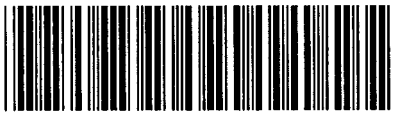

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SOAH DOCKET NO. 473-02-3537
PUC DOCKET NO. 25960

APPLICATION OF BRAZOS ELECTRIC POWER COOPERATIVE, INC. TO CHANGE RATES FOR WHOLESALE TRANSMISSION SERVICE	§ § § § § §	BEFORE THE STATE OFFICE OF ADMINISTRATIVE HEARINGS

ORDER NO. 7
RETURNING SETTLED CASE TO THE PUBLIC UTILITY COMMISSION OF TEXAS

I. Settlement of Contested Issues

On May 28, 2002, Brazos Electric Power Cooperative, Inc. (Brazos Electric) filed a Statement of Intent to Change Rates for Wholesale Transmission Service (TCOS application) with the Public Utility Commission of Texas (Commission) pursuant to TEX. UTIL. CODE ANN. §§ 35.001 et seq. and 36.001 (Vernon 1998 & Supp.2002) (PURA) and P.U.C. SUBST. R. 25.191. After a hearing on Brazos Electric's interim rate request, which the Administrative Law Judge (ALJ) denied and Brazos appealed, the parties reached an agreement on the contested issues. On September 26, 2002, Brazos filed with the State Office of Administrative Hearings (SOAH) a *Stipulation and Settlement of Docket* (Stipulation) reciting the parties' agreement, which resolves the issues contested in this matter. The parties filed their joint agreed proposed findings of fact, conclusions of law, and ordering paragraphs on September 30, 2002, in response to Order No. 6.

II. Jurisdictional Deadline

Pursuant to PURA § 36.108, the 150th day from the effective date (July 2, 2002) of the rate change application is November 29, 2002.[1] The Commission must render a decision approving or denying the TCOS rate change application by the 150th day or the rates become effective.

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[1] Because legal issues regarding the reconciliation of certain sections of PURA applicable to TCOS regulation and other PURA provisions affecting other types of rate regulation were not resolved in this docket, the parties rely on the150 day deadline.

Brazos Electric seeks expedited consideration of the Stipulation and Proposed Order, making the withdrawal of its pending appeal of an interim order and a motion for declaratory order filed in Docket No. 25002 contingent upon the Commission adopting the stipulation no later than November 7, 2002.

III. Evidence Admitted Into the Record

The evidence specified below is admitted into the record for the limited purpose of showing the reasonableness of the stipulation as the parties requested. The Stipulation is also admitted.

1. Brazos Electric's May 28, 2002 rate filing package, as corrected by the July 19 and September 12, 2002 errata filings;

2. Page 15 of the July 30, 2002 prefiled supplemental testimony of Brazos witness Khaki Bordovsky explaining the July 19, 2002 errata filing;

3. The testimonies of Brazos Electric witnesses filed May 28, 2002:

   a. Khaki Bordovsky
   b. Carl Stover
   c. Dr. Juan Gonzalez, III
   d. Johnny York

4. The prefiled testimony of City of Garland witness Richard J. Covington filed September 13, 2002; and

5. The prefiled testimony of Staff witness Slade Cutter filed September 20, 2002.

IV. Dismissal of Contested Case from SOAH Docket

Because the contested issues have been resolved by agreement as reflected in the Stipulation, this case can be processed administratively. The judge, therefore, returns the case to the Commission, so the Commissioners can consider the parties' Stipulation and supporting evidence. Accordingly, the ALJ **DISMISSES** Docket No. 473-02-3537 from the SOAH docket.

The ALJ hereby forwards to the Commission's Staff the parties' Stipulation along with electronic and hard copies of the parties' proposed findings of fact, conclusions of law, and ordering paragraphs for Staff's review in preparing a Proposed Order.

ISSUED the 3rd of October, 2002.

