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PROJECT NO. 28500

ACTIVITIES RELATED TO THE §
IMPLEMENTATION OF A NODAL §
MARKET FOR THE ELECTRIC §
RELIABILITY COUNCIL OF TEXAS §

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**COMMENTS OF AEP TEXAS CENTRAL COMPANY AND AEP TEXAS
NORTH COMPANY ON PROCEDURAL TREATMENT OF COST-BENEFIT
ANALYSIS, PROTOCOLS, AND ENERGY LOAD ZONES**

TO THE HONORABLE PUBLIC UTILITY COMMISSION OF TEXAS:

NOW COME AEP Texas Central Company and AEP Texas North Company (hereinafter referred to jointly as the AEP ERCOT Companies) and, pursuant to the July 23, 2004 Request for Comments in the above-referenced project, respectfully comment as follows:

I. Procedural Treatment of Cost-Benefit Analysis

Section (f) of PUC Subst. R. 25.501 (the Rule) as currently written requires the use of nodal energy prices for resources in the wholesale market design. Section (m) of the Rule requires ERCOT to file an application for approval of protocols and energy load zones and to include in that filing a cost-benefit analysis of options, including options that would involve modification of the existing ERCOT wholesale market design.

The cost-benefit analysis is scheduled to be filed by November 1, 2004 and will have considered each option in light of microeconomic principles, the promotion of economic efficiency in the production and consumption of electricity, support for wholesale and retail competition, support for the reliability of electric service, and will reflect the realities of the ERCOT electric system. The cost-benefit analysis is evaluating three market designs: the TNT market design, an "Improved Zonal" market model, and the NE-ISO market design.

Further, at the July 28, 2004 Open Meeting, the Commission expressed a desire to consider alternatives that may not necessarily comply with the current Rule. Should such an alternative prove to be of benefit to the market, AEP would support amending Subst. Rule 25.501 to reflect such changes.

It appears that, based on the cost-benefit analysis, the Commission will finally determine the ERCOT wholesale market design. Such a determination is precisely the type of decision that is appropriately addressed in a rulemaking proceeding.¹ As noted above, the Commission's decision to implement a nodal market is contained in the Rule. Since the purpose of the cost-benefit analysis is to make the final determination on the appropriate wholesale market design and thus the result may be an amendment to the Rule, it is appropriate that the cost-benefit analysis be evaluated in a rulemaking proceeding.

Further, at the July 28, 2004 Open Meeting, Chairman Hudson indicated a desire to have a process that would facilitate an open and frank discussion of the cost-benefit analysis. Through the rulemaking process, Commissioners would have the opportunity to avail themselves of technical workshops and have a free form discussion of issues and ideas. From these discussions, the Commission would then have an opportunity to solicit comment on specific issues that may require further clarification.

AEP ERCOT does not support evaluating the cost-benefit analysis through a contested case proceeding. No matter the choices made on a market design, there will be a great deal of work yet to be done. A contested case proceeding will needlessly "bog down the process" through discovery requests, briefs, hearings, etc. Additionally, the effort will significantly reduce the amount of time and resources available to begin the implementation of the new market.

II. Procedural Treatment of Protocols

Section (a) of the Rule requires that the protocols be developed with consideration of microeconomic principles, promote economic efficiency in the production and consumption of electricity, support wholesale and retail competition, support the reliability of electric service, and reflect the physical realities of the ERCOT electric system. As noted above, these factors are all inputs into the cost-benefit analysis. Accordingly, the market design selected by the Commission based on that analysis will incorporate all of those factors.

¹ The Administrative Procedure Act defines a rule as a statement of general applicability that implements, interprets, or prescribes law or policy. Administrative Procedure Act (APA), Tex. Gov. Code § 2001.003(6).

The protocols have been developed through the TNT stakeholder process and are the technical means by which the wholesale market design is physically implemented. Therefore, the market design must be selected before the protocols are evaluated by the Commission. Once the market design is selected, the protocols should be evaluated for conformance with the market design. This is best handled through a compliance proceeding. Because the issues listed in Section (a) of the Rule will have been addressed in the market design selection, the only issue that needs to be addressed in the compliance filing is whether the proposed protocols actually implement that design. No further analysis is necessary and the compliance filing should be so limited in order to prevent a waste of resources through the re-raising of issues that actually go to market design rather than physical implementation of that design. Further, examining the protocols in a compliance proceeding eliminates any concern that the Rule would need to be re-opened any time a protocol revision is found to be appropriate.

III. Procedural Treatment of Energy Load Zones

Section (h) of the Rule states:

ERCOT shall use zonal energy prices for loads that consist of an aggregation of either the individual load node energy prices within each zone or the individual resource node energy prices within each zone. Individual load node or resource node energy prices shall be the locational marginal prices, consistent with subsection (e) of this section, resulting from security-constrained, economic dispatch. ERCOT shall maintain stable zones and shall notify market participants in advance of zonal boundary changes in order that the market participants will have an appropriate amount of time to adjust to the changes.

The AEP ERCOT Companies believe that this provision allows ERCOT and market participants to develop the process for implementing energy load zones. Therefore, as in the case of the protocols, the results should be evaluated through a compliance proceeding.

IV. Conclusion

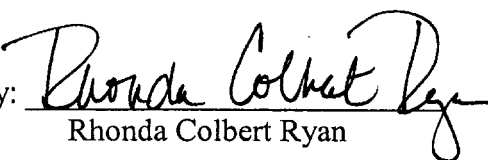
The AEP ERCOT Companies propose a two-step process. First, the cost-benefit analysis should be undertaken in a rulemaking proceeding, with any resulting amendments to the Rule. Second, the protocols should be examined in a compliance proceeding, the scope of which should be limited strictly to whether the protocols

actually implement the market design. Energy load zones should also be addressed in a compliance docket.

Dated: August 9, 2004

Respectfully Submitted,

American Electric Power Company
400 West 15th Street, Suite 610
Austin, Texas 78701
Larry W. Brewer
State Bar No. 02965550
Rhonda Colbert Ryan
State Bar No. 17478800
Telephone: (512) 481-3321
Fax: (512) 481-4591

By: 
Rhonda Colbert Ryan