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COMMISSION PROCEEDING TO ENSURE RESOURCE ADEQUACY IN ERCOT	§ § §	**PUBLIC UTILITY COMMISSION OF TEXAS**

NRG ENERGY COMMENTS ON 'COMPOSITE' POLICY OPTIONS OFFERED BY BRATTLE GROUP

NRG Energy, Inc. ("NRG")[1] hereby files these comments in response to the Brattle Group's ("Brattle") October 19, 2012, filing "Resource Adequacy in ERCOT: 'Composite' Policy Options" ("Composite Report")[2] setting forth policy options for ERCOT resource adequacy.

I. Summary of Comments

- NRG concurs with Brattle's analysis and evaluation that a "Texas Capacity Market" is the best option to address ERCOT's resource adequacy challenge.
- Other options discussed in the Composite Report, specifically discriminatory preference and rate-based subsidies for demand response measures, will not provide long-term, efficient solutions for resource adequacy and would unduly shift costs (and risk) to ratepayers.
- The Commission should decide to make the ERCOT traditional reliability standard (1 in 10 year loss of load event) mandatory and give clear guidance to ERCOT and stakeholders for market change and provide clear deadlines for development and implementation.

II. Texas Capacity Market – best market model

Once again, the Brattle Group has provided the Commission a thorough and clear discussion of policy alternatives for assuring resource adequacy in ERCOT. NRG believes that of the two options defined in the Brattle Group's October 19th filing, the "Texas Capacity

[1] . These comments represent the broad perspective of several NRG companies, including NRG Texas Power LLC, NRG Power Marketing LLC, Reliant Energy Retail Services, LLC, Green Mountain Energy Company, Everything Energy LLC, US Retailers LLC and Energy Plus Holdings LLC – a variety of substantial market participants in both the wholesale and retail competitive markets in the ERCOT Region.

[2] The Brattle Group, *Resource Adequacy in ERCOT: 'Composite" Policy Options*, PUC Project 40000 (October 19, 2012).

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Market" is by far the superior choice. This appears to be the conclusion of the Composite Report as well, in that Brattle's scorecard evaluation shows the Texas Capacity Market will, when compared to the "Energy-Only Market with Support for DR," achieve greater reliability, provide a more economically efficient and cost effective solution, and provide for improved regulatory stability and decreased investor risk.[3]

Although NRG has previously recommended capacity market design characteristics that were not included in Brattle's Texas Capacity Market, NRG is nevertheless in general agreement with a number of Brattle's recommendations regarding that design. Many design issues and important details will need to be addressed and resolved as the Commission, ERCOT, and stakeholders develop the specifics of the Texas Capacity Market (including transitional measures) under the Commission's guidance. NRG intends to participate fully in that process. That said, NRG highlights some key issues here.

1. Implementation – complexity can be managed better in Texas

The greatest challenge identified by Brattle for the capacity market solution is the purported "implementation complexity" for the design. In response, NRG notes that complexity should be significantly less in Texas than it has been in other markets. First, the Commission and stakeholders have the benefit of "lessons learned" in other markets, which should reduce implementation complexity. Further, the Commission is uniquely situated to ensure success in fine-tuning the market design, as the Commission is the sole regulatory authority over the wholesale and retail markets in ERCOT – thus eliminating the conflicts between federal and multiple state jurisdictions that have been at the root of many of the challenges in other markets. Finally, there are a number factors unique to Texas that should allow a simpler capacity market design, which NRG and others have already suggested. For example, the Brattle Group offers a number of simpler approaches to a capacity market design for ERCOT,[4] such as observing that a "region-wide" market implementation may be feasible in ERCOT, avoiding the locational prices that are a part other capacity market designs.[5] This important simplification appears possible under current conditions due to ERCOT's more robust and stable transmission system and Texas' more integrated regulatory structure.

[3] *Resource Adequacy in ERCOT: 'Composite" Policy Options*, pp. 34 – 39.
[4] *Resource Adequacy in ERCOT: 'Composite" Policy Options*, pp. 19 – 26.
[5] *Resource Adequacy in ERCOT: 'Composite" Policy Options*, p. 21.

2. *Minimum Offer Price Rule (MOPR)*

NRG's experience in other competitive regions of the U.S. is that well-defined MOPR provisions are essential to a well-functioning capacity market. As NRG has urged in previous comments, we recommend that all new resources be required to bid at levels based on their full economic cost, net of expected energy and ancillary service revenues, without regard to any underlying contract or arrangement. While NRG agrees with Brattle that a strong set of "principles" to this effect, rather than a MOPR, may be adequate in ERCOT today, based on current market conditions, our view is that market conditions and dynamics change over time and a MOPR may be essential in the future. It is always better to have insurance before it is needed, rather than trying to get it afterwards. Future market conditions may change and NRG believes market rules must prohibit behavior that undermines efficient capacity market pricing. Further, a strong MOPR would itself be an excellent way to embody the principles recommended by Brattle.