DEBORAH L. INGRAHAM
ADMINISTRATIVE LAW JUDGE
STATE OFFICE OF ADMINISTRATIVE HEARINGS

DI

SOAH DOCKET NO. 473-02-3537
PUC DOCKET NO. 25960

APPLICATION OF BRAZOS ELECTRIC POWER COOPERATIVE, INC. TO CHANGE RATES FOR WHOLESALE TRANSMISSION SERVICE	§	**BEFORE THE STATE OFFICE OF ADMINISTRATIVE HEARINGS**

NOTICE OF OF STIPULATION AND SETTLEMENT AGREEMENT, AND MOTION FOR EXPEDITED REMAND OF DOCKET TO PUC

TO THE HONORABLE SOAH ALJ AND THE HONORABLE COMMISSION:

NOW COMES Brazos Electric Power Cooperative, Inc. ("Brazos Electric"), applicant herein, giving notice of the full settlement of this docket, furnishing a copy of the stipulation and proposed final order, and seeking expedited return of this docket from SOAH to the Public Utility Commission for expedited consideration and approval in open meeting. Brazos Electric would show as follows:

The parties to SOAH Docket No. 473-02-3537, PUC Docket No. 25960, have resolved all contested issues by the Stipulation. Please see the attached Stipulation and Proposed Order, submitted with this motion. As reflected in the attachment, all parties are signatories to the Stipulation, except for three intervenors, CenterPoint Energy Houston Electric ("CenterPoint Energy"), formerly Reliant Energy, Incorporated, TXU Energy Retail Company, LP, and City Public Service Board of San Antonio, who did not sign but also do not oppose the Stipulation. The Stipulation illustrates that expeditious handling of this settled case, as well as withdrawal of an interim appeal in this docket and a motion in Docket No. 25002, are significant features of the Stipulation. Expedited consideration and approval of Brazos Electric's TCOS rate application has also been a steady theme of Brazos Electric's prosecution of this docket.

Brazos Electric therefore respectfully requests that the ALJ return the docket to the Public Utility Commission as expeditiously as possible, and requests expedited consideration and approval by the Commission of the Stipulation resolving this docket.

Brazos Electric also believes that the agreement obviates the need for convening the scheduled proceeding September 30, as set by the ALJ's scheduling order in this docket and as

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maintained by Order No. 5 entered September 24, 2002. Brazos Electric therefore asks that the September 30 hearing be cancelled for want of any remaining contested issues.

WHEREFORE, PREMISES CONSIDERED, Brazos Electric asks that the ALJ cancel the hearing scheduled for September 30, 2002 and return the docket to the Public Utility Commission as expeditiously as possible, and requests expedited consideration and approval by the Commission of the Stipulation resolving this docket.

Respectfully submitted,

SEGREST & SEGREST, P. C.

Phillip A. Holder

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State Bar No. 17996000
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(512) 453-3864
(512) 374-9438 (Fax)

Attorneys for **BRAZOS ELECTRIC POWER COOPERATIVE, INC.**

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of this Motion was mailed by United States mail, postage prepaid, or delivered via Facsimile, Federal Express, or hand delivery, on the 26th day of September, 2002, to all parties of record in Docket 25960.

Philip R. Segrest, by PAH

Philip R. Segrest

SOAH DOCKET NO. 473-02-3537
PUC DOCKET NO. 25960

APPLICATION OF BRAZOS ELECTRIC POWER COOPERATIVE, INC. TO CHANGE RATES FOR WHOLESALE TRANSMISSION SERVICE	§ § § § § §	**BEFORE THE STATE OFFICE OF ADMINISTRATIVE HEARINGS**

STIPULATION AND SETTLEMENT OF DOCKET

This Stipulation and Agreement ("Stipulation") is made and entered into by and among the following parties (hereinafter jointly referred to as "Signatories") to Public Utility Commission of Texas ("PUCT" or "Commission") Docket No. 25960:

Brazos Electric Power Cooperative, Inc. ("Brazos Electric"),
AEP ERCOT Companies,
City of Garland, and
Staff of the Public Utility Commission of Texas ("Commission Staff").

CenterPoint Energy Houston Electric ("CenterPoint Energy"), formerly Reliant Energy, Incorporated, TXU Energy Retail Company LP ("TXU Energy"), and City Public Service Board of San Antonio are not signatories to the stipulation, but do not oppose the stipulation.

