



The Human Resources & Governance (HR&G) Committee is expected to consider HR&G Committee Agenda Item 6: *Recommendation regarding Proposed Revisions to Board Policies and Procedures* at its meeting on August 11, 2014.

The Board of Directors is expected to hear the HR&G Committee's recommendation on this matter as part of the HR&G Committee Report at the Board meeting on August 12, 2014.

Attached are the Board materials in relation to these agenda items.



Date: August 5, 2014
To: Board of Directors (Board)
From: Bill Magness, Vice President, General Counsel and Corporate Secretary
Subject: Proposed Revisions to Board Policies and Procedures

Issue for the ERCOT Board of Directors

ERCOT Board of Directors Meeting Date: August 4, 2014

Item No.: 11.1

Issue:

Whether the Board should approve revisions to the Board Policies and Procedures (BP&P) as recommended by the Human Resources & Governance (HR&G) Committee, to be effective immediately.

Background/History:

Annual Review of Board Policies and Procedures

Section 11.1 of the BP&P provides that the Board shall review and reaffirm the BP&P annually. Similarly, the HR&G Committee Charter calls for Committee review of the BP&P at least annually. After the April 2014 Board meeting, ERCOT Legal undertook a review of the BP&P processes that parties are required to follow to appeal Technical Advisory Committee (TAC) actions or advocate against TAC or ERCOT staff recommendations pending before the Board. While developing proposed changes on that subject, ERCOT Legal used the opportunity to conduct a more general review of the BP&P, in an effort to satisfy the Board's and Committee's obligation to conduct an annual BP&P review.

ERCOT Legal's Recommended Revisions

The proposed changes to the appeals process, along with other administrative changes arising during this review, are provided for the Committee's consideration, in redline format, as Exhibit A to this memorandum.

ERCOT Legal presented a prior draft of the recommended changes to TAC at its meeting on May 29, 2014. TAC voted unanimously (with two abstentions) to endorse the recommended changes. At that meeting, ERCOT Legal identified other additional clarifying procedural revisions (such as, distinctions between deadlines for written notice of appeal or opposition and for submission of written position statements) which would likely be added subsequently.

ERCOT Legal's Request for Vote at the Committee's August 11, 2014 Meeting

At its June 9, 2014 meeting, the Committee considered a prior draft of the recommended revisions, but postponed voting on the BP&P revisions until its August meeting to allow time for feedback on the changes from the Committee and other stakeholders.

Revisions not Included in Prior Draft

Since the prior draft was considered at the June HR&G Committee meeting, ERCOT Legal made some additional minor changes:



- In Section 7.3.4, further modification of the language stating the goal of having new Unaffiliated Directors seated on a timeline that avoids prolonged vacancies on the Board;
- The title of Section VIII was changed (the new title is: “Procedures for Participation by Parties Opposing Actions Recommended by TAC or ERCOT Staff”); and
- Minor administrative revisions made to the prior draft of Section VIII, including clarifying deadlines for written notice of appeal or opposition and for submission of written position statements).

Revisions Included in Prior Draft

Changes to the Process for Participation by Parties Opposing Actions Recommended by TAC or ERCOT Staff

A. Current BP&P Addresses Appeal of a TAC Action

The current BP&P provides detailed procedures for Board consideration of appeals of actions taken by TAC. The appeals procedures, which are set forth in Section VIII of the BP&P, establish which Entities may appeal a TAC action and set forth procedural schedules for standard and expedited appeals.

B. Current BP&P Does Not Address Procedures for Comments on TAC and ERCOT Recommendations

The process for appealing Revision Requests is set forth in Protocol Section 21.4.11.2, Appeal of Technical Advisory Committee Action. The Protocol language is limited to “a TAC action to reject, defer, remand or refer” a Revision Request, and not a TAC action to recommend approval to the ERCOT Board. As a result, there is some uncertainty regarding the process by which interested parties could submit comments to the Board regarding their opposition to the TAC recommendation. Similarly, parties have expressed uncertainty regarding the process for parties to follow when they seek to express opposition to an ERCOT staff recommendation on an issue that does not require a formal recommendation by TAC.

C. Proposed Revisions Would Generally Expand Similar “TAC Appeal” Procedures to Address Comments on TAC and ERCOT Recommendations

In Section VIII of the existing BP&P, the timeline for an appeal of a “TAC action to reject, defer, remand or refer” an item provides TAC the opportunity to appoint a “TAC Advocate” to defend TAC’s action when the appeal is heard by the Board. The proposed changes to the BP&P would provide TAC adequate time to appoint a TAC Advocate when a party opposes a TAC recommendation for the Board to approve a matter. The changes would also allow the appointed TAC Advocate or ERCOT staff, as applicable, sufficient time to prepare an argument and any necessary materials.

