

limited to: (a) customer-specific information protected by § 32.101(c) of the Public Utility Regulatory Act;² (b) contractual information pertaining to contracts that specify that their terms are confidential or that are confidential pursuant to an order entered in litigation to which the producing party is a party; (c) market-sensitive fuel price forecasts, wholesale transactions information and/or market-sensitive marketing plans; or (d) business operations or financial information that is commercially sensitive. Documents or information so classified by a producing party shall bear the designation “HIGHLY SENSITIVE PROTECTED MATERIALS PROVIDED PURSUANT TO PROTECTIVE ORDER ISSUED IN DOCKET NO. 40606” (or words to this effect) and shall be consecutively Bates Stamped. The provisions of this Protective Order pertaining to Protected Materials also apply to Highly Sensitive Protected Materials, except where this Protective Order provides for additional protections for Highly Sensitive Protected Materials. In particular, the procedures herein for challenging the producing party’s designation of information as Protected Materials also apply to information that a producing party designates as Highly Sensitive Protected Materials.

7. **Restrictions on Copying and Inspection of Highly Sensitive Protected Material.**

Except as expressly provided herein, only one copy may be made of any Highly Sensitive Protected Materials except that additional copies may be made to have sufficient copies for introduction of the material into the evidentiary record if the material is to be offered for admission into the record. The Reviewing Party shall maintain a record of all copies made of Highly Sensitive Protected Material and shall send a duplicate of the record to the producing party when the copy or copies are made. The record shall specify the location and the person possessing the copy. Highly Sensitive Protected Material shall be made available for inspection only at the location or locations provided by the producing party, except as specified by Paragraph 9. Limited notes may be made of Highly Sensitive Protected Materials, and such notes shall themselves be treated as Highly Sensitive Protected Materials unless such notes are limited to a description of the document and a general characterization of its subject matter in a manner that does not state any substantive information contained in the document.

² Public Utility Regulatory Act, TEX. UTIL. CODE ANN., § 32.101(c) (Vernon 1998 & Supp. 2006) (PURA).

8. **Restricting Persons Who May Have Access to Highly Sensitive Protected Material.**

With the exception of Commission Staff, The Office of the Attorney General (OAG), and the Office of Public Utility Counsel (OPC), and except as provided herein, the Reviewing Representatives for the purpose of access to Highly Sensitive Protected Materials may be persons who are (a) outside counsel for the Reviewing Party, (b) outside consultants for the Reviewing Party working under the direction of Reviewing Party's counsel or, (c) employees of the Reviewing Party working with and under the direction of Reviewing Party's counsel who have been authorized by the presiding officer to review Highly Sensitive Protected Materials. The Reviewing Party shall limit the number of Reviewing Representatives that review Highly Sensitive Protected Materials to the minimum number of persons necessary. The Reviewing Party is under a good faith obligation to limit access to each portion of any Highly Sensitive Protected Materials to two Reviewing Representatives whenever possible. Reviewing Representatives for Commission Staff, OAG, and OPC, for the purpose of access to Highly Sensitive Protected Materials, shall consist of their respective counsel of record in this proceeding and associated attorneys, paralegals, economists, statisticians, accountants, consultants, or other persons employed or retained by them and directly engaged in these proceedings.

9. **Copies Provided of Highly Sensitive Protected Material.** A producing party shall provide one copy of Highly Sensitive Protected Materials specifically requested by the Reviewing Party to the person designated by the Reviewing Party who must be a person authorized to review Highly Sensitive Protected Material under Paragraph 8. Representatives of the Reviewing Party who are authorized to view Highly Sensitive Protected Material may review the copy of Highly Sensitive Protected Materials at the office of the Reviewing Party's representative designated to receive the information. Any Highly Sensitive Protected Materials provided to a Reviewing Party may not be copied except as provided in Paragraph 7. The restrictions contained herein do not apply to Commission Staff, OPC, and the OAG when the OAG is representing a party to the proceeding.

10. **Procedures in Paragraphs 10-14 Apply to Commission Staff, OPC, and the OAG and Control in the Event of Conflict.** The procedures in Paragraphs 10 through 14 apply to responses to requests for documents or information that the producing party

designates as Highly Sensitive Protected Materials and provides to Commission Staff, OPC, and the OAG in recognition of their purely public functions. To the extent the requirements of Paragraphs 10 through 14 conflict with any requirements contained in other paragraphs of this Protective Order, the requirements of these Paragraphs shall control.

11. **Copy of Highly Sensitive Protected Material to be Provided to Commission Staff OPC and the OAG.** When, in response to a request for information by a Reviewing Party, the producing party makes available for review documents or information claimed to be Highly Sensitive Protected Materials, the producing party shall also deliver one copy of the Highly Sensitive Protected Materials to the Commission Staff, OPC, and the OAG (if the OAG is representing a party) in Austin, Texas. Provided however, that in the event such Highly Sensitive Protected Materials are voluminous, the materials will be made available for review by Commission Staff, OPC, and the OAG (if the OAG is representing a party) at the designated office in Austin, Texas. The Commission Staff, OPC and the OAG (if the OAG is representing a party) may request such copies as are necessary of such voluminous material under the copying procedures specified herein.
12. **Delivery of the Copy of Highly Sensitive Protected Material to Commission Staff and Outside Consultants.** The Commission Staff, OPC, and the OAG (if the OAG is representing a party) may deliver the copy of Highly Sensitive Protected Materials received by them to the appropriate members of their staff for review, provided such staff members first sign the certification specified by Paragraph 15. After obtaining the agreement of the producing party, Commission Staff, OPC, and the OAG (if the OAG is representing a party) may deliver the copy of Highly Sensitive Protected Materials received by it to the agreed, appropriate members of their outside consultants for review, provided such outside consultants first sign the certification in Attachment A.
13. **Restriction on Copying by Commission Staff, OPC and the OAG.** Except as allowed by Paragraph 7, Commission Staff, OPC and the OAG may not make additional copies of the Highly Sensitive Protected Materials furnished to them unless the producing party agrees in writing otherwise, or, upon a showing of good cause, the presiding officer directs otherwise. Commission Staff, OPC, and the OAG may make limited notes of Highly Sensitive Protected Materials furnished to them, and all such handwritten notes

will be treated as Highly Sensitive Protected Materials as are the materials from which the notes are taken.

14. **Public Information Requests.** In the event of a request for any of the Highly Sensitive Protected Materials under the Public Information Act, an authorized representative of the Commission, OPC, or the OAG may furnish a copy of the requested Highly Sensitive Protected Materials to the Open Records Division at the OAG together with a copy of this Protective Order after notifying the producing party that such documents are being furnished to the OAG. Such notification may be provided simultaneously with the delivery of the Highly Sensitive Protected Materials to the OAG.
15. **Required Certification.** Each person who inspects the Protected Materials shall, before such inspection; agree in writing to the following certification found in Attachment A to this Protective Order:

I certify my understanding that the Protected Materials are provided to me pursuant to the terms and restrictions of the Protective Order in this docket, and that I have been given a copy of it and have read the Protective Order and agree to be bound by it. I understand that the contents of the Protected Materials, any notes, memoranda, or any other form of information regarding or derived from the Protected Materials shall not be disclosed to anyone other than in accordance with the Protective Order and unless I am an employee of the Commission or OPC shall be used only for the purpose of the proceeding in Docket No. 40606. I acknowledge that the obligations imposed by this certification are pursuant to such Protective Order. Provided, however, if the information contained in the Protected Materials is obtained from independent public sources, the understanding stated herein shall not apply.

In addition, Reviewing Representatives who are permitted access to Highly Sensitive Protected Material under the terms of this Protective Order shall, before inspection of such material, agree in writing to the following certification found in Attachment A to this Protective Order:

I certify that I am eligible to have access to Highly Sensitive Protected Material under the terms of the Protective Order in this docket.

The Reviewing Party shall provide a copy of each signed certification to Counsel for the producing party and serve a copy upon all parties of record.