WHEREAS, Brazos Electric filed its Statement of Intent initiating this docket on May 28, 2002;

WHEREAS, the Commission referred the docket to the State Office of Administrative Hearings ("SOAH") on July 9, 2002 and the ALJ has conducted prehearing conferences, taken evidence on Brazos Electric's motion for interim relief, and issued several orders;

WHEREAS, certain of the parties to the docket prefiled testimony on the merits of Brazos Electric's application, and all the Signatories desire to resolve the contested issues raised by the

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prefiled evidence, through compromise and settlement as provided under Commission Procedural Rule 22.35, without requiring the filing of further testimony, the litigation of numerous contested issues, and resolution of policy issues raised in the testimony;

NOW, THEREFORE, the Signatories, through their undersigned representatives, agree to, and recommend for approval by the Commission as a means of resolving this docket, the following provisions of this Stipulation:

1. Brazos Electric's reasonable and necessary wholesale transmission cost of service for the 2001 test year is $41,018,476, as detailed on the revised Schedule A attached hereto as part of Stipulation Exhibit A.

2. Brazos Electric's reasonable and necessary return for its transmission function is $20,995,285 as detailed on the revised Schedule A attached hereto as part of Stipulation Exhibit A.

3. Brazos Electric's reasonable and necessary rate base for its transmission function is $246,975,737 as detailed on the revised Schedule B attached hereto as part of Stipulation Exhibit A.

4. Brazos Electric's just and reasonable wholesale transmission rate is $775.218 per MW or $0.775218 per kw, based on the 2001 ERCOT 4-CP of 52,912.1460 MW as approved on an interim basis in the Interim Order dated February 19, 2002, in Docket No. 25002 and as detailed on the revised Schedule A attached hereto as part of Stipulation Exhibit A.

5. This Stipulation is binding on each Signatory only for the purpose of settling the issues herein and for no other purpose. The Signatories acknowledge and agree that a Signatory's support of the resolution of this docket in accordance with this

agreement may differ from its position or testimony regarding contested issues of law, policy, or fact in other proceedings before the Commission or other forum. Because this is a settlement agreement, a Signatory is under no obligation to take the same position as set out in this Agreement in other dockets not referenced in this Agreement whether those dockets present the same or a different set of circumstances. The Signatories have entered into this Stipulation in order to amicably settle the issues concerning Brazos Electric's transmission cost of service, the rates to be charged for wholesale transmission service and avoid the substantial time, effort and expense that would be required if these matters were resolved by a hearing on the merits. The Signatories agree that the entry of an order based on this Stipulation would be reasonable and in the public interest and would result in the establishment of wholesale rates that are just, reasonable, and non-discriminatory. The Stipulation is agreed to solely for the purposes of facilitating the entry of a Final Order by the Commission in this Docket and is not to be regarded as a determination of the appropriateness or correctness of any assumptions, methodology, or legal or regulatory principles that may have been employed in reaching the matters agreed to in this Stipulation.

6. This Agreement represents a compromise, settlement and accommodation among the Signatories, and all Signatories agree that the terms and conditions herein are interdependent and no Signatory shall be bound by any portion of this Agreement outside the context of the Agreement as a whole. If the PUCT does not accept this Agreement as presented, or a final order inconsistent with this Agreement in any material respect is issued, the Signatories agree that any Signatory adversely

affected by that material modification or inconsistency has the right to withdraw its consent from this Agreement, thereby becoming released from all commitments and obligations, and to proceed to hearing on all issues, present evidence, and advance any positions it desires as if it had not been a Signatory.

7. If the PUCT does not adopt an appropriate order consistent with the material terms of this Stipulation, the Signatories agree that neither oral nor written statements made during the course of this settlement negotiation, nor the terms of this Stipulation, may be used as an admission or concession of any sort or as evidence in any proceeding. The obligation in this paragraph shall continue and be enforceable, even if this Stipulation is terminated.

8. Each person executing this Stipulation represents that he or she is duly authorized to sign the Stipulation on behalf of the Signatory represented. Facsimile copies of signatures are valid for purposes of evidencing this Stipulation, and this Stipulation may be executed in multiple counterparts.

9. The Signatories agree to the Findings of Fact and Conclusions of Law attached hereto, for purposes of this Stipulation.

