



Control Number: 24770



Item Number: 176

Addendum StartPage: 0

**DOCKET NO. 24770**

**REPORT OF THE ELECTRIC  
RELIABILITY COUNCIL OF TEXAS  
(ERCOT) TO THE PUCT REGARDING  
IMPLEMENTATION OF THE ERCOT  
PROTOCOLS**

§  
§  
§  
§  
§

**PUBLIC UTILITY COMMISSION  
OF TEXAS**

2002 DEC 30 PM 2:43  
PUBLIC UTILITY COMMISSION  
FILING CLERK

**COMMISSION STAFF'S REPLY TO RELIANT  
CONCERNING PROCEDURAL SCHEDULE**

Staff hereby replies to "Response of RRI to Commission Staff's Response to Order No. 17 concerning Procedural Schedule".<sup>1</sup> RRI argues that Staff's proposed schedule should be rejected; that "all parties [should] have a right to present their recommendations for pricing ancillary capacity services in a manner similar to the schedule for CSM [Staff's Competitive Solution Method]"; and that, "Hopefully, pricing for ancillary capacity services can be resolved through continued negotiations and settlement just as the TCR issue was resolved." As explained below, Reliant's arguments should be rejected.

To fully appreciate the inappropriateness of Reliant's arguments, the Commission should consider the events leading to Order No. 17. The current docket was initiated as a result of the Commission's final order in the docket in which the Commission approved the initial Protocols.<sup>2</sup> In that docket, the Commission ordered ERCOT to consider certain issues and report back to the

---

<sup>1</sup> Staff received Reliant's pleading on December 18, 2002. The current pleading uses the following abbreviations: Commission – Public Utility Commission of Texas; CSM – Competitive Solution Method; ERCOT – Electric Reliability Council of Texas; FERC – Federal Energy Regulatory Commission; MW – megawatt; PCRs – preassigned transmission congestion rights; Reliant – Reliant Resources, Incorporated; RRI – Reliant Resources, Incorporated; Staff – staff of the Public Utility Commission of Texas; STF – Special Task Force; TAC – Technical Advisory Committee; TCRs – transmission congestion rights.

<sup>2</sup> Docket No. 23220, *Petition of the Electric Reliability Council of Texas for Approval of the ERCOT Protocols*, Docket No. 23220, Order on Rehearing (6/4/01).

Commission by October 1, 2001, which ERCOT did.<sup>3</sup> In order to prepare the report ordered by the Commission, the ERCOT TAC created a Special Task Force (STF), which began meeting in July 2001 and was chaired by a Reliant representative. STF did not have a defined membership. Instead, it was open for participation by stakeholders, although only ERCOT members could vote at the meetings.<sup>4</sup> It was through the STF meetings that Staff developed CSM and received valuable feedback from stakeholders on earlier versions of CSM.<sup>5</sup> It was also through STF that many wholesale market participants developed their response to the Commission's concern about the potential for ancillary service market failure. According to these market participants that voted in favor of the STF report, including Reliant, the Commission should not order the implementation of market failure protections because "there is no indication of market failure."<sup>6</sup> Reliant and these market participants have even opposed the \$1,000/MW backstop bid/offer caps,<sup>7</sup> which the Commission has already approved on an interim basis in Order Nos. 13 and 14. However, they did provide "possible solutions" "to the extent that the operation of the market demonstrates that changes need to be made".<sup>8</sup> Nevertheless, Staff demonstrated in its initial brief in this docket the inadequacy of the "possible solutions".<sup>9</sup>

Reliant, Staff, and the other parties in this docket agreed to waive the right to a hearing and instead brief the issues.<sup>10</sup> Nevertheless, the Commissioners presided over a technical

---

<sup>3</sup> Docket No. 23220, Order on Rehearing, p. 53; Docket No. 24770, ERCOT Report (10/1/01); Docket No. 24770, Commission Staff's Initial Brief (1/25/02), p. 8, last paragraph – p. 10, first paragraph.

<sup>4</sup> ERCOT Report (10/1/01), p. 2, second paragraph.

<sup>5</sup> Commission Staff's Reply Brief (2/15/02), p. 16.

<sup>6</sup> Commission Staff's Initial Brief (1/25/02), p. 12, second paragraph. Reliant "fully supports" the STF report. Reliant Resources, Incorporated's Statement of Position on October 1, 2001 ERCOT Report (1/25/02), p. 3, third paragraph. Neither TAC nor the ERCOT Board adopted the STF report. See ERCOT Report, p. 9.

<sup>7</sup> See Commission Staff's Initial Brief (1/25/02), p. 27.

<sup>8</sup> ERCOT Report, p. 27, first paragraph.

