



MEMORANDUM

To: Board of Directors
From: Chad V. Seely, Vice President, General Counsel & Corporate Secretary
Date: October 5, 2021
Re: Item 5 – Corporate Governance Update and Ratification Requirement

Public Utility Regulatory Act (PURA) § 39.1511(b) and the ERCOT Bylaws place strict limitations and conditions on the ability of the ERCOT Board of Directors (Board) to meet in a manner other than in person. Consistent with PURA § 39.1511(b), Bylaws Section 4.7(e) permits the Board to meet via telephone or other electronic means, including videoconference, so long as such means allow each participant to communicate with all other participants in the meeting, but such teleconference meetings may only be held to consider urgent matters. “Urgent matter” is defined in Bylaws Section 4.6(b), which states, in pertinent part:

For purposes of these Bylaws, an urgent matter is an emergency or public necessity (including but not limited to an imminent threat to public health and safety or to the ERCOT market or system), or a reasonably unforeseen situation. A matter shall be considered an urgent matter if it would be difficult or impossible for a quorum of Directors or subcommittee members to physically convene in one location and failure to consider the matter without delay may result in operational (including but not limited to those activities and functions affecting the ERCOT market or system), regulatory, legal, organizational or governance risk.

Consistent with PURA § 39.1511(b), Bylaws Section 4.6(c) requires that any actions taken at such a teleconference meeting later be ratified at a regularly scheduled meeting.

Due to the COVID-19 pandemic situation and resulting inability to accommodate medium to large in-person groups and maintain proper social distancing requirements, the Board has not held a regularly scheduled, in-person meeting since February 11, 2020. Beginning with its April 14, 2020 urgent meeting, all meetings of the Board have been urgent meetings held remotely via electronic means, with business limited to urgent matters consistent with the definition in Bylaws Section 4.6(b). Going forward, the Board intends to conduct in-person meetings. Accordingly, all actions taken by the Board from its April 14, 2020 meeting through its final urgent teleconference meeting on August 10, 2021 must be ratified by the Board at a future regularly scheduled, in-person meeting. ERCOT Legal plans to present those actions to the Board for ratification at its next regularly scheduled in-person meeting, which is currently expected to be held on December 14, 2021.