10. To the extent necessary to establish a record for the Commission's decision, the Signatories agree that the prefiled testimony previously submitted by Brazos Electric, the City of Garland and Commission Staff shall be admitted into evidence for the limited purpose of supporting this stipulation and agreement.

11. Brazos Electric agrees to withdraw all pending interim appeals in Docket No. 25960. The Signatories agree that this stipulation, if adopted by the Commission, moots the interim appeal of ALJ's Order No. 4. Therefore, the Signatories agree to

suspend the operation of PUC PROC. R. § 22.123(a)(4), (6) and (7), which would otherwise require PDD to poll the Commissioners by ballot, and provide for ruling on the interim appeal by vote or operation of law. The parties agree that if the Stipulation is not approved by the Commission by November 7, 2002, the timetable established by PROC. R. § 22.123(a)(4), (6) and (7) will resume on that date. Brazos Electric agrees to file a report with the Commissioners and the ALJ informing them of this agreement, and to serve all parties to Docket No. 25960 with that filing.

12. Brazos Electric agrees to withdraw its Motion for Declaratory Order now pending in Docket No. 25002. Brazos further agrees that, if the Commission approves this agreement without material modification, it will not file any other pleading in Docket No. 25002 raising the same issues contained in the pending Motion for Declaratory Order. The Signatories agree that this stipulation, if adopted by the Commission, moots Brazos Electric's motion for declaratory relief in Docket No. 25002. Therefore, Brazos Electric agrees to file in Docket No. 25002 a request to abate the motion and suspend the requirement that parties respond within five working days. Brazos Electric also agrees thereafter to revive the motion by written request served on all parties of record to that docket, if necessary upon Commission failure to adopt the Stipulation. Parties would have five working days after such notice reviving the motion for declaratory relief to file written responses thereto.

IN WITNESS WHEREOF, this Stipulation has been executed, approved and agreed to by the Signatories hereto in multiple counterparts, each of which shall be deemed an original, on the date indicated below by the Signatories hereto, by and through their undersigned duly authorized

representatives. This Stipulation shall be effective and binding, as to each Signatory, as of the date of execution of each Signatory.

Brazos Electric Power Cooperative, Inc.

By: _____

Title: Of Counsel, Segrest & Segrest

Date: 9/26/02

Commission Staff

By: _____

Title: _____

Date: _____

AEP ERCOT Companies

By: _____

Title: _____

Date: _____

TXU Energy Retail Company, L.P.

By: _____

Title: _____

Date: _____

City of Garland

By: _____

Title: _____

Date: _____

representatives. This Stipulation shall be effective and binding, as to each Signatory, as of the date of execution of each Signatory.

Brazos Electric Power Cooperative, Inc.

By: _____

Title: _____

Date: _____

Commission Staff

By: Patrick J. Hall

Title: Attorney – Legal Division

Date: 9-25-02

AEP ERCOT Companies

By: _____

Title: _____

Date: _____

TXU Energy Retail Company, L.P.

By: _____

Title: _____

Date: _____

City of Garland

By: _____

Title: _____

Date: _____

representatives. This Stipulation shall be effective and binding, as to each Signatory, as of the date of execution of each Signatory.

Brazos Electric Power Cooperative, Inc.

By: _____

Title: _____

Date: _____

Commission Staff

By: _____

Title: _____

Date: _____

AEP-ERCOT Companies

By: Rhonda Colbert Ryan

Title: Asst General Counsel

Date: 9/25/02

TXU Energy Retail Company, L.P.

By: _____

Title: _____

Date: _____

City of Garland

By: _____

Title: _____

Date: _____

representatives. This Stipulation shall be effective and binding, as to each Signatory, as of the date of execution of each Signatory.

Brazos Electric Power Cooperative, Inc.

By: _____

Title: _____

Date: _____

Commission Staff

By: _____

Title: _____

Date: _____

AEP ERCOT Companies

By: _____

Title: _____

Date: _____

TXU Energy Retail Company, L.P.

