
Date: December 28, 2010
To: Texas Reliability Entity Board of Directors (Board)
From: Susan Vincent, General Counsel
Subject: Approval of 2011 Business Plan & Budget Amendment

Texas Reliability Entity Board of Directors Meeting Date: January 7, 2011

Agenda Item No.: 5

Issue:

Approval of a 2011 Texas Reliability Entity, Inc. (Texas RE) Business Plan and Budget Amendment, and an Amended Exhibit E to Texas RE's Amended and Restated Delegation Agreement with North American Electric Reliability Corporation (NERC), both of which include the greater scope of non-statutory activities that Texas RE will perform in 2011, with no material changes.

Background/History:

On December 6, 2010, the Board of Directors (Board) voted to authorize Texas RE to continue to perform non-statutory services as the Reliability Monitor for the Public Utility Commission of Texas (PUCT), subject to NERC and Federal Energy Regulatory Commission (FERC) approval, by modifying and extending its contract with Electric Reliability Council of Texas, Inc. (ERCOT) and the PUCT through December 31, 2013, with possible additional one-year extension periods, so long as Texas RE can obtain all needed information electronically from ERCOT.

Exhibit E to Texas RE's Amended and Restated Delegation Agreement with NERC (Delegation Agreement), which is effective on January 1, 2011, states that (1) Texas RE does not anticipate performing audits or investigations of market participants' compliance with ERCOT Protocols and Operating Guides as non-statutory activities in 2011, and (2) the only non-statutory activities Texas RE anticipates performing in 2011 include responding to subpoenas and providing testimony and support to the Public Utility Commission of Texas (PUCT) regarding compliance monitoring activities Texas RE had performed in previous years.

Texas RE's 2011 Business Plan and Budget that was accepted by FERC on October 21, 2010 (Approved Budget) also states that Texas RE does not anticipate performing audits, investigations, or other monitoring or reporting of market participants' compliance with ERCOT Protocols or Operating Guides in 2011, and it states that Texas RE will provide certain transitional non-statutory duties in 2011. The Approved Budget includes a non-statutory budget of \$265,969 and one full time equivalent employee (FTE).

Delegation Agreement Change

In order for Texas RE to perform the non-statutory Reliability Monitor services in 2011, Texas RE needs to modify Exhibit E to its Delegation Agreement to state that Texas RE will extend its contract with the PUCT and ERCOT to continue to perform non-statutory activities as the Reliability Monitor for the ERCOT region. The amended Exhibit E recommended by Texas RE staff, which states that Texas RE will continue to perform non-statutory activities as the Reliability Monitor for the ERCOT region for at least a three-year period, with possible further continuation at the end of a three-year contract extension, is attached hereto as Exhibit A.

Non-statutory Budget Changes

In order for Texas RE to perform the non-statutory Reliability Monitor services in 2011, Texas RE's non-statutory budget must increase from the approved amount, to ensure that the non-statutory activities are adequately funded by non-statutory funds. Texas RE's recommended 2011 Business Plan and Budget Amendment (Amended Budget) is attached hereto as Exhibit B.

As reflected in the chart below, Texas RE's non-statutory budget must increase by the amount of \$704,006, from the currently approved amount of \$265,969 to the amended amount of \$969,975, and the non-statutory staffing must increase from one to five FTEs. This non-statutory budget will be funded pursuant to Texas RE's extended contract with the PUCT and ERCOT. The detail of the increased non-statutory funding requirement is:

	Approved Non-statutory 2011 Budget	Amended Non-statutory 2011 Budget	Increase (Decrease)
FTEs	1.0	5.0	4.0
Direct Expenses	\$187,842	\$778,597	\$590,755
Indirect Expenses	\$78,127	\$191,379	\$113,251
Fixed Asset Increase (Decrease)	\$0	\$0	\$0
Total Funding Requirement	\$265,969	\$969,975	\$704,006

Texas RE has continued its policy of not maintaining a working capital reserve for non-statutory activities, due to the reliability and predictability of the receipt of its funding payments pursuant to its contract with the PUCT and ERCOT for Reliability Monitor services. Texas RE requests that the Board specifically affirm the current policy of not maintaining cash reserves for the non-statutory activities.

Statutory Budget Changes

The increase in 2011 non-statutory activities and expenses causes minimal changes to Texas RE's 2011 statutory budget. The increase in non-statutory indirect expenses (for administrative expenses such as rent, security, and information technology services), causes a corresponding decrease in certain statutory indirect expenses (such as rent, security, and information technology services) in the amount of \$113,252.