As revised, the procedures for appeals and comments to the Board apply to the same categories of Entities that may submit an appeal pursuant to Protocol Section 21.4.11.2. The revised procedures set forth three categories of issues that can be brought before the Board when one of these eligible Entities is opposed to the underlying recommendation:



- (a) A TAC action to reject, defer, remand or refer a matter that would have proceeded to the Board for consideration had it been recommended for approval by TAC, and requires a TAC recommendation as part of the approval process (*TAC Appeal*);
- (b) A matter that proceeds to the Board pursuant to a required TAC recommendation and that the Entity in question is requesting the Board to reject, defer, remand, or refer (*TAC Recommendation Opposition*); and
- (c) A voting item recommended by ERCOT staff that does not require a TAC recommendation prior to Board action (*ERCOT Recommendation Opposition*).

Additional revisions in Section VIII clarify that the existing procedural timelines for TAC Appeals or TAC Recommendation Oppositions that are Urgent (Section 8.4) and non-Urgent (Section 8.3) continue to apply, and establish a procedural timeline for ERCOT Recommendation Oppositions (Section 8.5). The procedural timeline for ERCOT Recommendation Oppositions is modeled on the procedural timeline for non-Urgent TAC Appeals and TAC Recommendation Oppositions, but has been simplified to reflect the lack of need for a TAC Advocate in such situations.

The changes should provide more clarity to the BP&P, while also ensuring that TAC, ERCOT staff, and the parties who want to make their case to the Board, all have sufficient time to prepare arguments and materials for their Board presentations.

Additional Administrative Revisions

In addition to proposed changes described above, ERCOT Legal is recommending minor clarifications in other sections of the BP&P. These additional changes are summarized as follows:

- Section 0.1: Adding “Inc.” to the full corporate name of ERCOT.
- Section 1.3: Replacing “i.e.” with “e.g.”
- Section 2.6.1: Clarifying that Directors’ duties include attending all regular, special “and urgent” meetings of the Board.
- Section 2.7.1: Capitalizing “Membership.”
- Section 2.7.3: Changing the requirement that Market Segment Directors “be an employee of a Member organization that is in good standing” to a requirement that such Directors “meet employment qualifications” as required by the Bylaws.
- Section 2.8.1.2: Changing “Chair of a subcommittee” to “Chair of a Committee” to be consistent with the terminology for committees within the document.
- Section 2.9: Changing “TAC committee” to “TAC subcommittee.”
- Section 5.1: Adding ERCOT’s “governing documents” to the governing requirements in the event of a liquidation of ERCOT.
- Section 6.2: Adding “the Protocols” to the list of bases for exceptions to the prohibition against dissemination of confidential information.
- Section 7.7: Clarifying that the Board Chair and Vice Chair serve until their respective



successors are elected “in the following year,” and deleting unnecessary language regarding incumbents.

Key Factors Influencing Issue:

- The proposed substantive revisions will reduce stakeholder confusion by clarifying issues not addressed in the current BP&P
- The changes described above were unanimously approved by TAC
- The administrative changes described above will increase the accuracy and readability of the BP&P.

Conclusion/Recommendation:

The HR&G Committee is expected to review these proposed changes to the BP&P at its meeting on August 11, 2014, and is expected to recommend to the Board of Directors whether any revisions should be made. If the HR&G Committee recommends revisions to the BP&P, then it is expected that the HR&G Committee will recommend that the revisions become effective upon approval by the Board.



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

WHEREAS, after its meeting on August 11, 2014, the Human Resources and Governance (HR&G) Committee of the Board of Directors (Board) of Electric Reliability Council of Texas, Inc. (ERCOT) has recommended revisions to the Board Policies and Procedures consistent with the document appended to this resolution and incorporated as *Exhibit A* hereto;

WHEREAS, after due consideration of the alternatives, the Board deems it desirable and in the best interest of ERCOT to revise the Board Policies and Procedures as recommended by the HR&G Committee, to be effective immediately; and

THEREFORE, BE IT RESOLVED, that the Board Policies and Procedures are revised consistent with *Exhibit A*, to be effective immediately.

