



Item 5.3: Fee Variability

Michael Petterson

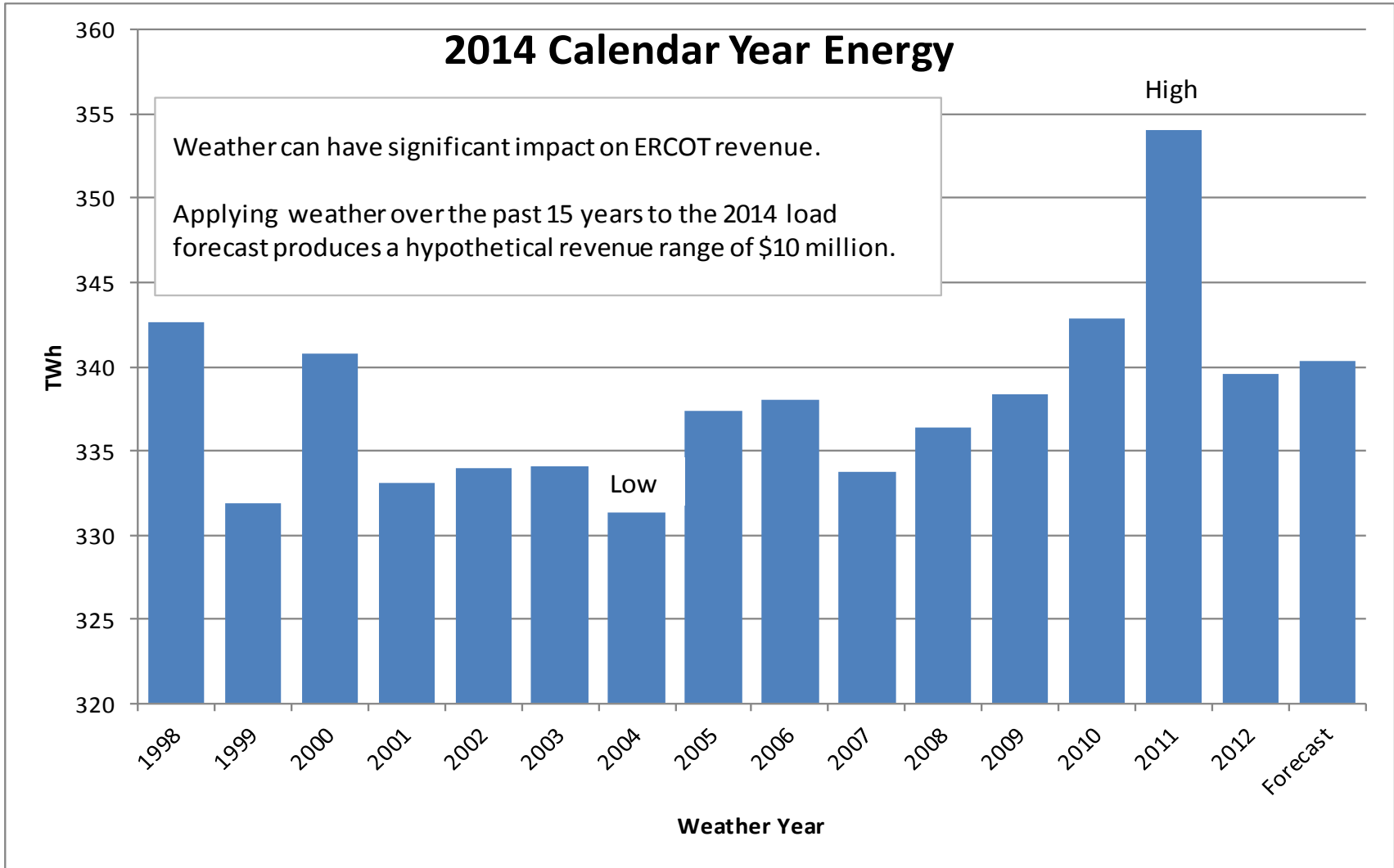
Vice President of Finance and Treasury

Finance & Audit Committee Meeting

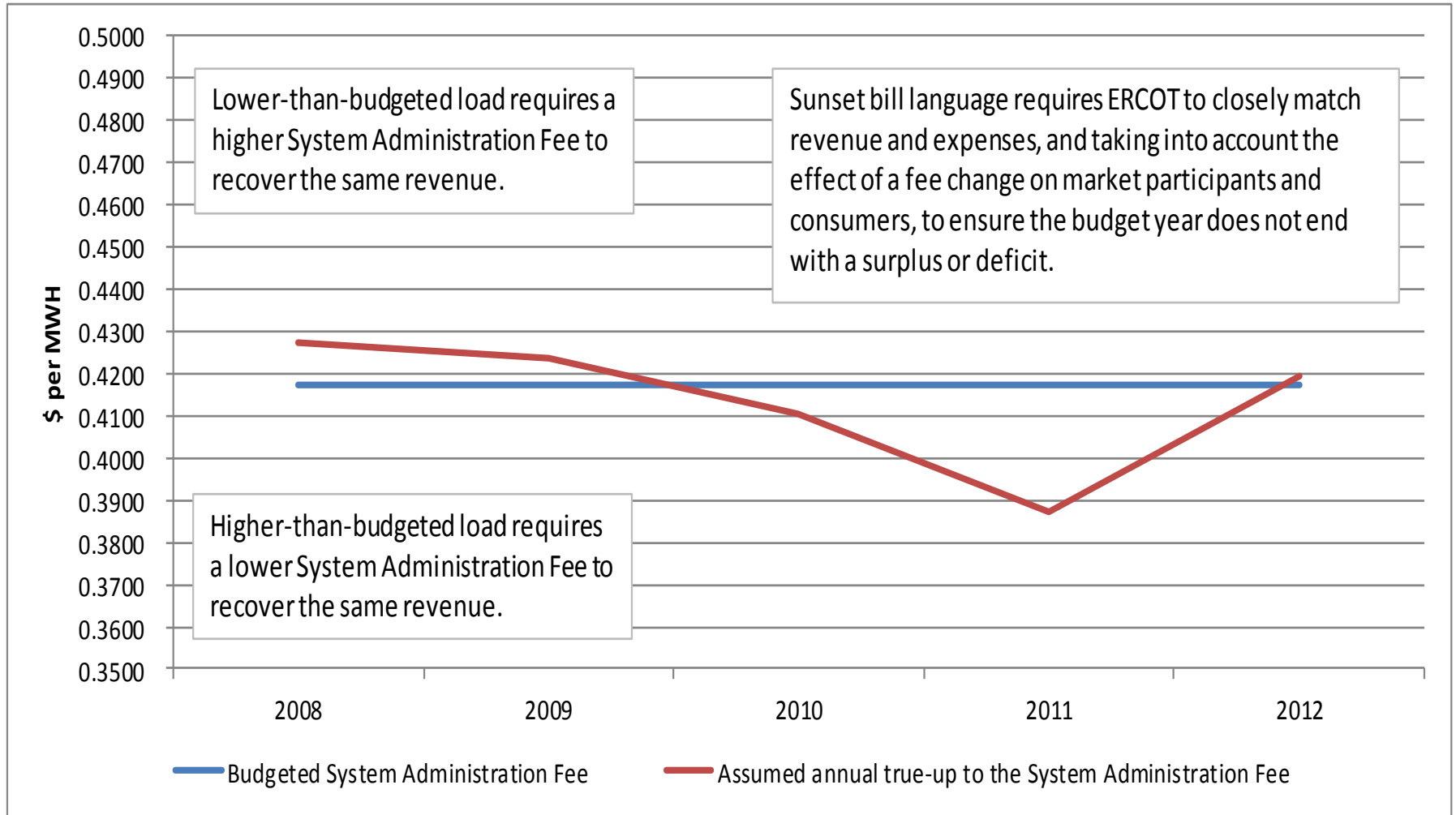
ERCOT Public

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1 (c) At or following the hearing, the commission shall wholly
2 or partly affirm, modify, or set aside the order. If the person
3 affected by an order does not request a hearing in the manner
4 provided by Subsection (b) and the commission does not hold a
5 hearing on the order, the order is affirmed without further action
6 by the commission.

7 (d) The commission may hold a hearing under this subchapter
8 or may authorize the State Office of Administrative Hearings to
9 hold the hearing.

10 Sec. 15.107. EFFECT OF ORDER PENDING HEARING. Pending a
11 hearing under this subchapter, an order continues in effect unless
12 the order is stayed by the commission.