In addition, Texas RE purchased hardware and software in December 2010 to allow it to electronically access and store ERCOT region system data that it did not anticipate purchasing at the time Texas RE submitted the now Approved Business Plan and Budget. This hardware and software was purchased using unspent 2010 funds and will be used equally for both statutory and non-statutory activities. The 2011 maintenance, depreciation, and increased telecom expenses related to this hardware and software are shared by the 2011 statutory and non-statutory budgets. Texas RE's 2011 statutory expenses are increased by \$122,477 for its

50% allocation of these expenses. The increase in Texas RE's 2011 statutory direct expenses (and non-cash depreciation) offsets the decrease in the 2011 statutory indirect expenses:

Description	Approved Statutory 2011 Budget	Amended Statutory 2011 Budget	Increase / (Decrease)
Statutory Direct Expenses	9,595,176	9,717,654	122,477
Statutory Indirect Expenses	(78,127)	(191,379)	(113,252)
Statutory Operating Expense Budget	9,517,049	9,526,274	9,225
Statutory Capital Budget	290,000	290,000	-
Statutory Cash Reserves	127,459	207,567	80,108
Subtotal Statutory Budget Requirements	9,934,508	10,023,841	(89,333)
LESS: Total Change in Net Assets	(443,085)	(532,418)	(89,333)
Statutory Funding Requirements	9,491,423	9,491,423	-

The Amended Budget proposes that the ERCOT region assessment to load not be changed due to the very minor statutory budget decrease (\$80,108, which is the \$9,225 expense increase offset by the \$89,333 increased non-cash depreciation expense). Staff recommends that, instead, the cash reserve be increased slightly. NERC has already issued assessments for the first quarter of 2011, there will be no change in the assessments from the 2011 Approved Budget, the amount of the change to the assessment would have only been approximately 0.85% (\$80,108), and any unspent funds would be used to offset Texas RE's 2012 funding requirement.

Key Factors Influencing Issue:

- The requirement that the Texas RE Board approve any change to Texas RE's Amended and Restated Delegation Agreement and Business Plan and Budget prior to submission for approval by NERC and FERC.
- The need to have Texas RE's Amended and Restated Delegation Agreement and 2011 Business Plan and Budget amended to reflect Texas RE's increased non-statutory activities
- The requirement that Texas RE's 2011 Business Plan and Budget include adequate and sufficient 2011 funds to properly complete all non-statutory (Protocol and Operating Guide compliance) responsibilities.

Conclusion/Recommendation:

Texas RE respectfully requests that the Board approve:

- The amended Exhibit E to the Amended and Restated Delegation Agreement, which is attached hereto as Exhibit A, with no material changes; and
- The 2011 Texas RE Business Plan and Budget Amendment which is attached hereto as Exhibit B, with no material changes and specifically including:
 - The slight increase in cash reserves due to the slightly reduced funding requirement and no change to the statutory assessment; and
 - Continuation of no cash reserves for the non-statutory budget.

**RESOLUTION OF THE BOARD OF DIRECTORS OF
TEXAS RELIABILITY ENTITY, INC.**

January 7, 2011

WHEREAS, the Board of Directors (Board) of Texas Reliability Entity, Inc. (Texas RE), a Texas non-profit corporation, deems it desirable and in the best interest of Texas RE to approve an Amended Exhibit E to Texas RE's Amended and Restated Delegation Agreement with North American Electric Reliability Corporation (NERC) and a 2011 Business Plan and Budget Amendment to allow Texas RE to continue to perform services as the Reliability Monitor for the Public Utility Commission of Texas (PUCT), as non-statutory activities;

THEREFORE be it RESOLVED, that the Board hereby approves:

1. The Amended Exhibit E to Texas RE's Amended and Restated Delegation Agreement with NERC, which is attached hereto as Exhibit A and is incorporated herein for all purposes, with no material changes; and
2. The 2011 Business Plan and Budget Amendment, which is attached hereto as Exhibit B, and is incorporated herein for all purposes, with no material changes.

CORPORATE SECRETARY'S CERTIFICATE

I, Susan Vincent, Corporate Secretary of Texas Reliability Entity, Inc. do hereby certify that, at the January 7, 2011 Texas Reliability Entity, Inc. Board Meeting, the Board of Directors approved the above referenced Resolution. The Motion passed by _____ vote.

IN WITNESS WHEREOF, I have hereunto set my hand this 7th day of January, 2011.

Susan Vincent
Corporate Secretary