16. **Disclosures between Reviewing Representatives and Continuation of Disclosure Restrictions after a Person is no Longer Engaged in the Proceeding.** Any Reviewing Representative may disclose Protected Materials, other than Highly Sensitive Protected Materials, to any other person who is a Reviewing Representative provided that, if the person to whom disclosure is to be made has not executed and provided for delivery of a signed certification to the party asserting confidentiality, that certification shall be executed prior to any disclosure. A Reviewing Representative may disclose Highly Sensitive Protected Material to other Reviewing Representatives who are permitted access to such material and have executed the additional certification required for persons who receive access to Highly Sensitive Protected Material. In the event that any Reviewing Representative to whom Protected Materials are disclosed ceases to be engaged in these proceedings, access to Protected Materials by that person shall be terminated and all notes, memoranda, or other information derived from the protected material shall either be destroyed or given to another Reviewing Representative of that party who is authorized pursuant to this Protective Order to receive the protected materials. Any person who has agreed to the foregoing certification shall continue to be bound by the provisions of this Protective Order so long as it is in effect, even if no longer engaged in these proceedings.
17. **Producing Party to Provide One Copy of Certain Protected Material and Procedures for Making Additional Copies of Such Materials.** Except for Highly Sensitive Protected Materials, which shall be provided to the Reviewing Parties pursuant to Paragraphs 9, and voluminous Protected Materials, the producing party shall provide a Reviewing Party one copy of the protected Materials upon receipt of the signed certification described in Paragraph 15. Except for Highly Sensitive Protected Materials, a Reviewing Party may make further copies of Protected Materials for use in this proceeding pursuant to this Protective Order, but a record shall be maintained as to the documents reproduced and the number of copies made, and upon request the Reviewing Party shall provide the party asserting confidentiality with a copy of that record.

18. **Procedures Regarding Voluminous Protected Materials.** P.U.C. PROC. R. 22.144(h) will govern production of voluminous Protected Materials. Voluminous Protected Materials will be made available in the producing party's voluminous room, in Austin, Texas, or at a mutually agreed upon location, Monday through Friday, 9:00 a.m. to 5:00 p.m. (except on state or Federal holidays), and at other mutually convenient times upon reasonable request.
19. **Reviewing Period Defined.** The Protected Materials may be reviewed only during the Reviewing Period, which shall commence upon entry of this Protective Order and continue until the expiration of the Commission's plenary jurisdiction. The Reviewing Period shall reopen if the Commission regains jurisdiction due to a remand as provided by law. Protected materials that are admitted into the evidentiary record or accompanying the evidentiary record as offers of proof may be reviewed throughout the pendency of this proceeding and any appeals.
20. **Procedures for Making Copies of Voluminous Protected Materials.** Other than Highly Sensitive Protected Materials, Reviewing Parties may take notes regarding the information contained in voluminous Protected Materials made available for inspection or they may make photographic, mechanical or electronic copies of the Protected Materials, subject to the conditions in this Protective Order; provided, however, that before photographic, mechanical or electronic copies may be made, the Reviewing Party seeking photographic, mechanical or electronic copies must provide written confirmation of the receipt of copies listed on Attachment B of this Protective Order identifying each piece of Protected Materials or portions thereof the Reviewing Party will need.
21. **Protected Materials to be Used Solely for the Purposes of These Proceedings.** All Protected Materials shall be made available to the Reviewing Parties and their Reviewing Representatives solely for the purposes of these proceedings. Access to the Protected Materials may not be used in the furtherance of any other purpose, including, without limitation: (a) any other pending or potential proceeding involving any claim, complaint, or other grievance of whatever nature, except appellate review proceedings that may arise from or be subject to these proceedings; or (b) any business or competitive endeavor of whatever nature. Because of their statutory regulatory obligations, these restrictions do not apply to Commission Staff or OPC.

22. **Procedures for Confidential Treatment of Protected Materials and Information Derived from Those Materials.** Protected Materials, as well as a Reviewing Party's notes, memoranda, or other information regarding or derived from the Protected Materials are to be treated confidentially by the Reviewing Party and shall not be disclosed or used by the Reviewing Party except as permitted and provided in this Protective Order. Information derived from or describing the Protected Materials shall be maintained in a secure place and shall not be placed in the public or general files of the Reviewing Party except in accordance with the provisions of this Protective Order. A Reviewing Party must take all reasonable precautions to insure that the Protected Materials including notes and analyses made from Protected Materials that disclose Protected Materials are not viewed or taken by any person other than a Reviewing Representative of a Reviewing Party.
23. **Procedures for Submission of Protected Materials.** If a Reviewing Party tenders for filing any Protected Materials, including Highly Sensitive Protected Materials, or any written testimony, exhibit, brief, motion or other type of pleading or other submission at the Commission or before any other judicial body that quotes from Protected Materials or discloses the content of Protected Materials, the confidential portion of such submission shall be filed and served in sealed envelopes or other appropriate containers endorsed to the effect that they contain Protected Material or Highly Sensitive Protected Material and are sealed pursuant to this Protective Order. If filed at the Commission, such documents shall be marked "PROTECTED MATERIAL" and shall be filed under seal with the presiding officer and served under seal to the counsel of record for the Reviewing Parties. The presiding officer may subsequently, on his/her own motion or on motion of a party, issue a ruling respecting whether or not the inclusion, incorporation or reference to Protected Materials is such that such submission should remain under seal. If filing before a judicial body, the filing party: (a) shall notify the party which provided the information within sufficient time so that the producing party may seek a temporary sealing order; and (b) shall otherwise follow the procedures in Rule 76a, Texas Rules of Civil Procedure.
24. **Maintenance of Protected Status of Materials during Pendency of Appeal of Order Holding Materials are not Protected Materials.** In the event that the presiding officer

at any time in the course of this proceeding finds that all or part of the Protected Materials are not confidential or proprietary, by finding, for example, that such materials have entered the public domain or materials claimed to be Highly Sensitive Protected Materials are only Protected Materials, those materials shall nevertheless be subject to the protection afforded by this Protective Order for three (3) full working days, unless otherwise ordered, from the date the party asserting confidentiality receives notice of the presiding officer's order. Such notification will be by written communication. This provision establishes a deadline for appeal of a presiding officer's order to the Commission. In the event an appeal to the Commissioners is filed within those three (3) working days from notice, the Protected Materials shall be afforded the confidential Treatment and status provided in this Protective Order during the pendency of such appeal. Neither the party asserting confidentiality nor any Reviewing Party waives its right to seek additional administrative or judicial remedies after the Commission's denial of any appeal.

25. **Notice of Intent to Use Protected Materials or Change Materials Designation.**

Parties intending to use Protected Materials shall notify the other parties prior to offering them into evidence or otherwise disclosing such information into the record of the proceeding. During the pendency of Docket No. 40606 at the Commission, in the event that a Reviewing Party wishes to disclose Protected Materials to any person to whom disclosure is not authorized by this Protective Order, or wishes to have changed the designation of certain information or material as Protected Materials by alleging, for example, that such information or material has entered the public domain, such Reviewing Party shall first file and serve on all parties written notice of such proposed disclosure or request for change in designation, identifying with particularity each of such Protected Materials. A Reviewing Party shall at any time be able to file a written motion to challenge the designation of information as Protected Materials.

26. **Procedures to Contest Disclosure or Change in Designation.** In the event that the party asserting confidentiality wishes to contest a proposed disclosure or request for change in designation, the party asserting confidentiality shall file with the appropriate presiding officer its objection to a proposal, with supporting affidavits, if any, within five (5) working days after receiving such notice of proposed disclosure or change in designation.

Failure of the party asserting confidentiality to file such an objection within this period shall be deemed a waiver of objection to the proposed disclosure or request for change in designation. Within five (5) working days after the party asserting confidentiality files its objection and supporting materials, the party challenging confidentiality may respond. Any such response shall include a statement by counsel for the party challenging such confidentiality that he or she has reviewed all portions of the materials in dispute and, without disclosing the Protected Materials, a statement as to why the Protected Materials should not be held to be confidential under current legal standards, or that the party asserting confidentiality for some reason did not allow such counsel to review such materials. If either party wishes to submit the material in question for in camera inspection, it shall do so no later than five (5) working days after the party challenging confidentiality has made its written filing.