CORPORATE SECRETARY'S CERTIFICATE

I, Vickie G. Leady, Assistant Corporate Secretary of ERCOT, do hereby certify that, at its August 12, 2014 meeting, the ERCOT Board passed a motion approving the above Resolution by

_____.

IN WITNESS WHEREOF, I have hereunto set my hand this ____ day of August, 2014.

Vickie G. Leady
Assistant Corporate Secretary

Exhibit A
Board Policies and Procedures
Amended Effective ~~November 19~~, 20134
By the ERCOT Board of Directors

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Preamble: Definitions

- 0.1 The Definitions included in the Amended and Restated Bylaws of Electric Reliability Council of Texas, Inc. (the “Bylaws”) are incorporated by reference.

I. Meeting Procedures

- 1.1 Meeting Schedule. Board meetings are normally held on the third Tuesday of the month when the Board is scheduled to meet, but may be moved or held by agreement of the Board, provided that the Board shall meet at least quarterly consistent with the Bylaws.
- 1.2 Meeting Notice. Notice of each full Board meeting with the Board agenda shall be given consistent with the Bylaws.
- 1.3 Board Agenda Items. A Director is entitled to place matters the Director reasonably considers important on the Board agenda if notification of such matters and background materials are received by the Secretary of the Corporation no later than 5 p.m. eleven days before the date of the Board meeting (~~i.e.g.~~, normally on the Friday before the second Tuesday of the month during which the Board is scheduled to meet). ERCOT Members and Market Participants, with permission of the Chair, may request that matters be placed on the Board agenda if notification of such matters and background materials are received by the Secretary of the Corporation no later than 5 p.m. eleven days before the date of the Board meeting (~~i.e.g.~~, normally on the Friday before the second Tuesday of the month during which the Board is scheduled to meet).
- 1.4 Board Packet. When a Board agenda contemplates the Board taking specific actions, ERCOT staff will provide Directors a “Board Packet” with all appropriate information at least seven (7) days prior to the meeting to allow study of and reflection on the issue raised. If such information is not available seven (7) days in advance of the meeting, ERCOT staff shall send information to the Directors as soon as such information is reasonably available. Information that ERCOT staff provides to the Directors which is not “sensitive” (as described in Section 4.6(e) of the Bylaws) must also be made available electronically to the public on the Internet, along with the agenda of the meeting. A Director may request that the Board defer action if he or she requires additional information or additional time to review appropriate information.
- 1.5 Minutes. Minutes shall be kept for all meetings of the full Board, Board Committees, TAC and TAC subcommittees. Such minutes, except those which are held in Executive Session, shall be posted on ERCOT’s website for at least one year following the date of the meeting. ERCOT shall maintain a permanent record of the minutes of full Board meetings. ERCOT shall maintain records of meetings of TAC and TAC subcommittees for five years.
- 1.6 Executive Session. The Board may meet in Executive Session for purposes consistent with governing law and with the Bylaws. The notice for Executive Session discussion items may be worded such that the sensitive nature of the item is not compromised or disclosed. Except

for acting to approve the minutes of prior Executive Sessions, the Board shall emerge from Executive Session before voting or taking any action on any Executive Session noticed items or based on Executive Session discussions.

II. Responsibilities, Qualifications, and Compensation of the Board of Directors

- 2.1 Annual Goals and Objectives. In keeping with its fiduciary duties to ERCOT, the Board shall establish the overall direction and affirm the annual goals and objectives developed by ERCOT staff. The Board shall review such goals and objectives on an ongoing basis, and may issue policies and resolutions setting forth direction of ERCOT management actions to attain such goals and objectives. The Board's primary responsibility is to ensure that ERCOT maintains reliability and operates in a fair, efficient and non-discriminatory manner. The Board is also responsible for overseeing ERCOT's administration of the ERCOT Protocols.
- 2.2 Duties. The Board shall faithfully discharge its duties by conducting its affairs in a highly ethical and sound business manner. The Board, collectively and severally, will not direct the policies and actions of ERCOT from perspectives of private gain or personal advantage.
- 2.3 Chief Executive Officer and Management. Subject to applicable approval by the PUCT, the Board shall retain a Chief Executive Officer ("CEO") with the capabilities to execute Board policies. The Board delegates to the CEO all general powers and duties necessary to accomplish ERCOT's purpose, goals, and objectives as established by the Board, except for those specifically reserved to the Board by the Bylaws or herein. The CEO and management are required to supply Directors with sufficient information to keep Directors properly informed about the business and affairs of ERCOT.
- 2.4 Matters Reserved for Board Approval. Except for and subject to those matters which require PUCT approval or are mandated by the PUCT without Board approval, the Board expressly reserves the following matters for Board approval:
 - 2.4.1 Those matters reserved by the Bylaws.
 - 2.4.2 Approval of the initiation of any non-routine filing that seeks regulatory action by a regulatory agency; provided that emergency situations may require immediate regulatory filings to protect the interests of ERCOT and may be filed by the General Counsel in its reasonable discretion without prior approval of the Board if there is concurrence of the CEO, General Counsel, the Chair and Vice Chair of the Board for such filing, and provided that the Board is notified as soon as practicable.
 - 2.4.3 Initiation of any lawsuit; provided that emergency situations may require immediate legal action including the initiation of a lawsuit to protect the interests of ERCOT. Such a lawsuit may be initiated by the General Counsel without prior approval of the Board if there is concurrence of the CEO, General Counsel, the

