

PROJECT NO. 40291

REQUEST FOR APPROVAL OF
ERCOT DEBT RESTRUCTURING
PLAN

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PUBLIC UTILITY COMMISSION

OF TEXAS

REQUEST FOR APPROVAL OF ERCOT DEBT RESTRUCTURING PLAN

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PUBLIC UTILITY COMMISSION
FILING CLERK

Attachment A: Proposed terms of ERCOT debt restructuring plan proposal (this attachment contains information which is proprietary and confidential and is being provided as confidential information in accordance with Commission policy set forth in PUC PROC. R. §22.71 and PUC SUBST. R. §25.362).

Attachment B: ERCOT Board resolution.

Attachment C: Affidavit of Mr. Michael Petterson, ERCOT Vice-President of Finance and Treasury.

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ERCOT DEBT RESTRUCTURING §
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COMES NOW, Electric Reliability Council of Texas, Inc. (ERCOT) and files its *Request For Approval of ERCOT Debt Restructuring Plan*, pursuant to P.U.C. SUBST. R. § 25.363 (a) (4), for review by the Commission.

I. STATEMENT OF JURISDICTION AND AUTHORITY

The Commission has jurisdiction over this matter pursuant to the Texas Public Utility Regulatory Act ("PURA") § 39.151, and P.U.C. SUBST. R. § 25.363.

II. BACKGROUND

The Commission adopted P.U.C. SUBST. R. §25.363(a)(4) on March 22, 2011. The rule provides that specified ERCOT debt transactions are subject to Commission approval. The rule states:

ERCOT shall not incur debt or defer scheduled principal repayments of debt without commission approval. ERCOT shall seek approval of any loan or agreement to provide a line of credit from a bank or other institution, the issuance of bonds or notes, and any arrangements that would permit it to issue bonds or permit the issuance of bonds on its behalf at a later date.

ERCOT has neither incurred additional debt nor deferred scheduled principal repayments of debt since the adoption of the Commission's rule in 2011. Therefore, this request is the first made pursuant to the debt approval provision of the rule.

As part of their ongoing effort to maintain a sound financial structure for ERCOT, the ERCOT management and Board of Directors are proceeding with a restructuring plan for outstanding ERCOT debt, subject to Commission approval. The restructuring will involve changes in ERCOT's debt portfolio, including the voluntary expiration of some credit facilities, the termination of others, and the initiation of new credit facilities as part of the restructured debt portfolio. The debt restructuring will not add new debt to ERCOT's portfolio, but rather represents a change in nature of existing debt. ERCOT seeks Commission approval pursuant to P.U.C. SUBST. R. §25.363(a)(4) because the debt restructuring will require ERCOT to "incur debt" and enter into a "loan or agreement to provide a line of credit from a bank or other institution"¹ as part of its restructuring plan.

The debt restructuring will yield several improvements when compared to ERCOT's current debt portfolio. The proposal is described in detail herein, and the overall advantages of the proposed debt restructuring include:

- Creating the conditions for stable System Administration Fee in 2013 and future years;
- Promoting intergenerational equity among entities paying ERCOT fees by putting long-lived assets on a longer-term repayment schedule;
- Locking in historically low interest rates on ERCOT's long-lived physical assets (namely, Taylor and Bastrop data and control center facilities), thus reducing overall costs to ERCOT; and
- Reducing complexity of the ERCOT debt structure by exchanging nine existing debt facilities for three facilities going forward.

ERCOT anticipates that if the debt restructuring is approved, ERCOT will be in a position to propose maintaining the current System Administration Fee of \$0.4171 per MWh as part of its 2013 budget. If the debt restructuring proposal is not approved, ERCOT expects to propose an increase in the fee similar to the projection for 2013 presented when the Commission approved

¹ See P.U.C. SUBST. R. 25.363(a)(4) (standards for Commission approval of debt transactions quoted above). The proposal does not contemplate the issuance of bonds.

ERCOT's 2012 budget. Approval of the debt proposal is therefore a key component of the overall process of securing ERCOT Board and Commission approval of ERCOT's 2013 budget.

In order to facilitate inclusion of the restructured debt portfolio in ERCOT's 2013 budget proposal – as well as to lock in the rates and other terms that are included in the proposals ERCOT has received from financial institutions – ERCOT respectfully requests that the Commission consider its request expeditiously. ERCOT has consulted with Commission staff concerning this proposal and its anticipated impact on the 2013 ERCOT budget.² ERCOT expects that Commission approval of its debt proposal will enable ERCOT to finalize its new debt facilities, include the new debt portfolio in its final 2013 budget (and associated projections for future years), and seek Commission approval of the 2013 budget after it receives authorization from the ERCOT Board.