By: _____

Title: _____

Date: _____

City of Garland

By: Pamela Townsend

Title: Attorney

Date: 9/26/02

STIPULATION EXHBIT A
Schedule A Transmission Cost of Service

Public Utility Commission of Texas
Transmission Cost of Service
Brazos Electric
Docket 25960
Sponsor: Khaki Bordovsky

Description	Reference	Generation Function	Transmission Function	Distribution Function	Total
Eligible Fuel & Purchased Power	Schedule D-1, Line 80	$ -	$ -	$ -	$ -
Non Eligible Fuel & Purchased Power	Schedule D-1	-	-	-	-
Operation & Maintenance	Schedule D-1, Line 172; Schedule D-2, Line 13	11,198,232	10,667,498	5,794,874	27,660,604
Decomissioning Expense		-	-	-	-
Interest on Customer Deposits		-	-	-	-
Depreciation and Amortization	Schedule E-1, Line 27	3,269,067	7,757,045	3,328,142	14,354,254
Federal Income Tax	Schedule E-2, Line 10	-	-	-	-
Taxes Other Than Income Taxes		880,183	1,909,277	639,454	3,428,914
Total Operating Expenses		15,347,482	20,333,820	9,762,470	45,443,772
Total Other Revenue	Schedule E-5	(656,789)	(310,629)	(335,335)	(1,302,753)
Debt Service Coverage	Schedule C-2	4,292,262	20,995,285	10,767,050	36,054,597
Total Unbundled Cost of Service		$ 18,982,955	$ 41,018,476	$ 20,194,185	$ 80,195,616
ERCOT 4-CP MW			52,912.1460		
WHOLESALE TRANSMISSION RATE $/MW			$ 775.21853		

STIPULATION EXHIBIT A

Schedule B-Transmission Rate Base

Public Utility Commission of Texas
Summary of Rate Base Allocation
Brazos Electric
Docket 25960
Sponsor: Khaki Bordovsky

Description	Reference	Production Function	Transmission Function	Distribution Function	Total Company
Net Plant In Service at 12/31/01		83,609,866	234,869,682	101,917,398	420,396,946
Other Rate Base Items:					
Working Capital	Schedule B-9	8,654,650	12,106,055	12,967,425	33,728,130
Plant Held for Future Use		-	-	-	-
ADIT & FAS 109 Accounts		-	-	-	-
Customer Deposits		-	-	-	-
Reserve for Insurance		-	-	-	-
Other		-	-	-	-
	Subtotal	**92,264,516**	**246,975,737**	**114,884,823**	**454,125,076**
TOTAL RATE BASE		**92,264,516**	**246,975,737**	**114,884,823**	**454,125,076**

PUC DOCKET NO. 25960

APPLICATION OF BRAZOS ELECTRIC POWWER COOPERATIVE, INC. TO CHANGE RATES FOR WHOLESALE TRANSMISSION SERVICE	**§ § § §**	**PUBLIC UTILITY COMMISSION OF TEXAS**

PROPOSED ORDER

This Order approves the application of Brazos Electric Power Cooperative, Inc. ("Brazos Electric") for the authority to change rates for wholesale transmission service. The docket was processed in accordance with applicable statutes and Commission rules. Brazos Electric, Commission Staff, City of Garland, and AEP ERCOT Companies (collectively "Signatories") filed an unopposed stipulation ("Stipulation") resolving all issues in this proceeding. CenterPoint Energy Houston Electric ("CenterPoint Energy"), formerly Reliant Energy, Incorporated, is not a signatory to the stipulation, nor are City Public Service Board of San Antonio or TXU Energy Retail Company LP ("TXU Energy"), but none opposes the stipulation filed by the Signatories. Consistent with the Stipulation, Brazos Electric's wholesale transmission cost of service of $41,018,476 is hereby approved.

Findings of Fact

Procedural History

1. Brazos Electric filed a statement of intent to change rates, and supporting application on May 28, 2002, seeking to change its rate for transmission cost of service ("TCOS").

2. Brazos Electric gave notice of its application by giving copies of the statement of intent to all parties to pending Docket No. 25002, *Commission Staff's Application to Set Wholesale transmission Service Charges for ERCOT*, and to all of Brazos Electric's wholesale power customers.

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3. The Commission referred the docket to the State Office of Administrative Hearings for an evidentiary hearing.