Chair and Vice Chair of the Board for such filing, and provided that the Board is notified as soon as practicable and the Board subsequently ratifies the filing.

2.4.4 Approval of the purchase of goods or services for ERCOT's use, or of a contract for such purchase, with a value of over one million dollars (\$1,000,000.00) if such purchase or contract is not contemplated in ERCOT's Board-approved Budget. With regard to this section, approval is not required if ERCOT is directed, required or ordered to purchase goods or services by contract or otherwise by the PUCT.

2.4.5 Approval of the sale or pledge of any ERCOT assets valued in excess of one million dollars (\$1,000,000.00).

2.4.6 Establishment of any line of credit, loans, or other forms of indebtedness in the name of ERCOT exceeding one million dollars (\$1,000,000.00).

2.5 CEO Delegations. The Board shall exercise reasonable diligence to ensure that the delegations to the CEO provided in this policy statement are properly implemented. The Board will articulate clear and coherent goals and statements of its expectations through its policies and the adoption of the Budget. The CEO is responsible for fulfilling these commitments and managing the organization.

2.6 Individual Director Duties. Each Director shall, individually, have the following duties:

2.6.1 Attend all regular, ~~and~~ special and urgent meetings of the Board when notified, unless circumstances prevent the Director from attending. If attendance is not possible, Bylaws procedures for Segment Alternates, Proxies and Alternate Representatives shall be followed.

2.6.2 Participate in the selection of the members of all committees and subcommittees of the Board represented by his or her particular Market Segment.

2.6.3 Not disclose the confidential information of ERCOT to unauthorized people.

2.6.4 Handle any actual or potential conflict of interest in accordance with Bylaws Section 9.2.

2.6.5 Consistent with the fiduciary duty of care in overseeing, monitoring, and supervising the affairs of ERCOT, prepare for and participate to the best of his or her ability in determination of policy and other matters coming before the Board.

2.6.6 Set policy and make decisions in the best interest of the ERCOT organization and the ERCOT market.

2.6.7 Upon joining the Board and annually thereafter, sign the ERCOT Director Ethics Agreement.

2.7 Director Qualifications. Each Director shall meet the following qualifications:

- 2.7.1 Have a willingness to serve the ~~M~~membership of ERCOT and to commit the time and resources necessary to carry out the duties of a Director.
- 2.7.2 Be willing to work cooperatively with ERCOT Members.
- 2.7.3 For Market Segment Directors, possess significant electric energy-related work experience in a senior or executive management level in the Market Segment he or she represents, and ~~be an employee of a Member organization that is in good standing~~meet employment qualifications as required by the Bylaws.
- 2.7.4 Meet all qualifications defined by the Bylaws or required by the PUCT or Texas or other governing law.

2.8 Compensation and Expense Reimbursement for Unaffiliated Directors.

2.8.1 Unaffiliated Director Compensation. Each Unaffiliated Director will receive the following:

- 2.8.1.1 Annual Retainer. The Annual Retainer shall be \$87,000 and shall cover a full calendar year (January to December) and shall be paid to each Unaffiliated Director in equal monthly installments of \$7,250.
- 2.8.1.2 Board Committee Chair Compensation. Each Unaffiliated Director who serves as the Chair of a ~~subcommittee~~ Committee of the Board shall be paid \$5,600 in addition to the Annual Retainer.
- 2.8.1.3 Board Vice Chair Compensation. Each Unaffiliated Director who serves as the Vice Chair of the Board shall be paid \$7,500 in addition to the Annual Retainer.
- 2.8.1.4 Board Chair Compensation. Each Unaffiliated Director who serves as the Chair of the Board shall be paid \$12,800 per year, in addition to the Annual Retainer.

