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DOCKET NO. 24770

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

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PUBLIC UTILITY COMMISSION

OF TEXAS

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**PETITION OF EXELON GENERATION COMPANY, LLC AND EX TEX LAPORTE,
LP FOR LEAVE TO INTERVENE**

Exelon Generation Company, LLC and Ex Tex LaPorte, LP (together, "Exelon") move to intervene in the above-styled and -docketed proceeding pursuant to the Public Utility Regulatory Act, Title II, TEX. UTIL. CODE ANN. (Vernon 1998 & Supp. 2002) ("PURA") and Sections 22.101, 22.103 and 22.104 of the Rules of Practice and Procedure of the Public Utility Commission of Texas ("PUC" or "the Commission").

In support of its motion to intervene, Exelon respectfully states:

1. Ex Tex LaPorte, LP owns and operates three electric generating facilities in ERCOT. Exelon Generation Company, LLC markets the power produced by these plants. As such, both companies are active participants in the ERCOT wholesale power market.

2. Exelon's authorized representatives are:

Marianne Carroll
Chris Reeder
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3. On October 1, 2001, the Electric Reliability Council of Texas (ERCOT) initiated this docket by filing a report to the Commission regarding the implementation of the ERCOT

Protocols, as required by the Order on Rehearing in Docket No. 23220.¹ In Order No. 18 herein, the Commission invited parties to comment on Staff proposals relating to (a) bid/offer caps for ancillary services and (b) the implementation of Staff's Modified Competitive Solution Method ("MCSM").

Since parties' comments were filed pursuant to Order No. 18, the Commission has decided to conduct a technical conference to discuss Staff's proposed MCSM, as well as market price mitigation methods proposed by other parties. Prior to the technical conference, the Commission is soliciting comments on several issues as set out in Order No. 19.

4. Because Exelon is a market participant in ERCOT, it is affected by any changes to the ERCOT Protocols as well as any decisions by the Commission that affect the market. As a supplier of energy and capacity in the ERCOT wholesale markets, Exelon will be affected by any decision by the Commission to apply price mitigation procedures in those markets. For these reasons, Exelon has a justiciable interest that may be adversely affected by the outcome of this proceeding. Exelon accordingly has a direct and substantial interest in the issues to be decided in this case.

5. Good cause exists for Exelon's having failed to file an intervention request within the time prescribed. For several reasons, including focusing its limited resources on other PUC proceedings (in particular, Docket No. 26376) and ERCOT committee activities, the lengthy nature of this proceeding, and the fact that many other market participants have been active herein, Exelon has thus far not sought to participate actively in Docket No. 24770. Staff's recent interest in the immediate approval of MCSM, as well as the Commissioners' evident interest in hearing the views of market participants as to the relative merits of MCSM and other proposals

¹ *Petition of the Electric Reliability Council of Texas for Approval of the ERCOT Protocols*, Docket No. 23220, Order on Rehearing (June 1, 2001).

for price mitigation (including any new proposals brought to the table), have made it clear to Exelon at this time that it not only has a justiciable interest in this case, but also a duty to intervene and participate so that its views can be made known to and taken into account by the Commissioners in making their decisions herein.

6. No prejudice to, or additional burdens upon, the existing parties will result from permitting the late intervention of Exelon, and Exelon's intervention will not disrupt this case. MCSM was only recently proposed by Staff in response to price fluctuations during the severe weather events of late February, 2003. The proposals made by Reliant Resources and City Public Service of San Antonio, on which the Commission has solicited comment, were filed only on April 24, 2003, in response to Order No. 18. And the Commission has solicited new proposals from parties that may not be known until comments are filed on Thursday, May 1, 2003. Exelon intends to participate in the technical workshop on May 14 if its intervention is granted herein.

7. The public interest will be served by allowing Exelon's intervention in this case. Two of Ex Tex La Porte's generating plants, as aging units purchased from a former electric utility, have high operating costs, and could fail to recover their costs were MCSM to be adopted by the Commission. The views of Exelon, therefore, regarding the possible effects of MCSM implementation, as well as the other issues listed in Order No. 19, will inform the Commissioners' inquiry thereon and assist the Commissioners in determining a reasonable course of action that does no harm to Exelon or the market in which Exelon is a significant participant.

8. Exelon hereby respectfully requests that the Commission and all parties to this proceeding serve copies of all orders, correspondence, pleadings, briefs, requests for information and responses thereto, and other documents on Exelon's authorized representatives listed above.

10. Based on the above, Exelon respectfully requests that its Petition for Leave to Intervene be granted, and that Exelon be allowed to participate in this proceeding to the full extent that it desires to do so.

RESPECTFULLY SUBMITTED,

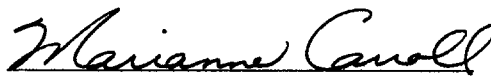


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ATTORNEYS FOR EXELON GENERATION
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Certificate of Service

I certify that a copy of this document was served on all parties of record in this proceeding on May 1, 2003, by regular mail, facsimile transmission or hand-delivery.



Marianne Carroll