27. **Procedures for Presiding Officer Determination Regarding Proposed Disclosure or Change in Designation.** If the party asserting confidentiality files an objection, the appropriate presiding officer will determine whether the proposed disclosure or change in designation is appropriate. Upon the request of either the producing or Reviewing Party or upon the presiding officer's own initiative, the presiding officer may conduct a prehearing conference. The burden is on the party asserting confidentiality to show that such proposed disclosure or change in designation should not be made. If the presiding officer determines that such proposed disclosure or change in designation should be made, disclosure shall not take place earlier than three (3) full working days after such determination unless otherwise ordered. No party waives any right to seek additional administrative or judicial remedies concerning such presiding officer's ruling.
28. **Maintenance of Protected Status during Periods Specified for Challenging Various Orders.** Any party electing to challenge, in the courts of this state, a Commission or presiding officer determination allowing disclosure or a change in designation shall have a period of ten (10) days from: (a) the date of an unfavorable Commission order; or (b) if the Commission does not rule on an appeal of an interim order, the date an appeal of an interim order to the Commission is overruled by operation of law, to obtain a favorable ruling in state district court. Any party challenging a state district court determination allowing disclosure or a change in designation shall have an additional period of ten (10)

days from the date of the order to obtain a favorable ruling from a state appeals court. Finally, any party challenging a determination of a state appeals court allowing disclosure or a change in designation shall have an additional period of ten (10) days from the date of the order to obtain a favorable ruling from the state supreme court, or other appellate court. All Protected Materials shall be afforded the confidential treatment and status provided for in this Protective Order during the periods for challenging the various orders referenced in this paragraph. For purposes of this paragraph, a favorable ruling of a state district court, state appeals court, Supreme Court or other appellate court includes any order extending the deadlines in this paragraph.

29. **Other Grounds for Objection to Use of Protected Materials Remain Applicable.**

Nothing in this Protective Order shall be construed as precluding any party from objecting to the use of Protected Materials on grounds other than confidentiality, including the lack of required relevance. Nothing in this Protective Order constitutes a waiver of the right to argue for more disclosure, provided, however, that unless the Commission or a court orders such additional disclosure, all parties will abide by the restrictions imposed by the Protective Order.

30. **Protection of Materials from Unauthorized Disclosure.** All notices, applications, responses or other correspondence shall be made in a manner which protects Protected Materials from unauthorized disclosure.

31. **Return of Copies of Protected Materials and Destruction of Information Derived from Protected Materials.** Following the conclusion of these proceedings, each Reviewing Party must, no later than thirty (30) days following receipt of the notice described below, return to the party asserting confidentiality all copies of the Protected Materials provided by that party pursuant to this Protective Order and all copies reproduced by a Reviewing Party, and counsel for each Reviewing Party must provide to the party asserting confidentiality a letter by counsel that, to the best of his or her knowledge, information, and belief, all copies of notes, memoranda, and other documents regarding or derived from the Protected Materials (including copies of Protected Materials) that have not been so returned, if any, have been destroyed, other than notes, memoranda, or other documents which contain information in a form which, if made public, would not cause disclosure of the substance of Protected Materials. As used in

this Protective Order, “conclusion of these proceedings” refers to the exhaustion of available appeals, or the running of the time for the making of such appeals, as provided by applicable law. If, following any appeal, the Commission conducts a remand proceeding, then the “conclusion of these proceedings” is extended by the remand to the exhaustion of available appeals of the remand, or the running of the time for making such appeals of the remand, as provided by applicable law. Promptly following the conclusion of these proceedings, counsel for the party asserting confidentiality will send a written notice to all other parties, reminding them of their obligations under this Paragraph. Nothing in this Paragraph shall prohibit counsel for each Reviewing Party from retaining two (2) copies of any filed testimony, brief, application for rehearing, hearing exhibit or other pleading which refers to Protected Materials provided that any such Protected Materials retained by counsel shall remain subject to the provisions of this Protective Order.

32. **Applicability of Other Law.** This Protective Order is subject to the requirements of the Public Information Act, the Open Meetings Act,³ the Texas Securities Act⁴ and any other applicable law, provided that parties subject to those acts will notify the party asserting confidentiality, if possible under those acts, prior to disclosure pursuant to those acts. Such notice shall not be required where the Protected Materials are sought by governmental officials authorized to conduct a criminal or civil investigation that relates to or involves the Protected Materials, and those governmental officials aver in writing that such notice could compromise the investigation and that the governmental entity involved will maintain the confidentiality of the Protected Materials.
33. **Procedures for Release of Information under Order.** If required by order of a governmental or judicial body, the Reviewing Party may release to such body the confidential information required by such order; provided, however, that: (a) the Reviewing Party shall notify the producing party of the order requiring the release of such information within five (5) calendar days of the date the Reviewing Party has notice of the order; (b) the Reviewing Party shall notify the producing party at least five (5)

³ TEX. GOV'T CODE ANN. § 551.001-551.146 (Vernon 2004 & Supp. 2006).

⁴ TEX. REV. CIV. STAT. ANN. arts. 581-1 to 581-43 (Vernon 1964 & Supp. 2005).

calendar days in advance of the release of the information to allow the producing party to contest any release of the confidential information; and (c) the Reviewing Party shall use its best efforts to prevent such materials from being disclosed to the public. The terms of this Protective Order do not preclude the Reviewing Party from complying with any valid and enforceable order of a state or federal court with competent jurisdiction specifically requiring disclosure of Protected Materials earlier than contemplated herein. The notice specified in this section shall not be required where the Protected Materials are sought by governmental officials authorized to conduct a criminal or civil investigation that relates to or involves the Protected Materials, and those governmental officials aver in writing that such notice could compromise the investigation and that the governmental entity involved will maintain the confidentiality of the Protected Materials.

34. **Best Efforts Defined.** The term “best efforts” as used in the preceding paragraph requires that the Reviewing Party attempt to ensure that disclosure is not made unless such disclosure is pursuant to a final order of a Texas governmental or Texas judicial body, the written opinion of the Texas Attorney General sought in compliance with the Public Information Act, or the request of governmental officials authorized to conduct a criminal or civil investigation that relates to or involves the Protected Materials. The Reviewing Party is not required to delay compliance with a lawful order to disclose such information but is simply required to timely notify the party asserting confidentiality, or its counsel, that it has received a challenge to the confidentiality of the information and that the Reviewing Party will either proceed under the provisions of §552.301 of the Public Information Act, or intends to comply with the final governmental or court order. Provided, however, that no notice is required where the Protected Materials are sought by governmental officials authorized to conduct a criminal or civil investigation that relates to or involves the Protected Materials, and those governmental officials aver in writing that such notice could compromise the investigation and that the governmental entity involved will maintain the confidentiality of the Protected Materials.
35. **Notify Defined.** “Notify” for purposes of Paragraphs 32, 33 and 34 means written notice to the party asserting confidentiality at least five (5) calendar days prior to release; including when a Reviewing Party receives a request under the Public Information Act.

However, the Commission, OAG, or OPC may provide a copy of Protected Materials to the Open Records Division of the OAG as provided herein.

36. **Requests for Non-Disclosure.** If the producing party asserts that the requested information should not be disclosed at all, or should not be disclosed to certain parties under the protection afforded by this Protective Order, the producing party shall tender the information for in camera review to the presiding officer within ten (10) calendar days of the request. At the same time, the producing party shall file and serve on all parties its argument, including any supporting affidavits, in support of its position of nondisclosure. The burden is on the producing party to establish that the material should not be disclosed. The producing party shall serve a copy of the information under the classification of Highly Sensitive Protected Material to all parties requesting the information that the producing party has not alleged should be prohibited from reviewing the information.

Parties wishing to respond to the producing party's argument for non-disclosure shall do so within five working days. Responding parties should explain why the information should be disclosed to them, including why disclosure is necessary for a fair adjudication of the case if the material is determined to constitute a trade secret. If the presiding officer finds that the information should be disclosed as Protected Material under the terms of this Protective Order, the presiding officer shall stay the order of disclosure for such period of time as the presiding officer deems necessary to allow the producing party to appeal the ruling to the Commission.

