



Control Number: 39160



Item Number: 34

Addendum StartPage: 0

RULEMAKING PROCEEDING
RELATING TO EMERGENCY
OPERATIONS

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PUBLIC UTILITY COMMISSION
FILING CLERK
OF TEXAS

ERCOT REPLY COMMENTS ON PROPOSED RULE AMENDMENTS

The Electric Reliability Council of Texas, Inc. (ERCOT) submits these reply comments to address one issue raised in the round of initial comments to the Public Utility Commission's proposed amendments to P.U.C. Substantive Rules 25.53 and 25.362. In particular, Brazos Electric Power Cooperative, Inc., ("Brazos") expressed concerns that authorizing ERCOT to conduct site visits could impose liability on generation owners and jeopardize the confidentiality of certain sensitive information. *See* Initial Comments of Brazos Electric Power Cooperative at 3, 4. To address these concerns, Brazos proposed additional language that would explicitly make ERCOT's site visits "subject . . . to the terms and conditions set forth in the ERCOT Protocols." *Id.* at 4.

ERCOT respectfully disagrees with this proposal for two reasons. First, because ERCOT is already required to follow the ERCOT Protocols (except when they conflict with higher authority), there is no need for additional language that would simply require ERCOT to do what it is already required to do.

Second, no further change is necessary because the Protocols and the common law are already sufficient to address Brazos's concerns. With regard to the confidentiality of generator information, the Protocols already prohibit ERCOT's disclosure any of the following:

- Resource-specific costs, design, and engineering data;

- Status of Resources, including Outages, limitations, or scheduled or metered Resource data (until 60 days after the affected Operating Day); and
- Generation Resource emergency operations plans and weatherization plans.

ERCOT Nodal Protocols, §§ 1.3.1.1(c), (m), (bb). Furthermore, the PUC's rules also generally require ERCOT to "maintain the confidentiality of competitively sensitive information and other protected information" P.U.C. Subst. R. 25.362(e).

ERCOT believes these protections are sufficient to safeguard the confidentiality of any information obtained by ERCOT employees conducting generator site visits. However, if the Commission for any reason disagrees, ERCOT would alternatively propose a general restriction in this rule prohibiting ERCOT from disclosing any information obtained during any such site visit, except as otherwise required by law or as expressly authorized in writing by the generator owner. Section 1.3.6(c)(1) of the Protocols allows ERCOT to request a Market Participant's authorization to disclose information that ERCOT would otherwise be required to keep confidential, and ERCOT has previously obtained approval from generation owners to disclose certain weatherization information for the benefit of the broader generator public, including descriptions of particular weatherization practices as well as photographs of heat-tracing, insulation, and other weatherization improvements.

With regard to Brazos's concern of liability arising out of ERCOT site visits, ERCOT employees can and should be entitled to all available common law remedies, except where specifically limited by existing law, including the ERCOT Protocols. Although it does not appear Brazos would disagree with ERCOT's position, ERCOT submits that no addition to the rule language is necessary to address Brazos's concern.

Respectfully submitted,

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