4. Several affected persons moved for intervention, and the SOAH ALJ granted all such motions. The intervenors are: City Public Service Board of San Antonio, City of Garland, AEP ERCOT Companies, TXU Energy Retail Company LP ("TXU Energy"), and CenterPoint Energy Houston Electric ("CenterPoint Energy"), formerly Reliant Energy Incorporated.

5. The SOAH ALJ conducted an evidentiary prehearing conference on August 15, 2002 for the purpose of ruling on Brazos Electric's motion for interim implementation of the proposed TCOS rates.

6. The ALJ denied the interim implementation motion by written order on September 9, 2002, and Brazos Electric filed an interim appeal of that order.

7. On September 26, 2002, certain parties to this docket filed a stipulation and agreement resolving the contested issues raised by the parties through pleadings and prefiled testimony in this docket.

8. No party has opposed the Stipulation or requested hearing on it.

9. The Signatories have agreed that the resolution of the contested issues in accordance with the Stipulation does not represent the establishment of precedent, or consensus on any underlying legal, policy, methodology or factual underpinning of the agreed result of this docket.

11. Brazos Electric's reasonable and necessary wholesale transmission cost of service for the 2001 test year is $41,018,476.

12. Brazos Electric's reasonable and necessary return for its transmission function is $20,995,285.

13. Brazos Electric's reasonable and necessary rate base for its transmission function is $246,975,737.

14. Brazos Electric's just and reasonable wholesale transmission rate is $775.218 per MW or $0.775218 per kw, based on the 2001 ERCOT 4-CP of 52,912.1460 MW

Conclusions of Law

1. The Commission has jurisdiction over Brazos Electric's application for change of TCOS rates, and authority to adopt the final order proposed by the Signatories, pursuant to PURA, Chapter 35, Subchapter A.
2. Brazos Electric is a transmission service provider, within the meaning of PUC SUBST. R. § 25.5(82).
3. The Stipulation of the Signatories dated September 26, 2002, resolves all contested issues in the docket, and renders the application for change in TCOS rates eligible for resolution by informal disposition under PUC PROC. R. § 22.35.
4. Commission adoption of a final order in conformance with the Stipulation of the Signatories satisfies the requirements of Tex. Gov't. Code § 2002.051 and 2001.056, without the necessity of a contested case hearing on the merits of the application.
5. Brazos Electric gave notice of its application in compliance with PUC PROC. R. 22.54 and 22.55.
6. Brazos Electric's wholesale transmission cost of service as shown in Stipulation is reasonable and necessary, and properly calculated pursuant to PUC Subst. R. 25.192.
7. Brazos Electric's wholesale transmission rate is just and reasonable and properly calculated pursuant to PUC Subst. R. 25.192.

Ordering Paragraphs

In accordance with the foregoing findings of fact and conclusions of law, the Commission issues the following Order:

1. Brazos Electric's application to establish a transmission cost of service is approved consistent with the Stipulation. The new transmission cost of service rates are effective on the date this order is signed.
2. Brazos Electric shall file a separate compliance tariff for wholesale transmission service based on (i) the cost of service adopted in this docket, (ii) the ERCOT 4-CP approved on an interim basis in the Interim Order dated February 19, 2002, in

PUC Docket No. 25002. The compliance tariff shall be served on all parties to this docket by Brazos Electric on the date Brazos Electric makes its compliance filing. The compliance tariff, any objections to it, and responses to objections shall be filed in accordance with a schedule to be prescribed by the Commission.

3. The entry of this Order consistent with the Stipulation does not include the Commission's endorsement of any principle or method that may underlie the Stipulation. Neither should entry of this Order be regarded as a precedent as to the appropriateness of any principle of method underlying the Stipulation.

4. Brazos shall, within three working days following the date of this Order, file a motion to withdraw its pending Motion for Declaratory Order in Docket No. 25002. Brazos shall not raise the issues contained in the Motion for Declaratory Order in any other pleading filed in Docket No. 25002.

5. All other motions and other requests for general or specific relief, if not expressly granted herein, are hereby denied for want of merit.

SIGNED AT AUSTIN, TEXAS this _____ day of September 2002.

PUBLIC UTILITY COMMISSION OF TEXAS

_____
REBECCA KLEIN, CHAIRMAN

_____
BRETT A. PERLMAN, COMMISSIONER