<sup>9</sup> Commission Staff's Initial Brief, p. 24, second paragraph – p. 28, second paragraph.

<sup>10</sup> See Order No. 7.

conference that included a discussion of the ancillary service issues addressed by CSM. Sworn witnesses participated in this discussion, including Reliant's witness.<sup>11</sup> After this technical conference, the Commissioners discussed CSM during a number of Open Meetings and asked for additional information, including application of CSM to historical data and a procedural schedule to consider implementation issues. Staff filed a report in which it described the application of CSM to historical data; pursuant to Order No. 17, four parties commented on the report; and Staff replied to the comments.<sup>12</sup> Reliant did not file comments on the report. Also pursuant to Order No. 17, Staff filed a proposed procedural schedule for identification and consideration of issues that would be involved in the implementation of CSM.<sup>13</sup>

As explained above, stakeholder consideration of CSM began over a year-and-a-half ago. CSM has been under Commission consideration for over a year, and parties have submitted briefs and provided testimony on CSM and whatever alternatives to CSM that they chose to present. Thus, it is wholly inappropriate for Reliant to now suggest that it be allowed to present new, unspecified "other approaches" at an unspecified time before the Commission moves forward with consideration of CSM implementation issues. The Commission should brush aside Reliant's feeble stall tactic and promptly move forward with consideration of CSM implementation issues.

Reliant states that, "Hopefully, pricing for ancillary capacity services can be resolved through continued negotiations and settlement just as the TCR issue was resolved."<sup>14</sup> Staff

---

<sup>11</sup> See Order No. 11.

<sup>12</sup> Application of Competitive Solution Method to Data from ERCOT Ancillary Capacity Services (10/11/02); Commission Staff's Response to Comments on Staff Report (12/13/02).

<sup>13</sup> Commission Staff's Response to Order No. 17 concerning Procedural Schedule (12/16/02).

<sup>14</sup> Reliant pleading, p. 3.

assumes that Reliant is referring to the stipulation reached on the pricing of PCRs.<sup>15</sup> This stipulation was reached after the Commission had ruled on a number of other issues concerning PCRs. As recommended by the Commission Staff, the Commission ordered the elimination of the use-it-or-lose-it and non-tradeability restrictions on PCRs, which changed the value of the PCRs. Reliant and many other stakeholders had opposed Staff's recommendation. Nevertheless, Staff, Reliant, and other parties worked cooperatively to settle the PCR pricing issue in light of the Commission's rulings eliminating the use-it-or-lose-it and non-tradeability restrictions on PCRs.

Staff would welcome constructive input from Reliant and other stakeholders concerning CSM, just as the original development of CSM benefited from their input. However, the implementation of CSM needs to promptly move forward, so that customers in ERCOT can have protection against market failure in the ancillary capacity service markets. Although market failure mitigation measures for competitive electricity markets were the subject of serious debate in prior years, the "wait until it fails" position of Reliant and others is no longer credible. With the California meltdown and the manipulations of Enron and other market participants as a backdrop, the Commission and its federal counterpart – FERC – have already taken measures to protect customers from market failure in competitive electricity markets, in light of these markets' unique characteristics.<sup>16</sup> Staff urges the Commission to promptly move forward with consideration of CSM implementation issues, in the manner proposed in Staff's Response to Order No. 17 concerning Procedural Schedule.

---

<sup>15</sup> Revised Non-Unanimous Stipulation and Agreement regarding Preassigned Transmission Congestion Right Pricing (10/11/02).

<sup>16</sup> For example, the Commission has already approved \$1,000 bid/offer caps, and FERC has approved similar caps, as well as the New York Independent System Operator's Automated Mitigation Procedure. See Staff's 10/23/02

Dated: December 30, 2002

Respectfully Submitted,

Thomas S. Hunter  
Division Director - Legal and Enforcement Division

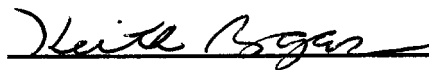


Keith Rogas  
Director – Legal and Enforcement Division, Electric  
Section  
State Bar No. 00784867  
(512) 936-7277 telephone  
(512) 936-7268 fax  
keith.rogas@puc.state.tx.us

Public Utility Commission of Texas  
1701 North Congress Avenue  
P.O. Box 13326  
Austin, Texas 78711-3326

### **CERTIFICATE OF SERVICE**

I, Keith Rogas, certify that copies of this document will be served on all parties on December 30, 2002, in accordance with Public Utility Commission of Texas Procedural Rule 22.74.



Keith Rogas

---

filing; Staff's Initial Brief (1/25/02), p. 11, second paragraph – p. 15, first paragraph; Staff's Reply Brief (2/15/02), p. 36.