



MEMORANDUM

To: Human Resources and Governance (HR&G) Committee
From: Karl Pfirrmann, HR&G Committee Chairman
Date: October 1, 2018
Re: Item 9 – Unaffiliated Director Succession Planning

The HR&G Committee Charter provides that the Committee shall annually consider the orderly re-appointment or succession of existing Unaffiliated Directors and make a recommendation to the Board if the Committee recommends changes to succession planning.

I. Requirements regarding Unaffiliated Director Selection and Terms

As you will see below, ERCOT is subject to various requirements regarding the selection process for Unaffiliated Directors, including specific qualifications, and their terms of service on the Board of Directors.

A. Statutory Requirements

Section 39.151(g)(7) of the Public Utility Regulatory Act (PURA) requires that five members of the ERCOT Board of Directors (Board) be “unaffiliated with any market segment and selected by the other members of the governing body to serve three-year terms”. Section 39.151(g) further requires that the process for electing Unaffiliated Directors be specified in Bylaws which are approved by the Public Utility Commission of Texas (PUCT), that a professional search firm is used to identify candidates, and that PUCT input be considered in identifying candidates.

B. PUCT Rule Requirements

PUCT Substantive Rule Section 25.362 (g)(5) provides in part that:

ERCOT shall provide information to the commissioners concerning their process for selecting a new member [*i.e.*, Unaffiliated Director], the candidates who have been identified and their qualifications, any recommendation that will be made to the governing board, and any other information requested by a commissioner. The selection of an unaffiliated member of the governing board is subject to approval by the commission. A person who is selected may not serve as a member of the governing board until the commission approves the selection. An unaffiliated board member whose three-year term has expired shall, if reappointed by the

ERCOT governing board, cease serving as a member of the governing board until the reappointment is approved by the commission.

C. Bylaws Requirements

Section 4.3(b) of the Amended and Restated Bylaws of Electric Reliability Council of Texas, Inc., effective August 17, 2015 (Bylaws), provide that the Nominating Committee of the Board of Directors shall be responsible for the selection of the Unaffiliated Directors, including the selection of the professional search firm and recommendation of selected candidates directly to ERCOT's Corporate Members for election and approval, subject to PUCT approval. Section 4.3(c) of the Bylaws provides that Unaffiliated Directors shall serve three year terms, "which shall be staggered to the extent possible," and that they may be reelected for up to two consecutive terms.

Section 4.5(f) of the Bylaws provides that any Director shall serve "until the earlier of the expiration of his term, resignation, ineligibility, inability to serve or removal".

D. Board Policies and Procedures

Section 7.3.2 of the Board Policies and Procedures, amended effective August 12, 2014 (BP&P), provides that Unaffiliated Directors shall give notice six months prior to their expiration of their term of their intent to seek re-election and that the Nominating Committee will vote on whether the Unaffiliated Director should be re-nominated. Section 7.3.4 of the BP&P provides that "[w]here 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 on the Board so as to avoid or minimize the length of Unaffiliated Director vacancies on the Board".

II. Historical Unaffiliated Director Terms

Although the first three Unaffiliated Directors who served on the Board in 2003 were initially staggered (*i.e.*, individual terms of 1.5, 2.5 and 3.5 years) by PUCT order, the staggering of one year between terms of each Unaffiliated Director has changed due to the timing of seating or resignations of subsequent Unaffiliated Directors (including the addition of two new Unaffiliated Director positions).

ERCOT Legal closely monitors the timing of Unaffiliated Directors' terms and assists the Nominating Committee with planning for succession for these positions to avoid vacancies on the Board to the extent reasonably foreseeable.

III. Factors Affecting Succession Planning

Succession planning, including staggering of terms, could be significantly affected by Unaffiliated Director resignations or failure to seek additional terms. Ultimately, due to the selection of qualified candidates and the timing of the approvals necessary to seat an Unaffiliated Director which can be lengthy, the Nominating Committee has to balance the need to fill Unaffiliated Director vacancies as soon

as possible for continued, full representation of Unaffiliated Directors on the Board against staggering.

IV. Current Terms of the Unaffiliated Directors

A summary of the terms of the current Unaffiliated Directors is provided below:

| Current Unaffiliated Director (listed in order of term expiration) | Expiration Date of Current Term | Renewal Terms | Comments |
|---------------------------------------------------------------------------|----------------------------------------|--------------------------|------------------|
| Terry Bulger | 03/28/2021 | Eligible for 2 Renewals | Currently seated |
| Peter Cramton | 08/16/2021 | Eligible for 1 Renewal | Currently seated |
| Craven Crowell | 12/31/2020 | Not eligible for renewal | Currently seated |
| Karl Pfirrmann | 12/31/2020 | Not eligible for renewal | Currently seated |
| Judy Walsh | 12/31/2020 | Not eligible for renewal | Currently seated |

I look forward to answering any questions on this matter at the meeting.