13 SECTION 1.04. Section 39.151, Utilities Code, is amended by
14 amending Subsections (d-1) and (e) and adding Subsections (d-2),
15 (d-3), (d-4), and (e-1) to read as follows:

16 (d-1) The commission shall require an independent
17 organization certified by the commission under this section to
18 submit to the commission the organization's entire proposed annual
19 budget. The commission shall review the proposed budgets either
20 annually or biennially and may approve, disapprove, or modify any
21 item included in a proposed budget. The commission by rule shall
22 establish the type of information or documents needed to
23 effectively evaluate the proposed budget and reasonable dates for
24 the submission of that information or those documents. The
25 commission shall establish a procedure to provide public notice of
26 and public participation in the budget review process.

27 (d-2) Except as otherwise agreed to by the commission and an

1 independent organization certified by the commission under this
2 section, the organization must submit to the commission for review
3 and approval proposals for obtaining debt financing or for
4 refinancing existing debt. The commission may approve, disapprove,
5 or modify a proposal.

6 (d-3) An independent organization certified by the
7 commission under this section shall develop proposed performance
8 measures to track the organization's operations. The independent
9 organization must submit the proposed performance measures to the
10 commission for review and approval. The commission shall review
11 the organization's performance as part of the budget review process
12 under Subsection (d-1). The commission shall prepare a report at
13 the time the commission approves the organization's budget
14 detailing the organization's performance and submit the report to
15 the lieutenant governor, the speaker of the house of
16 representatives, and each house and senate standing committee that
17 has jurisdiction over electric utility issues.

18 (d-4) The commission may:

19 (1) require an independent organization to provide
20 reports and information relating to the independent organization's
21 performance of the functions prescribed by this section and
22 relating to the organization's revenues, expenses, and other
23 financial matters;

24 (2) prescribe a system of accounts for an independent
25 organization;

26 (3) conduct audits of an independent organization's
27 performance of the functions prescribed by this section or relating

1 to its revenues, expenses, and other financial matters and may
2 require an independent organization to conduct such an audit;

3 (4) inspect an independent organization's facilities,
4 records, and accounts during reasonable hours and after reasonable
5 notice to the independent organization;

6 (5) assess administrative penalties against an
7 independent organization that violates this title or a rule or
8 order adopted by the commission and, at the request of the
9 commission, the attorney general may apply for a court order to
10 require an independent organization to comply with commission rules
11 and orders in the manner provided by Chapter 15; and

12 (6) resolve disputes between an affected person and an
13 independent organization and adopt procedures for the efficient
14 resolution of such disputes.

15 (e) After approving the budget of an independent
16 organization under Subsection (d-1), the [The] commission shall
17 [may] authorize the [an independent] organization [that is
18 certified under this section] to charge [a reasonable and
19 competitively neutral rate] to wholesale buyers and sellers a
20 system administration fee, within a range determined by the
21 commission, that is reasonable and competitively neutral to fund
22 [to cover] the independent organization's approved budget [costs].

23 The commission shall investigate the organization's cost
24 efficiencies, salaries and benefits, and use of debt financing and
25 may require the organization to provide any information needed to
26 effectively evaluate [the organization's budget and] the
27 reasonableness and neutrality of the fee [a rate or proposed rate]

1 or to evaluate the effectiveness or efficiency of the
2 organization. The commission shall work with the organization to
3 establish the detail of information, both current and historical,
4 and the time frames the commission needs to effectively evaluate
5 the fee. The commission shall require the organization to closely
6 match actual revenues generated by the fee and other sources of
7 revenue with revenue necessary to fund the budget, taking into
8 account the effect of a fee change on market participants and
9 consumers, to ensure that the budget year does not end with surplus
10 or insufficient funds. The commission shall require the
11 organization to submit to the commission, on a schedule determined
12 by the commission, reports that compare actual expenditures with
13 budgeted expenditures ~~[a rate or a rate request].~~

14 (e-1) The review and approval of a proposed budget under
15 Subsection (d-1) or a proceeding to authorize and set the range for
16 the amount of a fee under Subsection (e) is not a contested case for
17 purposes of Chapter 2001, Government Code.

18 SECTION 1.05. Section 39.1515(c), Utilities Code, is
19 amended to read as follows:

20 (c) The independent organization shall use money from the
21 fee ~~[rate]~~ authorized by Section 39.151(e) to pay for the market
22 monitor's activities.

23 SECTION 1.06. Section 39.903(d), Utilities Code, is amended
24 to read as follows:

25 (d) The commission shall annually review and approve system
26 benefit fund accounts, projected revenue requirements, and
27 proposed nonbypassable fees. ~~[The commission shall report to the~~