2.8.2 Expense Reimbursement.

- 2.8.2.1 Affiliated Directors. Affiliated Directors are generally expected to be reimbursed by their employers. Unaffiliated Directors, and Affiliated Directors who may receive limited reimbursement from time to time, shall comply with the ERCOT Business Expense Reimbursement Corporate Standard.
- 2.8.2.2 Business Expense Reimbursement. General Counsel shall provide Directors with the Business Expense Reimbursement Corporate Standard and a

summary thereof, upon new Directors joining the Board and also whenever modifications are made to the Standard.

2.9 Compensation for Residential Consumer TAC Representative.

2.9.1 Retainer, Meeting Fees and Compensation Cap. Compensation for the Residential Consumer TAC Representative shall be as follows: (i) a retainer of \$1,500 per month; and (ii) \$500 per TAC or other standing or special TAC subcommittee meeting actually attended. Total compensation for the Residential Consumer TAC Representative shall not exceed \$3,000 per month.

2.9.2 Business Expense Reimbursement. The Residential Consumer TAC Representative shall be eligible for reimbursement of reasonable business expenses associated with attending meetings of TAC or other standing or special TAC subcommittee, but shall comply with the ERCOT Business Expense Reimbursement Corporate Standard.

III. Delegation of Authority to the Chief Executive Officer

3.1 CEO Responsibility and Authority. Consistent with the goals, objectives, policies, and specific directions of the Board, and the Bylaws, the CEO is responsible for carrying out the business activities of ERCOT. The CEO shall have the authority to execute contracts and agreements, establish lines of credit, and take all other lawful actions, as he may deem expedient and proper in conducting the business of ERCOT, except as may be limited by the Board.

3.2 CEO Delegation to Officers and Employees. The CEO may delegate his authority to other ERCOT officers or employees in his discretion, except as limited by the Board. The CEO shall issue appropriate management procedures setting forth the direction of staff management and other employee actions to fulfill the goals, objectives, policies and other directions of the Board.

3.3 Budget. The CEO will present to the Board by October of each year when the Budget is to be approved, or at such other time as directed by the Board, a Budget to carry out the Board's directives for the following year or longer as directed by the Board. The Budget will include projections of ERCOT's overall financial performance and financing plans, and describe the services, projects, programs, and the associated revenues and expenditures for the next fiscal year. Adoption of the Budget by the Board and as approved by the PUCT authorizes the CEO to complete work plans and make associated expenditures as provided for in accordance with the Budget.

3.4 Information for the Board. The CEO is responsible for bringing policy matters to the attention of the Board when its current policies give inadequate direction for ERCOT operations or leave ERCOT at a disadvantage because of changing conditions. The CEO will provide thorough, well-organized information to the Board in a timely manner. Communications to the Board will be made forthrightly and with candor in the evaluation

of the conduct of business and operations of ERCOT. In the discretion of the CEO, significant contracts, agreements, or other major decisions may be brought to the Board for specific approval. In coordination with the General Counsel, the CEO shall represent ERCOT in communicating the position and interests of ERCOT to legislative bodies.

- 3.5 Internal Controls. Consistent with the Board's guidance and the ERCOT Internal Control Management Program, the CEO will approve and enforce appropriate policies, standards and procedures for ERCOT, to ensure adequate internal controls for ERCOT business and operations.

IV. Procedure for the Sale of ERCOT Assets

- 4.1 Sale of Assets. Personal property that is no longer necessary, convenient or of beneficial use to the business of ERCOT, and that has a fair market value of one million dollars (\$1,000,000.00) or less may be sold, transferred, auctioned, or conveyed by the CEO for its fair market value. ERCOT shall use revenues from the sale of its property to offset ERCOT expenses.

V. Procedure for Termination or Liquidation of ERCOT

- 5.1 Termination or Liquidation. Upon termination or liquidation of ERCOT, the Board shall, consistent with applicable federal and state regulatory requirements, liquidate ERCOT, and dispose of its property and assets in the manner required by its governing documents and Texas law applicable to non-profit corporations.