III. ERCOT'S DEBT RESTRUCTURING PLAN PROPOSAL

ERCOT utilizes debt for specific purposes that are consistent with its corporate mission. First, the availability of credit facilities enables ERCOT to manage its liquidity needs in a reasonable business manner. For example, lines of credit allow companies to operate in a stable cash position even as expected swings in cash flow occur. Second, ERCOT utilizes debt to pay for a portion of capital expenditures that are appropriately financed over the course of their useful lives. The ERCOT Board has directed ERCOT to establish payment schedules for capital assets that track the useful life of the assets financed. Third, ERCOT uses debt to avoid spikes in its primary funding source, the System Administration Fee (SAF). Debt permits ERCOT to fund capital projects using repayment schedules that do not call for major swings in the SAF that would be required if ERCOT ran on a pure pay-as-you-go basis.

² P.U.C. SUBST. R. 25.363(d) requires that ERCOT consult with the Commission and present information on its annual budget proposals to Commission staff prior to the approval of the budget by the ERCOT Board. As part of the consultation process, ERCOT must provide information on "additional debt" included in the budget. If the debt proposal in this proceeding is approved, the resulting new debt portfolio will be detailed in the 2013 budget materials ERCOT presents pursuant to § 25.363(d). As noted above, however, ERCOT has already participated in consultation meetings with Commission staff regarding its debt restructuring proposal.

While debt plays a useful role in ERCOT's financial structure, ERCOT seeks to avoid over-reliance on debt. As a non-profit corporation, ERCOT does not receive the tax benefits from incurring debt that apply to private companies. Moreover, any dollar of debt service must be paid for by ratepayers through the SAF, and ERCOT seeks to minimize the proportion of its fees that must go to service debt. ERCOT takes concrete steps to control its level of debt. For example, ERCOT's corporate standards require that all capital projects are financed using a debt to revenue funding ratio of no more than 60% debt to 40% revenue. Except for the use of credit facilities for managing liquidity, ERCOT must fund all of its annual operating expenses directly from revenue sources rather than reliance on debt.

Historically, ERCOT's debt profile has been driven by the need to finance large projects, most notably, the Texas Nodal Market Implementation Project (TNMIP). In recent years, the amount of ERCOT's outstanding debt rose along with the funding needs of the TNMIP, and ERCOT plans to significantly reduce its debt levels as part of this debt restructuring plan. As the Commission is aware, TNMIP was funded using a special purpose nodal surcharge, which is set to expire once all TNMIP expenses (including debt service) are repaid. ERCOT expects the TNMIP portion of its corporate debt to be retired by early 2013.

In conjunction with the TNMIP (but funded separately), ERCOT also undertook large construction projects to expand and update its Taylor data center, and to create a redundant control and data center in the Bastrop area. The debt restructuring proposal includes a method for funding the repayment of debt associated with ERCOT's "bricks and mortar" assets resulting from the Taylor and Bastrop construction projects over their useful lives.

Another key element of the restructuring plan is to reduce the complexity of ERCOT's debt profile. ERCOT currently has nine (9) debt facilities used to manage its finances, comprised of lines of credit, a term loan, interest rate derivatives (a/k/a interest rate swaps), and senior notes. In summary, these facilities have the following terms:

Lines of Credit: ERCOT has two (2) revolving lines of credit and one (1) separate line of credit under a loan agreement. These facilities are primarily used for short term working capital needs, and individual borrowings under these facilities are structured to mature within one year.

The effective rate of interest at December 31, 2011 was 2.47 percent for the revolving lines of credit, including amounts fixed by interest rate swaps.

Term Loan: ERCOT has a term loan with a maximum amount of available credit of \$70,833,000 which expires on December 15, 2012. The term loan is fully drawn with outstanding borrowings of \$70,833,000. The effective rate of interest at December 31, 2011 was 4.64 percent, including amounts fixed by interest rate swaps.

Interest Rate Derivatives: ERCOT has four (4) variable to fixed interest rate swap agreements with two financial institutions. The notional amounts of the interest rate swaps are primarily related to ERCOT's term loan, with two swaps related to a portion of the \$75,000,000 revolving line of credit. The interest rate swaps generally mature prior to or concurrent with the respective borrowings' due dates. The fixed rate terms of the interest rate swaps and their notional values at December 31, 2011 are summarized in the following table (\$ in millions).