37. **Sanctions Available for Abuse of Designation.** If the presiding officer finds that a producing party unreasonably designated material as Protected Material or as Highly Sensitive Protected Material, or unreasonably attempted to prevent disclosure pursuant to Paragraph 36, the presiding officer may sanction the producing party pursuant to P.U.C. PROC. R. 22.161.
38. **Modification of Protective Order.** Each party shall have the right to seek changes in this Protective Order as appropriate from the presiding officer.
39. **Breach of Protective Order.** In the event of a breach of the provisions of this Protective Order, the producing party, if it sustains its burden of proof required to establish the right to injunctive relief, shall be entitled to an injunction against such breach without any

requirements to post bond as a condition of such relief. The producing party shall not be relieved of proof of any element required to establish the right to injunctive relief. In addition to injunctive relief, the producing party shall be entitled to pursue any other form of relief to which it is entitled.

ATTACHMENT A

Protective Order Certification

I certify my understanding that the Protected Materials are provided to me pursuant to the terms and restrictions of the Protective Order in this docket and that I have received a copy of it and have read the Protective Order and agree to be bound by it. I understand that the contents of the Protected Materials, any notes, memoranda, or any other form of information regarding or derived from the Protected Materials shall not be disclosed to anyone other than in accordance with the Protective Order and unless I am an employee of the Commission or OPC shall be used only for the purpose of the proceeding in Docket No. 40606. I acknowledge that the obligations imposed by this certification are pursuant to such Protective Order. Provided, however, if the information contained in the Protected Materials is obtained from independent public sources, the understanding stated here shall not apply.

Signature

Party Represented

Printed Name

Date

I certify that I am eligible to have access to Highly Sensitive Protected Material under the terms of the Protective Order in this docket.

Signature

Party Represented

Printed Name

Date

ATTACHMENT B

I request to view/copy the following documents:

Document Requested	# of Copies	Non-Confidential	Protected Materials and/or Highly Sensitive Protected Materials

Signature

Party Represented

Printed Name

Date

PUC DOCKET NO. 40606

APPLICATION OF WIND ENERGY	§	BEFORE THE
TRANSMISSION TEXAS, LLC	§	
FOR AUTHORITY TO	§	PUBLIC UTILITY COMMISSION
ESTABLISH INITIAL RATES	§	
AND TARIFFS	§	OF TEXAS

DIRECT TESTIMONY OF

WAYNE MORTON

ON BEHALF OF

WIND ENERGY TRANSMISSION TEXAS, LLC

AUGUST 2012

**TABLE OF CONTENTS TO THE DIRECT TESTIMONY OF WAYNE MORTON,
WITNESS FOR WIND ENERGY TRANSMISSION TEXAS, LLC**

EXECUTIVE SUMMARY	1
I. INTRODUCTION	3
II. PURPOSE OF TESTIMONY	5
III. OVERVIEW OF FILING	6
IV. DESCRIPTION OF WETT	6
V. PROPOSED RATE OF RETURN	12
VI. RATE BASE	12
A. OVERVIEW OF WETT'S RATE BASE	12
B. ORGANIZATION AND DEVELOPMENT COSTS	14
1. CCN COSTS	14
2. LABOR AND BENEFITS	15
3. PROJECT DEVELOPMENT COSTS	16
4. ADMINISTRATIVE COSTS	17
C. ADDITIONAL FACILITIES	21
VII. FINANCING COSTS	24
VIII. SELF INSURANCE RESERVE	25
IX. OPERATIONS EXPENSES	27
X. ADMINISTRATIVE AND GENERAL EXPENSES	32
XI. WETT'S AFFILIATE SERVICES AND COSTS	34
A. CORPORATE SUPPORT SERVICES	36
B. CONSTRUCTION SUPPORT SERVICES	37
XII. WETT'S PROPOSED PROCEDURAL APPROACH	42
XIII. SUMMARY AND CONCLUSION	49

LIST OF EXHIBITS

EXHIBIT WM-1	Resume of Wayne Morton
EXHIBIT WM-2	ERCOT Letter Authorizing Faraday Switching Station
EXHIBIT WM-3	Map of WETT's Transmission System
EXHIBIT WM-4	WETT External Organizational Chart
EXHIBIT WM-5	WETT Internal Organizational Chart
EXHIBIT WM-6	Summaries of Non-EPC Affiliate Invoices

LIST OF SPONSORED/CO-SPONSORED SCHEDULES

Schedule	Sponsor(s)
II-D-1 Operations & Maintenance (O&M) Expenses	Bruce Fairchild/Wayne Morton
II-D-1.1 Monthly O&M Expenses	Bruce Fairchild/Wayne Morton
II-D-2 Administrative & General (A&G) Expenses	Bruce Fairchild/Wayne Morton
II-D-2.1 Monthly A&G Expenses	Bruce Fairchild/Wayne Morton
II-D-2.3 Summary of Advertising, Contributions & Dues	Bruce Fairchild/Wayne Morton
II-D-2.5 Summary of Contribution & Donation Expense	Wayne Morton
II-D-2.6 Summary of Membership Dues Expenses	Bruce Fairchild/Wayne Morton
II-D-2.6a Summary of Industry Organization Dues	Bruce Fairchild/Wayne Morton
II-D-2.6b Summary of Business/Economic Dues	Bruce Fairchild/Wayne Morton
II-D-2.6c Summary of Professional Dues	Bruce Fairchild/Wayne Morton
II-D-2.9 Rents and Leases	Wayne Morton
II-D-3 Payroll Expense Distribution	Wayne Morton
II-D-3.1 Payroll Information	Wayne Morton
II-D-3.5 Number of Employees	Wayne Morton
II-D-4 Summary of Exclusions from Test Year	Wayne Morton
V-K-1 Affiliate Expenses by FERC Account	Bruce Fairchild/Wayne Morton
V-K-2 Adjusted Affiliate Expenses	Bruce Fairchild/Wayne Morton
V-K-3 Organization Chart	Bruce Fairchild/Wayne Morton
V-K-4 Description of Services	Bruce Fairchild/Wayne Morton
V-K-5 Capital Projects	Bruce Fairchild/Wayne Morton
V-K-6 Adjustments to Test Year Expenses	Bruce Fairchild/Wayne Morton
V-K-7 Statutory Requirements	Bruce Fairchild/Wayne Morton
V-K-8 Services Provided to Affiliates	Bruce Fairchild/Wayne Morton
V-K-9 Allocation of Affiliate Costs	Bruce Fairchild/Wayne Morton
V-K-10 Controls	Bruce Fairchild/Wayne Morton
V-K-11 Affiliate Billing Methods	Bruce Fairchild/Wayne Morton
V-K-12 Amounts Billed to Each Affiliate	Bruce Fairchild/Wayne Morton

EXECUTIVE SUMMARY

1 In my testimony, I introduce WETT and its witnesses; provide an overview of
2 WETT's application and describe what WETT is seeking in this application; provide
3 an overview of WETT's rate base; support WETT's organization and development
4 costs; support WETT's operations and administrative and general expenses; and
5 describe WETT's affiliate interactions.

6 In this filing WETT seeks to (1) obtain Commission approval of two rates
7 (and related tariffs)—one to be effective when WETT's Phase I facilities¹ are capable
8 of providing service and the other when its Phase II facilities are capable of providing
9 service; (2) sever a determination of rate case expenses to a separate proceeding; and
10 (3) establish a process for incorporating WETT's remaining CREZ facilities in rates.

11 Under WETT's preferred approach, WETT's requested revenue requirement
12 is approximately \$31.2 million which represents an overall rate of return of 7.73% on
13 its capital costs related to Phase I facilities as of June 30, 2012 (which will total
14 approximately \$183.2 million). Expenses are based upon data from a historical year
15 ended June 30, 2012, adjusted for known and measurable changes. WETT requests
16 approximately \$1.7 million in annual O&M expenses and approximately \$4.9 million
17 in A&G expenses associated with Phase I.

18 At this time, under WETT's preferred procedural approach, WETT is not
19 requesting the inclusion of any capital investment related to Phase II in rate base.

¹ WETT's CREZ projects include seven line segments and five switching stations which were approved in three certificate of convenience and necessity ("CCN") proceedings, Docket Nos. 38295, 38484, and 38825. WETT refers to these facilities as CCN1, CCN2, and CCN3, respectively. Phase I contains CCN1 and CCN2, which are currently expected to be completed on or around March 31, 2013. Phase II contains CCN3, which is currently expected to be completed on or around May 15, 2013.