VI. Procedure by Which a Member May Examine and Copy the Corporate Financial Books and Records of ERCOT

- 6.1 Member Right of Inspection. Every Member shall have the right at any reasonable time to inspect ERCOT's corporate financial books and records of account subject to the following Procedures:
- 6.1.1 The Member representative must be acting upon the authority of the Member, as evidenced in writing by the representative designated and listed in ERCOT's records for that Member.
- 6.1.2 The writing must state a legitimate business purpose for the inspection and identify the documents the Member desires to inspect.
- 6.1.3 The writing must state the date and time of the inspection, such date and time to be no less than 10 days after ERCOT receives the request and shall be during ERCOT's normal business hours.
- 6.1.4 If the information requested is determined to be Confidential Information of ERCOT, ERCOT shall require the Member to sign a Confidentiality and Non-Disclosure Agreement in a form acceptable to ERCOT. Non-public information

relating to individual ERCOT employees, including compensation, shall not be subject to disclosure. ERCOT retains the right to withhold information that is confidential by law or by contract.

6.1.5 If the information requested is determined to be Confidential Information of an ERCOT Member, ERCOT shall not disclose such information except as provided in the ERCOT Protocols.

6.1.6 If Confidential Information is requested by the Member or a Market Participant who provided ERCOT the information, ERCOT shall provide copies of such information to the Member or Market Participant, or its designee upon written authorization by the Member or Market Participant.

6.2 Prohibition against Dissemination of Confidential Information. No Member shall use or disseminate any information obtained as a result of any such inspection in its capacity as a Member, for his or her own personal gain, to the detriment of ERCOT or its staff, or to the detriment of any competitors of any Entity with which the Member is affiliated, except in connection with the enforcement of a tariff, contract or applicable law and consistent with the Protocols and ERCOT's policy regarding Confidential Information.

VII. Procedures for the Selection of New Board Members, Board Chair and Vice Chair, and TAC Representatives

7.1 Annual Meeting and Record Date. At least two months prior to the Annual Meeting of the Corporate Members, the ERCOT Board will set the date and location for the Annual Meeting. The Record Date for determining the Corporate Members entitled to notice of and representation at the Annual Meeting is set forth in the Bylaws.

7.2 Elections of TAC Representatives, Market Segment Directors and Segment Alternates. For TAC Representatives, Market Segment Directors and Segment Alternates, as appropriate, to be elected by their respective Market Segments, one of two procedures shall apply: (a) ERCOT will provide all Corporate Members of the Segment or Subsegment with advance notice that the Segment or Subsegment will be holding the election, and follow-up notice of election results; or (b) ERCOT will directly facilitate the election according to the following procedures:

7.2.1 On the next business day after the Record Date, ERCOT will send a list of all the Members in each Segment or Subsegment, by membership level (*i.e.*, Corporate, Associate or Adjunct) to ERCOT Members.

7.2.2 ERCOT will request that Corporate Members of each Segment or Subsegment nominate Directors, Segment Alternates, as appropriate, and TAC Representatives and forward their nominations to ERCOT.

7.2.3 With the nominations provided, ERCOT will then create and provide ballots to Corporate Members for return to ERCOT.

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- 7.2.4 ERCOT will facilitate a meeting of the Segment or Subsegment to assist in the nomination and election process if requested.
- 7.2.5 Only Corporate Members may participate in the election of Directors, Segment Alternates, as appropriate, and TAC Representatives for the Segment or Subsegment in which they are members.
- 7.2.6 Each seat shall be filled by the person receiving the most votes (proxies allowed) of eligible Corporate Members.
- 7.3 Selection and Election of Unaffiliated Directors. For Unaffiliated Directors, subject to applicable law, statute or PUCT rule, the following procedures shall apply:
 - 7.3.1 All new Unaffiliated Directors shall be selected in accordance with the process established in the Bylaws.
 - 7.3.2 Six months prior to the expiration of an Unaffiliated Director's term, such Director shall indicate whether he or she wishes to remain on the Board for another term (if applicable). If the Unaffiliated Director desires to remain on the Board, the Nominating Committee will vote on whether such Unaffiliated Director may be nominated again for the Board.
 - 7.3.3 If an Unaffiliated Director elects to leave the Board or, due to the upcoming expiration of an Unaffiliated Director, the Nominating Committee otherwise elects to seek potentially a new Unaffiliated Director, the Nominating Committee shall retain an executive search firm to begin the candidate selection process, pursuant to the Bylaws.
 - 7.3.4 Where feasible, elections for Unaffiliated Directors will be held and approval by the PUCT sought within a timeframe that will allow such Directors to be seated ~~at the same time as Directors newly elected by Members on the Board so as to avoid or minimize the length of Unaffiliated Director vacancies on the Board.~~
- 7.4 Appointment of Residential Consumer TAC Representatives. Notwithstanding Section 7.2, for the Residential Consumer Subsegment, the Public Utility Counsel shall appoint Residential Consumer TAC Representative(s). ERCOT will assist, if requested, in providing potential candidates for such seats. The Public Utility Counsel shall identify their appointees to ERCOT at least one week prior to the Annual Meeting. ERCOT will notify new Consumer appointees of the information necessary to attend the Annual Meeting.
- 7.5 Facilitation of Election. If a Segment is unable to elect a Director, Segment Alternate, as appropriate, or TAC Representative at least two weeks prior to the Annual Meeting, ERCOT will notice a meeting of the Segment to facilitate the election.