Transaction		Fixed Rate	Notional	
Date	From	Due to	Values at	
		Counterparty	December 31, 2011	
2007	Nov-08	Nov-12	5.6550%	\$30,000
2008	Nov-08	Nov-12	3.2130%	30,000
2009	Nov-09	Jun-12	2.4225%	40,000
2009	Nov-09	Jun-12	2.5225%	40,000

Inherent in the swap arrangements is ERCOT's exposure to the risk of nonperformance if the counterparties default or if the swap agreements are terminated.

Senior Notes: ERCOT has \$40,904,000 outstanding in a series of senior notes. These senior notes bear interest at 6.17 percent and are due in equal annual principal payments through May 2014. ERCOT plans to retain and pay off its senior notes, rather than eliminating them as part of the restructuring plan. This is because the terms of the senior notes include provisions that make early prepayment financially disadvantageous to ERCOT. Rather than incorporate the senior notes into the restructuring, ERCOT therefore will retain them in its debt portfolio and pay them off timely.

ERCOT's proposed debt restructuring plan contemplates: (a) paying off its existing term loan on its due date at the end of 2012; (b) replacing the current lines of credit; (c) terminating its interest rate swap arrangements; and (d) retaining its existing senior notes. In place of the nine (9) debt facilities now in place, ERCOT would, as of the repayment of the term loan, have three (3) items in its debt portfolio. The new debt structure would be vastly simpler than that now in place, and its simplicity would be accompanied by reduced interest costs and by a stable SAF revenue profile.

ERCOT's proposed new debt structure contemplates ERCOT replacing its existing term loan, lines of credit, and interest rate swaps with: (a) up to \$125,000,000 of variable rate debt under a two-year revolving credit facility; and (b) up to \$80,000,000 of fixed rate, long-term debt associated with ERCOT's investment in its facilities and physical plant. This revised structure benefits ERCOT's long-term financial position in three ways.

First, the new revolving credit facility is based on lower borrowing capacity than available under the current facilities. Currently, ERCOT's borrowing capacity is approximately \$225 million (and ERCOT pays for its credit availability accordingly). Under the new facility, the borrowing capacity is reduced to \$125 million, which is consistent with ERCOT's efforts to utilize less short-term borrowing and fund more base operational and project expenses on a pay-as-you-go basis. In addition, the new revolving credit facility, while involving a variable rate arrangement, still reflects the historically low interest rate environment. All in all, the costs of debt associated with ERCOT revolving credit facilities will be reduced significantly from current levels.

Second, the fixed rate portion of the debt restructuring enables ERCOT to enhance the stability and fairness of ERCOT's fees, by matching debt repayment to the useful lives of ERCOT's Taylor and Bastrop facilities. The new Taylor and Bastrop data and control center facilities are classic "bricks and mortar" assets with relatively long depreciable lives. Just as ERCOT pays for its short-lived assets (such as computer software or hardware) based on their established useful lives, it makes sense for ERCOT to finance its longer-lived assets on a longer-term basis.

This is a sound approach from a financial perspective, but also is fairer when considered in terms of the SAF rate design: today's ratepayers funding the SAF should not be required to shoulder a disproportionate share of the costs of the Taylor and Bastrop assets, since those assets will benefit ratepayers in the ERCOT region for many years in the future. Moreover, the longer-term repayment of the cost of the Taylor and Bastrop facilities enables ERCOT to pay debt service on a set, predictable schedule that eliminates the need for spikes in the SAF to cover the extraordinary costs of the new facilities over a short repayment period. ERCOT expects this will

permit it to maintain the current SAF without change in 2013, and should facilitate stable fee levels for several years to come.

Third, the long-term debt arrangement gives ERCOT the opportunity to obtain a fixed interest rate at a time of historically low rates. The trade-off for the SAF stability and fairness in rate design ERCOT will achieve through its proposed debt restructuring is that ERCOT will pay more interest on its long-lived assets than if it paid them off immediately. This impact is significantly mitigated, however, by the historically low interest rates available in today's financial market. On balance, ERCOT's ability to lock in low interest rates for the portion of its debt associated with the Taylor and Bastrop facilities represents a prudent method for managing both ERCOT's debt and revenue profile.

