



**Date:** October 7, 2016  
**To:** Board of Directors  
**From:** Chad Seely, Vice President, General Counsel and Corporate Secretary  
**Subject:** Bermudez Motions from August 9, 2016 Board Meeting

**Issue for the ERCOT Board of Directors**

**ERCOT Board of Directors Meeting Date:** October 11, 2016

**Item No.:** 15.1

**Issue:**

Whether the Board of Directors (Board) of Electric Reliability Council of Texas, Inc. (ERCOT) should approve the following matters that were voted upon at the August 9, 2016 Board meeting where the moving Director was ineligible to serve on the Board at the time of his motions, to be effective as of August 9, 2016:

- Consent Agenda;
- Acceptance of ERCOT's 401(k) Savings Plan Audit Report; and
- Selection of ERCOT's 401(k) Savings Plan Auditor.

**Background/History:**

Unbeknownst to ERCOT Legal and Jorge Bermudez at the August 9, 2016 ERCOT Board meeting, Mr. Bermudez was not eligible to serve on the ERCOT Board, due to his recent marriage and his wife's corporate officer position at a large financial institution which was later determined to be an Affiliate (within the definition of the ERCOT Bylaws) of a Market Participant. After Mr. Bermudez' disclosure of his marriage to ERCOT Legal and analysis by ERCOT Legal, it was determined that Mr. Bermudez was unable to meet a requirement of an Unaffiliated Director set forth in Section 4.3(b) of the Bylaws at the time of the August 9, 2016 Board meeting. After a discussion of ERCOT Legal's analysis with Mr. Bermudez, on October 4, 2016, Board Chairman Craven Crowell received a letter from Mr. Bermudez notifying Chairman Crowell of his resignation as Unaffiliated Director, effective immediately.

Following a review of the actions taken by the Board at its August 9, 2016 meeting, ERCOT Legal determined that Mr. Bermudez moved for the votes on the following three matters:

- Item 2, Consent Agenda: Motion to approve the Consent Agenda as presented.
- Item 9.1, Acceptance of ERCOT's 401(k) Savings Plan Audit Report: Motion to accept the 2015 ERCOT 401(k) Savings Plan Audit Report as recommended by the Finance and Audit (F&A) Committee.
- Item 12, Vote on Matters from Executive Session: Motion to select ERCOT's 401(k) Savings Plan Auditor as recommended by the F&A Committee and as discussed during Executive Session.

Although all three votes were unanimous in favor of approval, due to Mr. Bermudez having made the corresponding motions while ineligible to serve on the Board, ERCOT



Legal recommends that the Board vote on these matters with an effective date as of August 9, 2016.

Please refer to the materials that were distributed for the August 9, 2016 meeting, posted at <http://www.ercot.com/calendar/2016/8/9/76371-BOARD>, for further detail on these matters.

ERCOT Legal has determined that all other Board actions taken at the August 9, 2016 Board meeting were valid after excluding Mr. Bermudez' votes.

ERCOT Legal is providing this information to the Board with less than one week's notice for action on these matters at the October 11, 2016 meeting since the votes on these items, particularly the Revision Requests on the Consent Agenda, must be taken as soon as possible and this matter was unforeseen.

**Key Factors Influencing Issue:**

At the August 9, 2016 Board meeting, the Board discussed and was in complete consensus to approve each of the matters noted above.

**Conclusion/Recommendation:**

For the reasons set forth above and in the materials that were distributed for the August 9, 2016 meeting, ERCOT staff recommends that the Board take the following actions, effective as of August 9, 2016:

- Approve the August 9, 2016 Consent Agenda as presented at the August 9, 2016 Board meeting;
- Accept the 2015 ERCOT 401(k) Savings Plan Audit Report as recommended by the F&A Committee at the August 9, 2016 Board meeting; and
- Select ERCOT's 401(k) Savings Plan Auditor as recommended by the F&A Committee and as discussed during Executive Session at the August 9, 2016 Board meeting.



**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 approve the following Nodal Protocol Revision Requests (NPRRs), Planning Guide Revision Request (PGRR), Resource Registration Glossary Revision Request (RRGRR) and System Change Request (SCR) recommended by the Technical Advisory Committee (TAC) for approval:

- NPRR747, Revision of Voltage Control Requirements;
- NPRR767, Commitment by RUC for Long Lead Time Resource;
- NPRR770, Addition of Outaged Resource Capacity to the Ancillary Services Capacity Monitor;
- NPRR771, Clarifications to New ESI ID Creation Process;
- NPRR774, Remove Duplicate Language to Calculate Seasonal Transmission Loss Factors;
- PGRR046, Addition of Geomagnetically Induced Current (GIC) Model Building Requirements;
- RRGRR009, Adding Voltage Limit Sets, Relay Loadability, MLSE, and GMD Data; and
- SCR789, Update NMMS Topology Processor to PSSE 34 Capability.