1 Instead, WETT plans to incorporate those costs into rate base using the interim TCOS
2 update process. WETT requests leave to include subsequent investments in an
3 interim TCOS update, even if the interim TCOS update is filed before the associated
4 facility is capable of providing service. If such leave is not granted, then in the
5 alternative WETT requests recovery of Phase II investment at this time as CREZ
6 CWIP.

7 In addition to explaining WETT's proposed procedural approach, I explain
8 that WETT's use of affiliates for key services was reasonable and prudent for each
9 service or class of service, and resulted in costs no higher than would have been
10 incurred had unrelated third parties been used for those services.

1 **DIRECT TESTIMONY OF WAYNE MORTON**

2 **I. INTRODUCTION**

3 **Q. PLEASE STATE YOUR NAME, POSITION, AND BUSINESS ADDRESS.**

4 A. My name is Wayne Morton. I am employed by Wind Energy Transmission
5 Texas, LLC ("WETT") as the General Manager. My business address is 210 Barton
6 Springs Road, Suite 150, Austin, TX 78704.

7 **Q. PLEASE DESCRIBE YOUR RESPONSIBILITIES AS THE GENERAL**
8 **MANAGER FOR WETT.**

9 A. I am responsible for managing WETT, which includes overseeing WETT's
10 construction of transmission projects, its day-to-day operations, its finances, and
11 reporting to the Board of Managers.

12 **Q. PLEASE DESCRIBE YOUR EDUCATIONAL BACKGROUND AND**
13 **PROFESSIONAL EXPERIENCE.**

14 A. I graduated from Texas Tech University in 1984 with a Bachelor of Science
15 degree in Electrical Engineering. After graduation I was employed by Texas Utilities
16 as an engineer working in the transmission and generation planning areas. I
17 performed technical and economic analysis of both the transmission and generation
18 assets of the company, covering operations of the existing system as well as impacts
19 from potential system expansion scenarios. I then worked for Texas-New Mexico
20 Power Company ("TNMP") as Manager of Power Resources. While working for
21 TNMP, I managed staff that was responsible for wholesale power contracts and
22 transmission access. During this period I worked closely with our operations group to

1 organize and implement TNMP as a new control area in ERCOT. Later, I was
2 employed by Panda Energy as Vice President of Transmission and Market Strategy.
3 In that role I was responsible for site selection, transmission access, and the
4 interconnection of over 7,000 MW of independent generation. During the over ten
5 years at Panda, I managed a number of areas and filled various job roles:

- 6 • Managed negotiations with dozens of utilities for transmission access,
7 including tariff restructuring for wholesale access and O&M contracting from
8 the utility for privately held transmission assets;
- 9 • Acted as lead project manager over a team for several business development
10 opportunities, including natural gas generation, ethanol manufacturing, and
11 broadband on powerline (“BPL”);
- 12 • Managed financial modeling of each of these business development
13 opportunities; and
- 14 • Acted as asset director for a project under construction immediately post
15 financing, with responsibility for all budget, staffing, construction,
16 contractual, and financial requirements for the project.

17 This operational and management experience has given me insight into utility
18 operating and production costs, particularly as regards the transmission function.
19 Finally, I am a registered Professional Engineer in Texas. My resume is attached as
20 Exhibit WM-1.

1 **Q. HAVE YOU PREVIOUSLY SUBMITTED TESTIMONY TO THE PUBLIC**
2 **UTILITY COMMISSION OF TEXAS (“PUC” OR “COMMISSION”)?**

3 A. Yes. I submitted direct and rebuttal testimony in Docket No. 17751,
4 *Application of Texas-New Mexico Power Company for Approval of a Transition Plan*
5 *and Statement of Intent to Decrease Rates.*

6 **II. PURPOSE OF TESTIMONY**

7 **Q. WHAT IS THE PURPOSE OF YOUR DIRECT TESTIMONY?**

8 A. The purpose of my direct testimony is to introduce WETT as a transmission
9 service provider (“TSP”); introduce WETT’s other witnesses; provide an overview of
10 WETT’s application and describe what WETT is seeking in this application; provide
11 an overview of WETT’s rate base; describe WETT’s organization and development
12 costs; describe WETT’s operations and administrative and general (“A&G”)
13 expenses; and describe WETT’s affiliate interactions.

14 WETT is a new TSP entering the electric utility business in Texas, and this is
15 WETT’s first rate application since being selected by the PUC as one of the CREZ
16 transmission providers in Docket No. 35665.

17 **Q. ARE YOU SPONSORING ANY EXHIBITS IN CONNECTION WITH YOUR**
18 **TESTIMONY?**

19 A. Yes. I sponsor the exhibits listed in the table of contents of this testimony.

20 **Q. WERE YOUR TESTIMONY AND THE EXHIBITS ATTACHED THERETO**
21 **PREPARED BY YOU OR UNDER YOUR DIRECT SUPERVISION?**

22 A. Yes.

1 Q. ARE YOU SPONSORING ANY SCHEDULES IN THE RATE FILING
2 PACKAGE?

3 A. Yes. I sponsor the schedules listed in the table of contents of this testimony.

4 Q. WERE THESE SCHEDULES PREPARED BY YOU OR UNDER YOUR
5 DIRECT SUPERVISION?

6 A. Yes.

7 **III. OVERVIEW OF FILING**

8 Q. WHAT DOES WETT SEEK TO ACCOMPLISH IN THIS FILING?

9 A. In this filing WETT seeks to (1) obtain Commission approval of two rates
10 (and related tariffs)—one to be effective when WETT's Phase I facilities are capable
11 of providing service and the other when its Phase II facilities are capable of providing
12 service; (2) sever the matter of rate case expense recovery to a separate proceeding;
13 and (3) establish a process for incorporating WETT's remaining CREZ facilities in
14 rates.

15 Q. WHAT OTHER WITNESSES ARE TESTIFYING IN SUPPORT OF THE
16 APPLICATION?

17 A. WETT has 11 witnesses testifying in support of its application. In addition to
18 my testimony, the witnesses and the topics they discuss are:

- 19 • Bradley Ballard, Asset Management Director of WETT, sponsors WETT's capital
20 investment in transmission facilities and land; discusses WETT's administration
21 of the Engineering, Procurement, and Construction ("EPC") Contract² between
22 WETT and Isolux Ingeniería USA, LLC ("I-USA") (the contractor selected to
23 construct WETT's transmission lines and switching stations); and discusses
24 WETT's maintenance expenses.

² The "EPC Contract" refers to the comprehensive EPC agreement between WETT and I-USA, effective April 19, 2011.

- 1 • Bruce Fairchild, Principal of Financial Concepts and Applications, Inc.
2 (“FINCAP”), addresses WETT’s projected revenue requirement, cost of debt, and
3 accounting information and sponsors WETT’s wholesale transmission tariffs and
4 rider.
- 5 • Robert Hevert, Managing Partner of Sussex Economic Advisors, addresses
6 WETT’s return on equity and capital structure, and provides WETT’s overall rate
7 of return.
- 8 • Dane Watson, Principal of Alliance Consulting Group, sponsors the depreciation
9 study and addresses the depreciation rates for WETT’s assets.
- 10 • Jay Joyce, Principal of Expergy, sponsors the lead-lag study and addresses
11 WETT’s cash working capital requirements.
- 12 • Gregory Wilson, Vice President and Principal of Lewis & Ellis Actuaries &
13 Consultants, Dallas office, addresses WETT’s self-insurance reserve.
- 14 • Thomas Flaherty, Senior Vice President Transmission of Booz & Co., provides a
15 retrospective and independent review of WETT’s affiliate transactions. His
16 examination includes a comparative analysis of WETT’s EPC Contract with I-
17 USA against other EPC arrangements for other infrastructure projects, the fee I-
18 USA is charging WETT as opposed to the fee it would charge a third party, and
19 the reasonableness of WETT’s project management and EPC Contract
20 administration.
- 21 • Daryl Pullin, Vice President of Science Applications International Corporation
22 (“SAIC,” formerly R. W. Beck, Inc.) also discusses the reasonableness of the EPC
23 Contract between WETT and I-USA, as well as WETT’s other affiliate
24 agreements; in addition, he provides testimony regarding SAIC’s role in working
25 with WETT on negotiating the EPC Contract with I-USA, assisting WETT in the
26 administration of the EPC Contract before and during the construction process,
27 and the reasonableness of the charges for the work performed by I-USA. Since
28 SAIC has served and continues to serve in an independent advisor role, Mr. Pullin
29 provides a contemporaneous, independent review of WETT’s EPC process.
- 30 • Brett Perlman, President of Vector Advisors, discusses WETT’s affiliate
31 transactions and regulatory policy issues, such as the allowance of construction
32 work in progress in WETT’s rate base, and the allowance of deferred accounting.
- 33 • J. Kay Trostle, Partner with Smith Trostle & Huerta LLP, addresses WETT’s rate
34 case expenses.

