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OPEN MEETING COVER SHEET

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MEETING DATE: October 12, 2012
DATE DELIVERED: October 11, 2012
AGENDA ITEM NO.: 18 and 22
CAPTION: Project No. 40268 - P.U.C. Rulemaking to Amend P.U.C. SUBST. R. 25.505, Relating to Resource Adequacy in the Electric Reliability Council of Texas (ERCOT) Power Region; and Project No. 40000 - Commission Proceeding to Ensure Resource Adequacy in Texas
ACTION REQUESTED: Memo from Commissioner Pablos

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Public Utility Commission of Texas

Memorandum

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PUBLIC UTILITY COMMISSION
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TO: Chairman Donna L. Nelson
Commissioner Kenneth W. Anderson, Jr.

FROM: Commissioner Rolando Pablos *RBP/RLC*

DATE: October 11, 2012

SUBJECT: **October 12, 2012 Open Meeting, Agenda Item No. 18 and 22 - Project No. 40268 - P.U.C. Rulemaking to Amend P.U.C. SUBST. R. 25.505, Relating to Resource Adequacy in the Electric Reliability Council of Texas (ERCOT) Power Region and Project No. 40000 - Commission Proceeding to Ensure Resource Adequacy in Texas.**

I remain very encouraged by the progress made in recent weeks to delineate a clear path for addressing the resource adequacy challenges that will likely arise in the coming years. I appreciate your willingness to accept my proposed roadmap as a guide to help us identify the appropriate market design adjustments that could be needed to ensure long-term electric reliability for our great state. Our roadmap will allow us to focus our efforts, plan our approach, and accurately estimate the complexities and benefits associated with whatever options we ultimately decide to consider. A solid plan will help ensure the utmost due diligence this process deserves. It will also provide assurances that the Commission is best positioned to independently handle the issue of resource adequacy and produce a defensible solution that is custom-tailored in the best interest of Texas. Developing this plan will require us to exercise a considerable amount of scrutiny, analysis, and reflection – all of which require some time.

For the benefit of the public, please allow me to remind us all that our energy-only market design has not failed us to date and is not broken. Our market has been doing exactly what it was designed to do -- to provide ample, reliable, and affordable electricity to our citizens. Our energy-only market has produced a reliable electric grid that has consistently answered the call of our ever-growing consumer base. That being said, however, legitimate concerns are being raised as to the ability of this current market construct to withstand the long-term future demands of our growing consumer base. I share these concerns.

The unprecedented growth we have experienced in Texas over the past decade has been a tremendous blessing. But said good fortune has not come without a price. The strain that it has placed on our infrastructure has been most apparent in places such as our roads and schools. The strain is now beginning to show on our electric grid. ERCOT's most recent future reserve margin calculations indicate that our electric grid could encounter significant challenges in the coming years if we fail to act swiftly to ensure adequate resource development. I agree that swift action is required, but I disagree that instant action is needed. We are not in crisis mode.

It is my preference that we make all our decisions based on our own plan and timeline. Rushed decisions based on arbitrary deadlines have no place here. We must heed the distant early warning, but cannot allow ourselves to fall into the trap of making hurried decisions today that could later prove to be lamentable. I strongly believe that a thoughtful, deliberate, and well-founded Commission decision on a long-term solution will do more to create the regulatory certainty needed to stimulate further generation investment than a hasty and ill-informed decision carrying potential unforeseen and unintended consequences.

With that said and for a couple of very important reasons, I believe the Commission should let the current long-term resource adequacy rule proposal expire. First, I believe that adopting further SWOC increases at this time is premature because the appropriate SWOC levels will depend on the type of market framework that the Commission ultimately adopts as part of its overall long-term solution. As noted in the Brattle Study, energy-only markets typically have higher price caps whereas markets with resource adequacy requirements, such as capacity markets, generally have lower price caps.¹ Based on these facts, it is logical to wait until after the Commission makes a decision on the overall long-term solution and respective market framework before considering further long-term SWOC changes.

Second, the Commission needs to make sure that its long-term SWOC changes are well-founded. I do not think that the Commission has sufficient justification to adopt the 5,000, 7,000, and 9,000 SWOC in the proposal. As I stated at the last open meeting, I believe the proposed SWOC levels were arrived at arbitrarily without any supporting evidence.

In his March 21, 2012 memo, Commissioner Anderson proposed three cases of SWOC increases, which included a 9,000 SWOC, and requested that the Brattle Group study his proposed three cases.² Commissioner Anderson, however, did not explain how he arrived at those SWOC prices. The current rule proposal includes the 5,000, 7,000, and 9,000 SWOC increases that were included in Commissioner Anderson's memo under case three. The Brattle Study ultimately recommended increasing the SWOC to 9,000 or "a similarly high level consistent with the average [Value of Lost Load] VOLL in ERCOT."³ To date, however, we do not know with certainty what our average VOLL is in ERCOT because no VOLL study has been conducted. Therefore, I recommend that the Commission direct ERCOT to conduct the VOLL study suggested in the Brattle Study to ensure that any long-term SWOC changes are well-founded and the SWOC is set at the appropriate price level for both generation and demand response.⁴ ERCOT should commence this study immediately to ensure that the Commission has the study results as soon as possible to properly evaluate any long-term SWOC changes in a future rulemaking project. This required element should be added to our roadmap for accurate tracking.

¹ See Brattle Group's Study on ERCOT Investment and Resource Adequacy at 12 (June 1, 2012) ("Brattle Study").

² Commissioner Anderson's Memo, Project No. 37897 at 3 (March 21, 2012).

³ See Brattle Study at 6.

⁴ See *id.*

I hope that you agree that my recommended approach is the more pragmatic way to proceed with the current rule proposal and overall long-term resource adequacy decision-making process. I look forward to discussing these important issues at tomorrow's open meeting.