THEREFORE, BE IT RESOLVED, that the ERCOT Board hereby approves NPRRs 747, 767, 770, 771 and 774, PGRR046, RRGRR009 and SCR789, as recommended by TAC, effective as of August 9, 2016.

**CORPORATE SECRETARY'S CERTIFICATE**

I, Vickie G. Leady, Assistant Corporate Secretary of ERCOT, do hereby certify that, at its October 11, 2016 meeting, the ERCOT Board passed a motion approving the above Resolution by \_\_\_\_\_.

IN WITNESS WHEREOF, I have hereunto set my hand this \_\_\_\_ day of October, 2016.

\_\_\_\_\_  
Vickie G. Leady  
Assistant Corporate Secretary



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

WHEREAS, Electric Reliability Council of Texas, Inc. (ERCOT) provided a 401(k) Savings Plan (401(k) Plan) as a benefit for its eligible employees during the fiscal year 2015;

WHEREAS, Employee Retirement Income Security Act rules and regulations also require an annual financial statement audit of benefits plans such as the 401(k) Plan;

WHEREAS, in October 2015, the ERCOT Board of Directors (Board) selected Maxwell, Locke & Ritter LLP (MLR) to provide 401(k) Plan audit services for the calendar years 2015, 2016 and 2017, subject to the annual approval of the Board for 2016 and 2017; and

WHEREAS, MLR has issued an opinion acceptable to this Board in connection with its audit of ERCOT's 2015 financial statement for the 401(k) Plan;

WHEREAS, after due consideration of the alternatives, the F&A Committee has considered and recommended that the Board accept the audited financial statements of ERCOT's 401(k) Plan, as of December 31, 2015, as presented by MLR, at its meeting of August 8, 2016; and

WHEREAS, the Board deems it desirable and in the best interest of ERCOT to accept the F&A Committee's recommendation to accept the audited financial statements of ERCOT's 401(k) Plan, as of December 31, 2015, as presented by MLR;

NOW, THEREFORE, BE IT RESOLVED, that the Board hereby accepts the audited financial statements for ERCOT's 401(k) Plan, as of December 31, 2015, as presented by MLR, effective as of August 9, 2016.

**CORPORATE SECRETARY'S CERTIFICATE**

I, Vickie G. Leady, Assistant Corporate Secretary of ERCOT, do hereby certify that, at its October 11, 2016 meeting, the ERCOT Board passed a motion approving the above Resolution by \_\_\_\_\_.

IN WITNESS WHEREOF, I have hereunto set my hand this \_\_\_\_ day of October, 2016.

\_\_\_\_\_  
Vickie G. Leady  
Assistant Corporate Secretary



**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 approve the selection of the independent audit firm noted in the August 9, 2016 executive session presentation (Audit Firm) to provide 401(k) savings plan audit services for the year ending December 31, 2016, at the cost noted in such presentation; and

WHEREAS, at its October 13, 2015 meeting, the Board authorized and approved ERCOT to engage the services of Audit Firm to provide 401(k) savings plan audit services for the years ending December 31, 2015, December 31, 2016, and December 31, 2017, subject to the annual approval of the Board for the years ending December 31, 2016 and December 31, 2017; and

WHEREAS, Audit Firm has: (i) provided acceptable 401(k) savings plan audit services to ERCOT since 2006; (ii) proposed a fee that is reasonable for the services offered; and (iii) proposed an audit schedule that will provide ERCOT staff with adequate time to address concerns identified in the audit report and provide the Board with multiple opportunities for review;

THEREFORE, BE IT RESOLVED, that ERCOT is hereby authorized and approved to engage the services of Audit Firm to provide 401(k) savings plan audit services for the year ending December 31, 2016, at the cost noted in the August 9, 2016 executive session presentation, effective as of August 9, 2016.

**CORPORATE SECRETARY'S CERTIFICATE**

I, Vickie G. Leady, Assistant Corporate Secretary of ERCOT, do hereby certify that, at its October 11, 2016 meeting, the ERCOT Board passed a motion approving the above Resolution by \_\_\_\_\_.

IN WITNESS WHEREOF, I have hereunto set my hand this \_\_\_\_ day of October, 2016.

\_\_\_\_\_  
Vickie G. Leady  
Assistant Corporate Secretary