To execute on its proposed debt restructuring, ERCOT staff issued a Request for Proposals (RFP) to financial institutions seeking offers to provide such facilities, and evaluated confidential responses received from several bidders. ERCOT staff is satisfied with the proposals received in response to the RFP, and recommends finalizing the arrangements offered by certain of the respondents to the RFP. The proposals that ERCOT recommends for Commission approval are summarized in confidential Attachment A. Because the specific terms of the financing proposals are business-sensitive information, ERCOT provides them in accordance with Commission policy set forth in PUC PROC. R. §22.71 and PUC SUBST. R. §25.362 for treatment of confidential information.

IV. ERCOT BOARD ACTION ON DEBT RESTRUCTURING PLAN PROPOSAL

ERCOT staff presented its debt restructuring plan to the Finance & Audit (F&A) Committee of the ERCOT Board at its February 20, 2012 meeting. After reviewing the proposal, the F&A Committee recommended to the full Board that ERCOT be authorized to file this proceeding to seek Commission approval of the contemplated debt restructuring plan.³ On February 27, 2012, ERCOT released its RFP seeking proposals from financial institutions.

³ The ERCOT Board resolution authorizing this filing is attached hereto as Attachment B.

ERCOT received responses to the RFP on March 23, 2012 and began the review and discussion process with vendors. The recommended proposals are included in confidential Attachment A.

ERCOT will report to the F&A Committee at its April 16, 2012 meeting on the proposals filed for approval with the Commission, and on the status of this proceeding. If the Commission approves the proposed debt restructuring plan, it will be presented to the ERCOT Board for final approval and be incorporated into the 2013 ERCOT budget.

V. CONTENTS OF ERCOT'S REQUEST FOR APPROVAL

In addition to this pleading, ERCOT's submission includes the following attachments:

- A. Proposed terms of ERCOT debt restructuring plan proposal (this attachment contains information which is proprietary and confidential and is being provided as confidential information in accordance with Commission policy set forth in PUC PROC. R. §22.71 and PUC SUBST. R. §25.362).
- B. ERCOT Board resolution authorizing ERCOT to make this submission seeking Commission approval of ERCOT debt restructuring plan.
- C. Affidavit of Mr. Michael Petterson, ERCOT Vice-President of Finance and Treasury, verifying facts stated in this pleading and in Attachments A – B.

VI. NOTICE PROVIDED BY ERCOT

ERCOT will post its *Request for Approval of ERCOT Debt Restructuring Plan* to its website at http://www.ercot.com/about/governance/legal_notices; send a copy of its pleading via first-class U.S. mail to the parties of record in ERCOT's last fee case, Docket No. 31824 *Application of the Electric Reliability Council of Texas for Approval of the ERCOT System Administration Fee*; and provide Notice of its Petition via electronic mail to ERCOT's email exploder lists of committees as follows:

- ERCOT Board of Directors and Others;
- Technical Advisory Committee and Others (TAC);
- Retail Market Subcommittee (RMS);

- Wholesale Market Subcommittee (WMS);
- Reliability and Operations Subcommittee (ROS);
- Commercial Operations Subcommittee (COPS); and
- Protocol Revisions Subcommittee (PRS).

ERCOT will file an affidavit attesting to the completion of its proposed notice.

VII. PROPOSED PROCEDURAL SCHEDULE

ERCOT respectfully requests that this request be processed expeditiously in order to facilitate ERCOT's ability to complete the necessary documentation with financial institutions to close on new credit facilities based on the terms and conditions described in Attachment A and to finalize other aspects of the debt restructuring plan. ERCOT suggests that the Commission process this request in a manner similar to its consideration of ERCOT's 2012 budget in Project No. 38533.⁴ In that proceeding, the Commission held a workshop for interested parties after publication of notice in the *Texas Register*. After completion of the workshop, the Commission considered an Order approving ERCOT's requested budget, and issued an order approving the budget prior to the beginning of the 2012 budget year. The process provided adequate notice and opportunity to comment for interested parties, enabled thorough review by Commission staff, and met ERCOT's need to obtain Commission approval on a schedule that enabled it to accomplish its business needs in a prudent and timely manner.

In this proceeding, if the Commission is able to issue an order at its May 10, 2012 Open Meeting, it will enable ERCOT to obtain final Board approval for ERCOT's debt restructuring plan, and will permit the debt restructuring plan to be fully incorporated into the Board's consideration of the 2013 ERCOT budget at its May 15, 2012 meeting. To accomplish this outcome, ERCOT proposes the following procedural schedule:

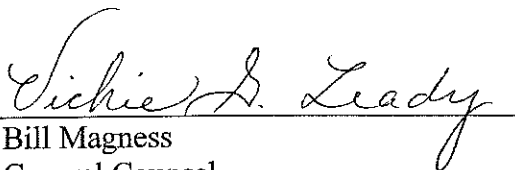
⁴ Project No. 38533, *PUC Review of ERCOT Budget* (2011).

