT Response to Comments Concerning Proposed Amendments to**

**P.U.C. Substantive Rule 25.507**

ERCOT received ten comments in response to its November 21, 2011, Notice of Draft Amendments to P.U.C. Subst. R. 25.507 and Request for Comments. Nine of the ten submitters have consented to immediate disclosure of these comments, and these nine comments are posted on the Demand Side Working Group page of ERCOT’s website.

As a result of these initial comments, ERCOT has made three revisions to the November 21 draft. First, ERCOT has modified subsection (c) to define “ERS resource” to include any dispatchable generation resource that is not currently registered as a Generation Resource with ERCOT (as well as loads or aggregations of loads), instead of limiting the rule to dispatchable distributed generation. Second, ERCOT proposes a new subsection (a), clarifying that the intent of the Rule is to provide broad discretion to ERCOT in implementing ERS. Third, ERCOT has added language to subsection (g) requiring ERCOT to disclose not only the quantity of ERS procured, but also the types of ERS Resources (e.g., Generation or Load) that are committed through the selection process.

The following is a brief response to some of the more common issues ERCOT identified in the comments:

**Elimination of Rule Detail**

Several commenters complained that the draft rule removes too much detail from Rule 25.507 and therefore provides insufficient guidance on how this service will be administered. ERCOT notes that its intention in removing this detail was to provide greater flexibility to ERCOT in modifying the Protocols and Other Binding Documents as necessary to improve EILS/ERS and to avoid having to initiate a rulemaking any time a change is necessary. For example, the current single standard response time for deployment removes any possibility of accommodating longer response times, which ERCOT and its stakeholders may prefer to do. On the other hand, specifying multiple response times would suggest an obligation to create products accommodating each of those specified response times, yet ERCOT may ultimately find reason that one or more of those response times may not be operationally suitable. ERCOT therefore believes more flexibility in the rule is appropriate.

ERCOT notes that other similar products, such as Ancillary Services, are not described in any comparable level of detail in the current Substantive Rules. In fact, in the one instance in which the PUC’s Rules attempt to define the various types of Ancillary Services, the meaning of those services is explicitly left to ERCOT. *See* P.U.C. Subst. R. 25.381(f)(1)(B). EILS/ERS requires no more detail than any other product that ERCOT may offer. The fact that the PUC may have seen fit to include greater detail in its initial rule creating the EILS program does not bind it to include that same level of detail in subsequent iterations of the rule.

**Discrimination Against Other Forms of Generation**

More than one commenter noted that the draft rule gave preferential treatment to “dispatchable distributed generation” over other forms of generation. ERCOT’s intention in proposing these amendments was simply to maximize available energy during emergency conditions, and ERCOT agrees that there may be other Resources beyond distributed generation that could provide this service. ERCOT therefore proposes to expand the definition of “ERS Resource” to include any dispatchable generation resource not currently registered with ERCOT as a Generation Resource (in addition to loads or aggregations of loads) that contracts to provide ERS. Because only those generators not currently registered as generation resources with ERCOT would be allowed to provide in this service, ERCOT would expect to see no movement of traditional registered resources from SCED participation to ERS.

**Inclusion of Distributed Generation**

Some commenters have expressed concern that the introduction of distributed generation into ERS would eliminate or reduce the Demand Response component of the program. ERCOT would note that, by removing the 1000-Megawatt cap, ERCOT’s intention is to encourage the growth of the program such that both generation and Demand Response can be accommodated. ERCOT has no intention whatsoever of eliminating Demand Response. To the extent that ERCOT should be required to place a percentage cap on either service, that is an issue that may be determined by ERCOT and does not need to be placed into the Rule.

**Obligation to Deploy Longer than Eight Hours and Associated Compensation**

Various comments were submitted concerning ERCOT’s proposal to retain the requirement that EILS/ERS Resources continue deploying after eight hours of deployment have elapsed. ERCOT understands the desire for certainty, but finds it appropriate to ensure that ERCOT can count on EILS/ERS resources in the event their response is needed. ERCOT notes that NPRR 379, adopted following the February 2 deployment of EILS, reduced the impact of extended deployments on EILS performance calculations. ERCOT also notes that the deletion of the limit on two deployments would provide more flexibility to ERCOT operators in releasing EILS/ERS resources, and the provision for further compensation for additional deployments would go further in ensuring predictable financial treatment.

**Cost Cap**

Several commenters proposed that ERCOT should increase the cost cap above the current $50 million amount. ERCOT notes that it has not yet begun to approach this cost cap, and while it is conceivable that this limit could become an impediment to program growth with a robust response to other program reforms, ERCOT views this cap as a program limitation within the discretion of the PUC and therefore defers to the PUC on the appropriateness of changing this cap.