3. *Generator offer caps – consistency with strong energy-only market*

NRG is confused by Brattle's recommendation on slide 26 regarding "reducing the *generator offer cap* to $1000/MWh if capacity payments are available." This recommendation seems inconsistent with Brattle's previous recommendations that any market design should include a strong energy-only market. For example, in its June 1, 2012, Report, Brattle stated that "regardless of the overarching policy path selected by the Commission, we recommend enhancing several design elements to make the ERCOT market more reliable and efficient....: (1) increase the offer cap from the current $3,000 to $9,000, or a similarly high level consistent with the average value of lost load (VOLL) in ERCOT...."[6] NRG's view is that effective scarcity pricing is important in ***any*** market design, and will help the capacity market work well in ERCOT. Brattle has not articulated a valid rationale to discriminatorily constrain generator only offer curves, or explained how robust scarcity pricing will be achieved with such constraints.

[6] The Brattle Group, *ERCOT Investment Incentives and Resource Adequacy,* PUC Project 40000 (June 1, 2012) *("Brattle Report")* p. 6.

III. Energy-Only Market with Demand Response Subsidies – Concerns

NRG supports demand response ("DR"). NRG's retailers, including Reliant Energy and Green Mountain, actively engage in the development and marketing of demand response products. To achieve efficient market outcomes, DR must itself be competitive and market-based. Some of the measures suggested in the Brattle Composite Report, however, would be inefficient and contrary to competitive market principles. Specifically, DR carried out by regulated TDSPs or a capacity market discriminatorily limited to only DR providers, while excluding generation providers, are neither competitive nor consistent with basic market principles. Fundamentally, NRG believes that enhancements in DR should come from the competitive market, not from regulatory mandates to transmission and distribution utilities ("TDUs") providing DR equipment and programs and then recovering the costs via regulated rates. In addition, NRG opposes any policy decision that provides for discriminatory access to capacity markets. The following are some the major concerns related to Brattle's energy-only market option.

1. Utility programs cannot be competitive services

TDU provision of DR infrastructure and services, as opposed to the competitive market, is counter to the Legislative policy set forth in PURA Sec. 39.001; specifically, "that, except for transmission and distribution services…, electric services and their prices should be determined by customer choices and the normal forces of competition." DR infrastructure located in the homes and businesses of customers is not "transmission and distribution service," but instead is a regulatory intrusion into "customer choice and the normal forces of competition." Brattle rightly acknowledges that TDU investment is not market-based, it would be limited to static "approved" types of equipment, and the market would lose the innovation and expertise of REP/DR providers.[7] TDU provision of DR equipment and services also shifts the *investment risk* in equipment and services costs on captive customers having no "choice" but to pay for it – as opposed to investment by competitive entities better suited to manage that risk by innovating to create customer value. If the Commission chooses an energy-only market approach (as opposed to adding a capacity market), to facilitate more robust DR market-based measures and products will need to be developed in the energy market that can enable REPs to recover their investment in customer equipment and support.

[7] *Resource Adequacy in ERCOT: 'Composite" Policy Options*, p. 10.

2. *DR-only capacity market – market distorting.*

NRG also disagrees with Brattle's suggestion to implement a DR-only capacity auction. A DR-only capacity market is discriminatory, market distorting and inefficient. And as stated by Brattle, the work required to define and develop a DR-only capacity market would involve many of the same complicated issues that must be addressed in a broader capacity market.[8] The time and resources of the Commission, ERCOT, and market participants to develop a DR-only capacity market would be better spent directed toward a better, more holistic solution - a forward capacity market for ***all*** resources. As Brattle explains, a discriminatory capacity auction can "lead to inefficient investment/retirement decisions and higher 'capacity' prices and all-in costs than a full capacity market approach." [9]

3. *Increase in operating reserves – inefficient and undermining of investment.*

NRG would also caution the Commission against seeking to achieve its long term resource adequacy goals by increasing operating reserves in order to administratively withhold resources and thereby increase energy prices. This is not only an inefficient way to run a market, but as Brattle discusses it also involves significant regulatory risk and could undermine competitive investment. However, this measure may have merit as a "transitional" tool only until the Texas Capacity Market can be fully implemented.

IV. Next Steps

The Commission should affirm the traditional ERCOT 1 in 10 year loss of load event reliability standard, and make it mandatory. With the affirmation from the Commission of its commitment to maintain long-term reliability objectives, the Commission, ERCOT, and market participants can focus on implementing an efficient, forward capacity market to achieve the reliability objective. NRG is committed to support the Commission's decisions on resource adequacy and actively participate in the important work ahead to implement needed market enhancements.

NRG is confident the Commission has amassed sufficient analyses and stakeholder input to move forward to a rulemaking that: (1) provides guiding principles to ERCOT and stakeholders for the development and implementation of additional market measures, and (2)

[8] *Resource Adequacy in ERCOT: 'Composite" Policy Options*, p. 11.
[9] *Resource Adequacy in ERCOT: 'Composite" Policy Options*, p. 17.

provides clear deadlines for development and implementation. With this direction, ERCOT and stakeholders can engage in an orderly process to work out the details of the market design and implementation in accordance with the Commission's direction.

V. Conclusion

NRG appreciates the opportunity to provide these comments in this very important policy proceeding. As the Commission provides its guidance, and as other parties provide their positions and suggestions, NRG reserves the right to refine and modify its positions herein and to take positions on other issues not addressed in these comments.

Respectfully submitted,

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