1 IV. DESCRIPTION OF WETT

2 **Q. PLEASE DESCRIBE WETT.**

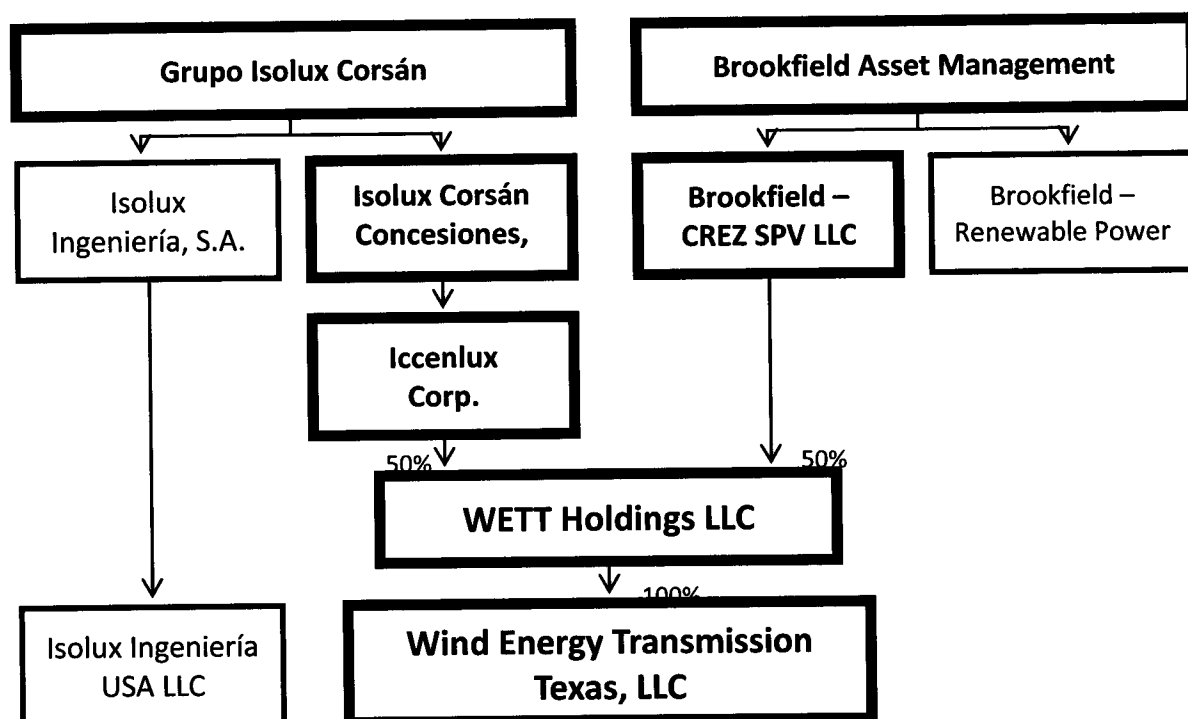
3 A. WETT is a Texas limited liability company registered in the Electric
4 Reliability Council of Texas ("ERCOT") as a TSP to provide wholesale electric
5 transmission service in Texas. WETT was selected by the PUC to construct
6 approximately 374 miles of transmission lines and five switching stations in Dickens,
7 Kent, Scurry, Borden, Martin, Midland, Howard, Ector, Coke, Glasscock, and
8 Sterling counties in Docket No. 35665, *Commission Staff's Petition for Selection of*
9 *Entities Responsible for Transmission Improvements Necessary to Deliver Renewable*
10 *Energy from Competitive Renewable Energy Zones*. WETT obtained specific
11 authorization for the CREZ Projects' routes in three separate CCN proceedings,
12 Dockets Nos. 38295, 38484, and 38825. WETT is also constructing the Faraday
13 Switching Station ("Faraday") with the approval of ERCOT as a minor modification
14 to its CREZ project that does not require a CCN.³ An overview map of WETT's
15 transmission system is depicted on Exhibit WM-3.

16
³ All of WETT's facilities are CREZ related projects. In addition to the seven transmission lines and five switching stations WETT was specifically assigned in Docket No. 35665, WETT is also constructing the Faraday Switching Station ("Faraday") with the approval of ERCOT. Faraday is relatively small (an approximately \$8.1 million build without AFUDC or other overhead costs) and was approved as part of a plan to alleviate congestion and provide voltage support in the Lamesa region attributed to generation from the Coyote Run, Airtricity Lamesa, Bull Creek, and Gunsight Mountain wind plants. Although Faraday was being evaluated by ERCOT's Regional Planning Group prior to the PUC's approval of the CREZ transmission plan, ERCOT determined that it should be postponed until CREZ transmission plans were finalized; once that occurred, the Lamesa area upgrades were integrated with CREZ area facilities. See Exhibit WM-2, ERCOT Independent Review - Lamesa Area Upgrades Version 1.0. Faraday is being constructed as part of WETT's CREZ facilities during WETT's second phase of construction. Ordering Paragraph 32 (relating to ERCOT Flexibility) of the Final Order in Docket 37902 (the CREZ TSP Selection Remand Order) provides: "To the extent that a proposed modification is to a project that does not require a CCN, ERCOT is authorized to allow the TSP to implement those minor modifications, such as ... adding substations, using existing transmission infrastructure for interconnection of generation, and similar minor modifications." WETT accordingly views Faraday as minor modification to its CREZ project that does not require a CCN.

Q. PLEASE DESCRIBE WETT'S OWNERSHIP STRUCTURE

A. WETT is owned by WETT Holdings LLC ("WETT Holdings"), which in turn is owned 50/50 by (1) Iccenlux Corp., a subsidiary of Isolux Corsán Concesiones, S.A. ("Isolux Concesiones"), which is ultimately owned by Grupo Isolux Corsán ("Grupo Isolux"); and (2) Brookfield-CREZ SPV LLC ("Brookfield SPV"), which is ultimately owned by Brookfield Asset Management, Inc. ("Brookfield"). A depiction of WETT's external organizational structure including its parent companies is found below and in Exhibit WM-4.

WETT 2012 Organization Chart

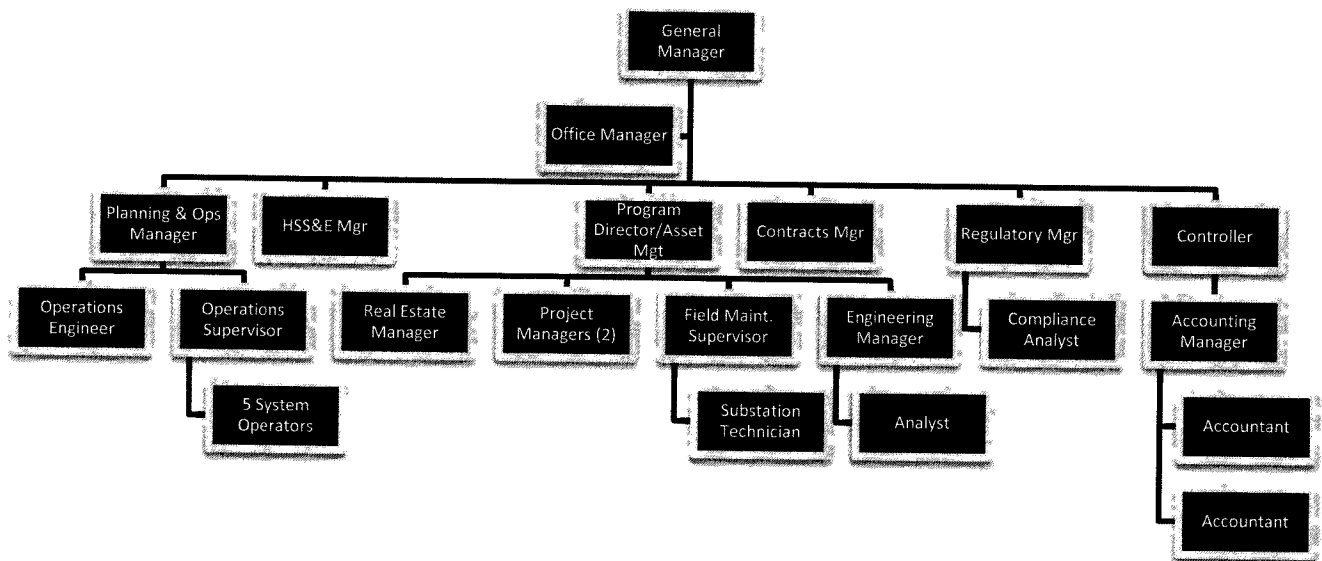


Q. HOW WILL WETT BE STAFFED IN ORDER TO CONDUCT ITS OPERATIONS?

A. As a new entrant start-up transmission provider, WETT has been able to keep its organization very lean; it currently has a staff of 21 employees, and plans to