7.6 Election Results and Confirmation. Prior to the Annual Meeting of Corporate Members, ERCOT will determine the results of the elections. At the Annual Meeting, the new Directors, Segment Alternates and TAC Representatives will be announced and confirmed. The new Directors, Segment Alternates and TAC Representatives will be seated according to their elected terms.

7.7 Election and Terms of Board Chair and Vice Chair. The Board shall elect the Board Chair and Vice Chair pursuant to the Bylaws. The Board Chair and Vice Chair, ~~including the incumbent Chair and Vice Chair serving on the effective date of this subsection,~~ shall be elected to serve in their positions until their respective successors are elected in the following year to avoid any break in service of Board leadership.

VIII. Appeal Procedures for Participation by Parties Opposing Actions Recommended by TAC or ERCOT Staff

8.1 ~~Any Entity that can demonstrate that it is affected by a TAC action (including but not limited to those listed in Protocol Section 21.2, Submission of a Protocol Revision Request) may appeal that TAC action to the Board.~~ Procedural Situations Addressed by this Section. Any ERCOT Member, Market Participant, PUCT Staff, Texas RE Staff or ERCOT may: (a) appeal a TAC action to reject, defer, remand or refer a matter that would have proceeded to the Board for consideration had it been recommended for approval by TAC, and requires a TAC recommendation as part of the approval process, directly to the ERCOT Board (“TAC Appeal”); or (b) submit written comments requesting a Board action to reject, defer, remand, or refer a matter that is before the Board for consideration, and requires a TAC recommendation as part of the approval process (“TAC Recommendation Opposition”); or (c) submit written comments opposing a voting item recommended by ERCOT staff that does not require a TAC recommendation prior to Board action (“ERCOT Recommendation Opposition”). Board consideration of TAC Appeals and TAC or ERCOT Recommendation Oppositions will be conducted pursuant to the process and timelines provided in this Section VIII.

8.2 Advance Notice of TAC Appeals, TAC Recommendation Oppositions, or ERCOT Recommendation Oppositions. It is the policy of the Board that important arguments and information relating to ~~an appeal of a TAC action~~ TAC Appeal or a TAC or ERCOT Recommendation Opposition be available to the Board in writing far enough in advance to enable informed decisions on ~~appeals~~ such matters. The Board, and its members, may discount arguments and information that are provided out of time and/or that were not provided to TAC.

8.3 Procedural Timeline for TAC Actions Not Designated as Urgent. ~~Written notice of Any TAC Appeals or TAC Recommendation Oppositions on matters that have not been granted Urgent status as part of the TAC review and recommendation process or that the Board Chair or Vice-Chair or a PUC Commissioner designates as urgent appeal~~ must be submitted to ERCOT’s General Counsel within ten (10) Business Days after the date of the TAC action which serves as the basis for the TAC Appeal or Comments on TAC Recommendation. Appeals shall ~~The Board will be heard~~ such matter at the next

regularly-scheduled Board meeting that is at least ten (10) Business Days after the date of the ~~appeal~~TAC Appeal or TAC Recommendation Opposition. The following deadlines will apply to the parties involved, and shall follow these deadlines:

- 8.3.1 The TAC Chair or Vice-Chair shall designate a TAC Advocate to defend the TAC action at least eight (8) Business Days before the Board meeting.
- 8.3.2 ERCOT shall post notice of the TAC Appeal or TAC Recommendation Opposition, appeal and identify the TAC Advocate on the ERCOT's website, and notify TAC of the same, at least seven (7) Business Days before the Board meeting.
- 8.3.3 The party appealing ~~party~~or contesting the TAC recommendation and the TAC Advocate must, and any other interested Entity may, provide a position statement, with or without supporting data, to ERCOT's General Counsel at least six (6) Business Days before the Board meeting.
- 8.3.4 ERCOT will distribute all timely position statements to the Board in the Board Packet as described in Section 1.2 above.