ERCOT initiates project and sends notice described in Section VI above.	April 3, 2012
Publication of Notice in the <i>Texas Register</i>	April 13, 2012
Commission Workshop (scheduled concurrently with Open Meeting)	April 27, 2012
Open Meeting consideration of Commission order approving debt restructuring plan	May 10, 2012

VIII. CONCLUSION

For all the reasons stated, ERCOT respectfully requests that the Commission approve the debt restructuring plan proposal described herein and in Attachment A, adopt the procedural schedule proposed by ERCOT, and grant ERCOT all other relief to which it is entitled.

Respectfully Submitted,

By: 

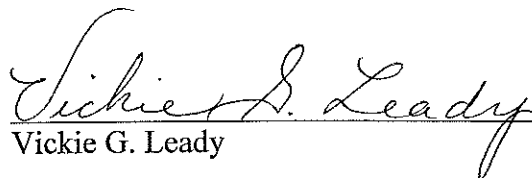
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ERCOT
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 Austin, Texas 78744

CERTIFICATE OF SERVICE

I certify that a copy of this document was served on all parties of record in this proceeding and Docket No. 31824 *Application of the Electric Reliability Council of Texas for Approval of the ERCOT System Administration Fee* on April 3, 2012 in the following manner: by facsimile, email, or first-class U.S. mail.


Vickie G. Leady

Proposed Terms of ERCOT Debt Restructuring Plan Proposal

(This attachment contains information which is proprietary and confidential and is being provided as confidential information in accordance with Commission policy set forth in PUC PROC. R. §22.71 and PUC SUBST. R. §25.362)



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

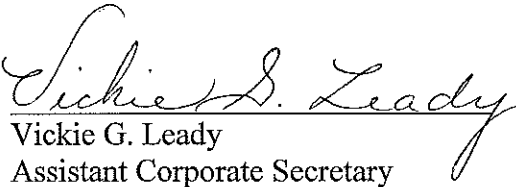
WHEREAS, after due consideration of the alternatives, the Board of Directors (Board) of Electric Reliability Council of Texas, Inc. (ERCOT) deems it desirable and in the best interest of ERCOT to authorize ERCOT to make regulatory filings to initiate a proceeding at the Public Utility Commission of Texas (Commission) seeking approval of the restructuring of ERCOT's debt, pursuant to P.U.C. SUBST. R. 25.363(a)(4).

THEREFORE, BE IT RESOLVED, that ERCOT is hereby authorized to make regulatory filings with the Commission as described above.

CORPORATE SECRETARY'S CERTIFICATE

I, Vickie G. Leady, Assistant Corporate Secretary of ERCOT, do hereby certify that, at its February 21, 2012 meeting, the ERCOT Board passed a motion approving the above Resolution by unanimous voice vote with no abstentions.

IN WITNESS WHEREOF, I have hereunto set my hand this 2nd day of April, 2012.


Vickie G. Leady
Assistant Corporate Secretary


**AFFIDAVIT OF
MICHAEL PETTERSON**

**STATE OF TEXAS §
COUNTY OF TRAVIS §**

BEFORE ME, the undersigned authority, Michael Petterson, who, being first duly sworn, deposes and states:

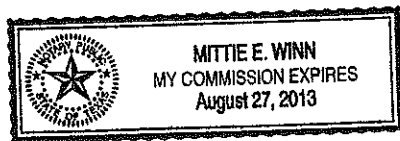
“My name is Michael Petterson. I am employed as Vice-President of Finance and Treasury, for Electric Reliability Council of Texas, Inc., having its principal place of business at 7620 Metro Center Drive, Austin, Texas. I am over the age of twenty-one and am competent to make the following attestation:

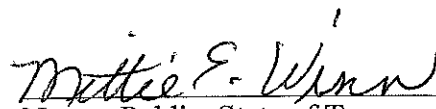
“I hereby attest that I have personal knowledge of the facts stated in the *Request for Approval of ERCOT Debt Restructuring Plan* and all Attachments submitted with it, that I am competent to testify to them, and that I have the authority to submit these documents on behalf of ERCOT.”



Michael Petterson
Vice-President of Finance and Treasury

SUBSCRIBED AND SWORN TO BEFORE ME this 3rd day of April, 2012.





Mittie E. Winn
Notary Public, State of Texas