1 eventually employ around 26. WETT's employees are primarily engaged in oversight
2 of the design and construction of its transmission lines and switching stations. Others
3 are involved with regulatory and back-office functions, such as accounting and
4 financial reporting requirements. The lean staffing model enables the use of skilled,
5 third-party resources during the build-out of the CREZ projects without requiring
6 full-time employees whose services may not be necessary in the long run.

7 A depiction of WETT's internal organizational structure including its staff
8 roles is found below and in Exhibit WM-5.



1 **Q. WHY HAS WETT CHOSEN TO KEEP ITS STAFF SMALL?**

2 A. In the long term, WETT will be able to operate its transmission system with a
3 relatively small number of employees. WETT has sought to avoid hiring employees
4 whose services will not be necessary full-time in the long term in order to keep its
5 overhead low over time. Thus, rather than hiring a large number of full-time
6 employees to assist with the significant start-up work WETT faces, WETT has
7 chosen to outsource certain functions to qualified third parties where necessary to
8 complete work needed during the build-out phase. One example of this is WETT's
9 outsourcing of EPC functions for constructing its transmission projects, which allows
10 WETT to efficiently construct transmission facilities in order to provide reliable
11 electric transmission service in a cost efficient manner.

12 **Q. HOW HAS WETT PROGRESSED TOWARDS COMPLETING ITS CREZ**
13 **TRANSMISSION PROJECT?**

14 A. WETT has met key construction milestones thus far that are necessary to
15 timely finish its projects. Currently WETT plans to complete construction on Phase I
16 on or around March 31, 2013.

17 Since being selected as a CREZ TSP in Docket No. 35665, WETT has
18 prepared and received approval for its Code of Conduct, become a member of
19 ERCOT, registered at NERC, and obtained Commission approval for all three of its
20 CCN applications, which were resolved through settlement.

21 WETT's current cost projections differ from the estimates of the CREZ
22 Transmission Optimization ("CTO") Study; however, this is explained by the facts
23 that the CTO Study assumed all CREZ lines were based on "straight line" estimates;

1 did not include full land acquisition costs or CCN costs; made an error regarding the
2 actual mileage in one of WETT's segments by a factor of five (six miles versus 30
3 miles); and only cursorily addressed necessary reactive compensation, which was
4 expanded by the ABB ERCOT CREZ Reactive Power Compensation Study of 2010.

5 **V. PROPOSED RATE OF RETURN**

6 **Q. WHAT IS WETT'S PROPOSED CAPITAL STRUCTURE, RETURN ON**
7 **EQUITY, COST OF DEBT, AND RATE OF RETURN?**

8 A. WETT is proposing a capital structure of 60% debt and 40% equity, with a
9 cost of debt of 5.624% and an ROE of 10.9%, resulting in a rate of return of 7.73%.
10 WETT's requested return on equity and capital structure are addressed in much more
11 detail in the direct testimony of Mr. Hevert.

12 **VI. RATE BASE**

13 **A. OVERVIEW OF WETT'S RATE BASE**

14 **Q. HOW MUCH CAPITAL HAS WETT INVESTED SO FAR?**

15 A. As of June 30, 2012, WETT'S capital expenditures for the three transmission
16 projects totaled \$251,532,351.

17 **Q. IS WETT REQUESTING THAT THE ENTIRETY OF ITS CAPITAL**
18 **EXPENDITURES BE ADDRESSED IN THIS PROCEEDING?**

19 A. No, not under its preferred procedural approach. Under its preferred
20 approach, WETT is asking for recovery of its capital expenditures (through June 30,
21 2012) and expenses related to Phase I at this time; capital expenditures associated
22 with Phase II will be incorporated in the Company's first interim TCOS filing. As
23 discussed in greater detail by Dr. Fairchild, WETT is requesting a rate base of

1 \$183,153,520, based upon WETT's actual capital expenditures related to Phase I
2 facilities as of June 30, 2012.

3 However, if WETT's preferred approach is not adopted, under WETT's
4 alternative approach WETT is requesting that the June 30, 2012 CWIP balance
5 associated with Phase II also be included in rates at this time. Thus, as explained by
6 Dr. Fairchild, if the alternative approach is taken, then all of the amounts recorded in
7 Account 107 as of June 30, 2012 would be included in rate base. This results in a
8 total rate base of \$252,653,123.

9 **Q. WHAT IS INCLUDED IN WETT'S RATE BASE?**

10 A. Generally speaking, WETT's rate base includes such capital investment as
11 land acquisition, transmission plant (lines and substations), operation control centers;
12 organization and development costs; CCN costs; and project development, labor, and
13 administrative costs.

14 All elements of WETT's rate base are provided according to FERC
15 accounting rules in the direct testimony of Dr. Fairchild. Transmission plant
16 investment, consisting predominately of EPC costs, is also further supported by Mr.
17 Ballard. Mr. Ballard also addresses land acquisition costs.

18 **Q. HOW DO WETT'S CAPITAL COSTS COMPARE TO THE ESTIMATES**
19 **PROVIDED BY WETT AS PART OF THE CREZ REPORTING PROCESS?**

20 A. The most recent cost estimates WETT provided to the CREZ monitor for its
21 total costs were \$749,724,000, as reflected in WETT's annual compliance filings in
22 P.U.C. Docket No. 37858. This number reflects the total capitalized costs of the

1 CREZ Projects and is in line with prior cost estimates provided by WETT as part of
2 the CREZ monitoring process.

3 **Q. DOES THIS RATE BASE AMOUNT INCLUDE EQUIPMENT STORES OR**
4 **SPARES?**

5 A. Yes, it does. Certain critical components take a long time to source, so WETT
6 needs to invest in spare parts in order to timely repair or replace transmission system
7 components that might fail. It would be imprudent for WETT not to have such stores
8 on hand. Spares are further addressed in the direct testimony of Mr. Ballard.

9 **B. ORGANIZATION AND DEVELOPMENT COSTS**

10 **Q. PLEASE BRIEFLY DESCRIBE WHAT YOU MEAN BY ORGANIZATION**
11 **AND DEVELOPMENT COSTS.**

12 A. Organization and development costs generally include costs incurred in
13 running the company. However, at this time, WETT is requesting only the portion of
14 its organization and development costs allocated to Phase I. Dr. Fairchild testifies in
15 greater detail regarding WETT's rate base, including these costs, and classifies them
16 by FERC account.

17 **1. CCN COSTS**

18 **Q. PLEASE DESCRIBE WETT'S CCN COSTS.**

19 A. These costs include legal fees, engineering costs, environmental studies and
20 permits, other contract services, public involvement program costs (including printing
21 and publishing costs), and others.

22 Many of the costs associated with the CCN—such as publishing notices in
23 local newspapers, holding open houses in the counties where WETT's projects are

1 built, or filing a certain number of copies of the lengthy application and oversized
2 maps with the PUC—are explicitly required by PUC rules and thus were unavoidable.
3 WETT took care to ensure these required tasks were performed at minimum cost,
4 such as by conducting public meetings at public facilities, such as schools, rather than
5 renting private facilities, such as hotels.

