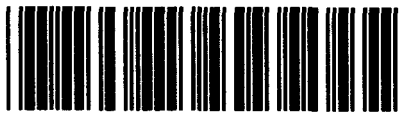




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ENTERGY GULF STATES, INC.'S
TRANSITION TO COMPETITION
PLAN

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§

PUBLIC UTILITY COMMISSION
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**BRIEF OF RELIANT ENERGY RETAIL SERVICES, INC.
IN RESPONSE TO ORDER NO. 1**

Reliant Energy Retail Services, Inc ("RERS") files this brief in response to Order No. 1.

1. **Does the Commission have the authority under applicable statutes and precedent to process and approve EGSI's TTC Plan through a rulemaking as proposed by EGSI, rather than as a contested case?**

RERS is not taking a position on this question.

2. **If the Commission has the authority to process the TTC Plan as a rulemaking, should the Commission do so?**

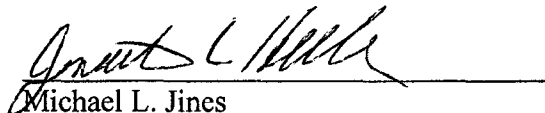
If the Commission decides to process the TTC Plan as a rulemaking, there will still likely be a need for a subset of contested cases. RERS believes that there are numerous issues of fact that will have to be adjudicated. For example, different estimates of projected costs may be introduced. For the Commission to efficiently decide any fact issue, a contested case(s) to allow discovery and a hearing if requested would be necessary.

The Commission could use a rulemaking to establish the process whereby the appropriateness of the TTC is determined. Such process should include contested case(s) to decide issues of fact. Each contested case would proceed on its own timeline consistent with the process established in the rulemaking.

Finally, if the Commission concluded that it can process this case solely as a rulemaking, proceeding in that fashion subjects the process to certain appeal risks. Under APA Sect. 2001.035 an appeal from a rulemaking can be initiated to the courts two years after the rule's effective date. If the rule is considered a competition rule, parties may only wait until 15 days after the rule as adopted is published in the Texas Register to appeal it. PURA Sect. 39.001(f). If it is processed solely as a rulemaking, a dissatisfied party could wait and file an appeal on procedural grounds after the entire proceeding is decided, no matter how persuasive the Commission's substantive determination.

Based on the foregoing, RERS respectfully submits that if the Commission decides to adopt the rulemaking path, it should include a process for including contested case(s) to decide issues of fact that will inevitably arise.

Respectfully submitted,



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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document was served on all parties of record in this proceeding by hand delivery, courier, overnight delivery, certified mail (return receipt requested), registered mail, facsimile, electronic mail, or United States first class mail on this 11th day of January, 2007.

Paula Williams