The Board Chair or Vice-Chair may override any deadline in this Section 8.3 for good cause shown.

8.4 Expedited Procedural Timeline for Urgent TAC Actions. Notwithstanding Section 8.3, an expedited process shall ~~apply to be followed for appeals~~TAC Appeals or TAC Recommendation Oppositions of: (a) TAC actions related to decisions on items designated as Urgent; or (b) any other TAC action that the Board Chair or Vice-Chair or a PUC Commissioner designates as urgent. Written notice of such appealsTAC Appeals or TAC Recommendation Oppositions must be submitted to ERCOT's General Counsel within forty-eight (48) hours after the end of the relevant TAC meeting and those TAC Appeals or TAC Recommendation Oppositions shall be heard at the next Board meeting, and the TAC Chair and Vice-Chair shall work with ERCOT's General Counsel to preserve the intent of Sections 8.2 and 8.3 above as fully as possible, given that such ~~appeals matters~~ will be heard on less than ten Business Days' notice.

8.5 Procedural Timeline for ERCOT Recommendation Oppositions. The process for ERCOT Recommendation Oppositions applies to situations in which the Board agenda includes a voting item that does not require a TAC recommendation before it comes before the Board for a vote. If a party seeks Board consideration of its comments opposing an ERCOT Recommendation for Board action, and requests that ERCOT include the comments in the Board Packet, the party must provide written notice to ERCOT's General Counsel at least ten (10) Business Days before the date of the Board meeting where the issue will be on the agenda and submit its comments with ERCOT's General Counsel at least eight (8) days before the date of the Board meeting where the issue will be on the agenda. If a party seeks to submit comments after the Board Packet has been delivered to Board members, the timing of the publication and distribution of the

comments (as well as of any comments supporting the ERCOT Recommendation) will be at the discretion of the Board Chair or Vice-Chair.

IX. Board Policy on Approval of User Fees

- 9.1 User Fees Approval Process. The Board may authorize ERCOT to charge reasonable user fees for services provided by ERCOT to any Market Participant or other Entity. A new user fee must be approved by the Board pursuant to the Revision Request process set forth in Section 21 of the Protocols. User fees charged by ERCOT must be identified in the ERCOT Fee Schedule included in the Protocols.
- 9.2 New User Fee Criteria. The Board retains the full authority to adopt user fees for services provided by ERCOT, including fees currently included in the Protocols, but establishes the following policy guidelines for establishing user fees which are not currently included in the Protocols:
- 9.2.1 Material Impact. A new user fee should produce revenue in excess of \$1,000,000.00 annually, or materially improve ERCOT operations.
- 9.2.2 Incremental Revenues. The revenues recovered by a new user fee should be incremental to revenue recovered through the System Administration Fee.
- 9.2.3 Limited Beneficiaries. A new user fee should be for a service that benefits a relatively few discrete Market Segments or Market Participants rather than providing general benefit to most Market Segments or Market Participants.

X. Procedure for Determination of Affiliate Relationship for Membership

- 10.1 Membership Applicant Procedure. Any applicant for Membership (Membership Applicant) shall follow the procedure in this section to request Board determination of whether entities are Affiliates of one another for the purpose of determining Member Segment and voting rights pursuant to the definition of “Affiliate” in the Bylaws (Article 2, Paragraph 1).
- 10.2 Verified Letter or Affidavit. The Membership Applicant shall send to the Board Chair with a copy to the General Counsel either (1) a letter verified by an authorized representative of the Membership Applicant or (2) an affidavit executed by an authorized representative of the Membership Applicant, requesting Board determination of Affiliate relationship for purposes of the definition of “Affiliate”. The verified letter or affidavit must provide sufficient facts of relevant corporate relationships of the Membership Applicant to allow for the Board’s review of corporate relationships in consideration of the definition of “Affiliate”.
- 10.3 Deadline for Submission. The Membership Applicant must send the verified letter or affidavit to be received no later than the submission date for the Board Packet materials

for the Board meeting preceding the Membership application deadline for the following Membership year.

XI. Review and Reaffirmation

- 11.1 Review and Reaffirmation. The Board may amend this document at any time by a vote that complies with Bylaws requirements, but at a minimum the Policies and Procedures shall be reviewed and reaffirmed annually, at or before the annual Strategic Planning Meeting.