



To: Human Resources and Governance (HR&G) Committee
From: Andrew Dalton, Chair
Date: June 11, 2012
Re: Review of ERCOT Governing Documents and Governance Structure of the Board

The HR&G Committee Charter provides that the HR&G Committee shall perform an annual review of and provide a “recommendation to the Board for approval, any proposed modifications to the ERCOT (i) Articles of Incorporation, (ii) Bylaws, or (iii) the Board Policies and Procedures.”¹ The HR&G Committee Charter further provides that the HR&G Committee shall “[p]eriodically review the overall governance structure of the Board, including the number, focus and membership of Board Committees and subcommittees, including the periodicity of meetings, and make recommendations to the Board for approval of any changes the Committee believes would enhance the governance of ERCOT.”²

1. Articles of Incorporation

The Amended and Restated Articles of Incorporation of Electric Reliability Council of Texas, Inc. (Articles of Incorporation) have been in effect since December 19, 2000. A copy of the Articles are included at Tab A.

ERCOT Legal is not recommending any amendment to the currently effective Articles of Incorporation at this time. However, in 2009, ERCOT’s Corporate Members formally approved amendments to the Articles of Incorporation to comply with the legal requirements of a 501(c)(3) tax-exempt organization in anticipation of the Company’s expected application to convert from a 501(c)(4) tax-exempt organization to a 501(c)(3) tax-exempt organization. In order for such amendments to be effective, the Public Utility Commission of Texas (PUCT) must formally approve such amendments. Furthermore, such amendments would be subject to additional review by the North American Electric Reliability Corporation and possibly the Federal Energy Regulatory Commission. Due to the substantive and lasting nature of such amendments and the decision to defer indefinitely the filing of an application for conversion to a 501(c)(3) tax-exempt status, ERCOT Legal did not proceed with the filing for approval of such amendments with the PUCT.

ERCOT Legal would like reserve any request to amend the Articles for substantive legal reasons at a later date, and will provide additional background on the tax-exempt status issue for the Committee Members who are new to the Committee.

2. Bylaws

The Amended and Restated Bylaws of Electric Reliability Council of Texas, Inc. (Bylaws) were approved by the PUCT and became effective on April 16, 2010. A copy of the current Bylaws are included at Tab B.

¹ See *HR&G Committee Charter*, page 3, Functions Section, paragraph 16.

² See *HR&G Committee Charter*, page 3, “Duties and Responsibilities” Section, paragraph 6.



At the August 15, 2011 HR&G Committee meeting, the HR&G Committee created the Task Force on Governing Documents (Task Force) to review the Bylaws and Board Policies and Procedures. At the October 17, 2011 HR&G Committee meeting, the Task Force recommended that changes to the Bylaws be deferred until after the next Legislative Session, which will take place in 2013. For this reason, ERCOT Legal is not recommending any amendments to the currently effective Bylaws at this time.

ERCOT Legal will provide additional background on the Task Force's findings and recommendations for the Committee Members who are new to the Committee.

3. Board Policies and Procedures

Attached are the Board Policies and Procedures, which were amended to be effective December 13, 2011. A copy of the current Board Policies and Procedures are attached at Tab C.

Based on the HR&G Committee's discussions at its April 16, 2012 meeting, any proposed modifications to the Board Policies and Procedures could be scheduled for vote of the HR&G Committee and Board as early as the July 2012 meetings.

4. Periodicity of Meetings

ERCOT must file annually with the Public Utility Commission of Texas (PUCT) its recommendation regarding the periodicity of governing board meetings. Such recommendation must be based on an examination of the frequency of meetings conducted by similar organizations and shall include an estimate of the costs associated with meeting more frequently than once per quarter. A copy of ERCOT's 2011 Recommendations for Periodicity of Governing Board Meetings, filed in PUCT Project No. 27706 on December 29, 2011, is attached at Tab D. As discussed during the May 15, 2012 Board meeting, the current schedule of meetings for the remainder of 2012 is attached at Tab E. Historically, the Board votes to approve the Board meeting schedule for the upcoming year at each September Board meeting. We will discuss periodicity and meeting schedules for this and next year. Please note that the HR&G Committee is expected to meet three more times in 2012 (and only once more prior to the September 2012 Board meeting) – that is, on July 16th, November 12th, and December 10th.

5. Committee Structure

The current Committee Membership for the Board's Committees is attached at Tab F. We will discuss whether there should be any recommendations to modify the current subcommittee structure.

I look forward to discussing all of these matters with you at the June 18, 2012 HR&G Committee meeting.