6 The Commission may note that all three of WETT's CCN applications were
7 settled by unanimous agreement prior to hearing. I believe that settlement of all three
8 CCN applications was due to the diligent effort of WETT in conducting outreach
9 activities to landowners and other stakeholders prior to filing and during the pendency
10 of its CCN applications. Further, I believe avoiding a protracted hearing process
11 saved WETT and intervenors additional costs they would have incurred during a
12 hearing; WETT's savings will pass on to Texas ratepayers.

13 **Q. ARE WETT'S CCN COSTS REASONABLE AND NECESSARY?**

14 **A.** Yes.

15 **2. LABOR AND BENEFITS**

16 **Q. PLEASE DESCRIBE WETT'S INTERNAL LABOR EXPENSES.**

17 **A.** These expenses include direct labor costs (salaries) and associated employee
18 benefits paid by WETT in operating the company since its selection as a CREZ TSP
19 in the TSP-selection docket, filing and pursuing the necessary CCNs, obtaining
20 WETT's Code of Conduct and ERCOT membership, negotiating and managing the
21 EPC Contract and related construction activities, and performing in-house
22 engineering work. They also include federal and state unemployment taxes.

23 **Q. ARE WETT'S LABOR EXPENSES REASONABLE AND NECESSARY?**

1 A. Yes. Based upon my years of experience working in the electric utility
2 industry, including time spent at other transmission companies, and my experience
3 managing WETT in particular, I believe it is reasonable and necessary to recruit and
4 retain at market salaries qualified personnel to operate WETT and develop its
5 projects.

6 I believe WETT's lean staffing model contributes to the reasonableness of its
7 staffing costs. Further, I reviewed a salary study by Aon Hewitt which examined
8 WETT's salaries. The findings of the study support my opinion about the
9 reasonableness and necessity of WETT's labor expenses. This study is included in
10 my workpapers, but is filed under seal as a highly sensitive confidential document
11 because it contains individuals' sensitive salary information.

12 **3. PROJECT DEVELOPMENT COSTS**

13 **Q. PLEASE DESCRIBE WETT'S PROJECT DEVELOPMENT COSTS.**

14 A. These costs include third party engineering and consultant expenses,
15 independent evaluator expenses, and affiliate expenses incurred in development
16 activities.

17 These activities include basic engineering design, project organization, and
18 assistance with ERCOT registration and transmission. Prior to entering into the EPC
19 Contract, a scope of work and set of specifications had to be independently developed
20 for use in the Contract. This was performed by independent engineering consultants
21 on our behalf. This included environmental research, permitting, and detailed
22 mapping for that detailed engineering. Additionally, as our EPC Contractor began
23 performing work in the field, WETT needed owner's representation in the field to

1 assess progress and ensure work was performed pursuant to our engineering, safety,
2 and environmental requirements. Engineering consulting work was performed by I-
3 USA under a Consultant Service Agreement. I address these costs below when I
4 discuss affiliate transactions, and they are also addressed in the direct testimony of
5 Mr. Pullin and Mr. Flaherty.

6 **Q. ARE WETT'S PROJECT DEVELOPMENT COSTS REASONABLE AND**
7 **NECESSARY?**

8 A. Yes. This conclusion is based in part on the fact that vendors Pike Energy
9 Solutions, LLC ("Pike") (responsible for the bulk of the engineering consulting and
10 construction monitoring) and SAM (responsible for the bulk of the environmental
11 engineering) were retained through a competitive bidding process, ensuring that
12 WETT retained these qualified experts at competitive rates.

13 **4. ADMINISTRATIVE COSTS**

14 **Q. WHAT IS INCLUDED IN WETT'S ADMINISTRATIVE COSTS?**

15 A. WETT's administrative costs include contract services; legal fees; insurance;
16 communications costs; employee, travel, and miscellaneous expenses; facilities;
17 office equipment and office supplies, and reimbursed Board of Managers expenses
18 and direct services.

19 **Q. PLEASE DESCRIBE THESE ADMINISTRATIVE COSTS IN MORE**
20 **DETAIL.**

21 A. Contract services include certain audit, human resources, engineering,
22 technical support, legal services, and other functions. None of the costs included in
23 contract services were performed by an affiliate. Instead, prices with these third

1 parties were reached after arm's length negotiations, and as a result, all contracts were
2 performed at market pricing. As with any business, WETT has required legal
3 services regularly to successfully operate. Additionally, as a standard business
4 practice, WETT obtains insurance for liability on its leased property as well as
5 construction insurance.

6 Communications costs include communication services, information
7 technology, and website service and support; it does not include equipment.
8 Employee travel, and miscellaneous costs include expenses for required travel, dues,
9 and other miscellaneous costs employees incurred in support of their roles.

10 The "other" category includes miscellaneous costs such as advertising, bank fees, and
11 taxes.

12 **Q. ARE THESE ADMINISTRATIVE COSTS REASONABLE AND**
13 **NECESSARY?**

14 A. Yes.

15 **Q. PLEASE DESCRIBE WETT'S FACILITIES COSTS.**

16 A. Facilities costs include WETT's office leases, parking, repairs, utilities, and
17 similar expenses. WETT's corporate headquarters are located in Austin. Austin was
18 selected for its headquarters because of proximity to the PUC and the presence of
19 ample skilled labor, such as engineers, many of whom have experience working at
20 other utilities which are headquartered in the city.

21 WETT also maintains a small field office near its transmission facilities in Big
22 Spring, Texas, where several subcontractors are based. Functions performed from the
23 field office include environmental compliance, safety, and construction monitoring.

1 **Q. ARE WETT'S FACILITIES COSTS REASONABLE AND NECESSARY?**

2 A. Yes. Based upon my experience in this industry and in the Austin area, I
3 believe these costs were prudently incurred and were necessary in the organization
4 and conduct of the business. WETT considered multiple sources and selected the
5 least expensive options which met its needs. For example, in procuring office space
6 in Austin, WETT first considered "class A" buildings downtown in which rent was
7 approximately \$40/square foot. Instead, after narrowing down options in safe areas
8 with sufficient parking, proximity to hotels and other necessary amenities, and
9 proximity to the PUC, WETT chose to obtain the least expensive and smallest space
10 it could, while allowing enough size for planned expansion. WETT selected an office
11 just south of downtown where rent is approximately \$25/square foot. Office
12 upgrades have been done at minimal cost on an as-needed basis only.

13 **Q. PLEASE DESCRIBE WETT'S OTHER OFFICE COSTS.**

14 A. These expenses include office equipment, such as computers and furniture,
15 and office supplies, such as paper, postage, and printing.

16 **Q. ARE WETT'S OFFICE EQUIPMENT AND SUPPLIES COSTS**
17 **REASONABLE AND NECESSARY?**

18 A. Yes. These costs were incurred at market cost and were necessary to the
19 organization and conduct of the business.

20 **Q. PLEASE DESCRIBE WETT'S REIMBURSED BOARD OF MANAGER**
21 **EXPENSES AND DIRECT SERVICES.**

22 A. WETT did not exist prior to 2008, and was created from scratch by its parents.
23 A critical element of WETT's creation was the establishment of a "Board of

1 Managers,” which fulfills the same oversight and governance roles carried out by the
2 board of directors of a corporation. As a result of WETT’s status as a startup entity,
3 however, the WETT Board of Managers has been actively engaged in planning and
4 directing the operations and functions of WETT, unlike the board members of a long
5 established firm, who typically function more in an oversight role which involves a
6 much smaller commitment of their time, and does not include personal participation
7 in the management of the company. WETT’s Board of Managers is actively involved
8 in the top-level policy management of WETT and was very involved in “executive-
9 type” functions in the early stages of creating and running the company prior to hiring
10 a General Manager in late 2010. For example, both Grupo Isolux and Brookfield
11 supplied members on the Board of Managers who together:

- 12 • Developed, implemented, and administered WETT’s business and regulatory
13 strategies;
- 14 • Prepared and presented internal reports, analyses, studies and correspondence
15 related to the establishment and ongoing operation of WETT;
16
- 17 • Negotiated, implemented, and administered arrangements on behalf of WETT
18 with respect to professional service providers, including attorneys, engineers,
19 financial firms, consultants, and other professional service providers;
20
- 21 • Evaluated, analyzed, negotiated, implemented, and administered arrangements
22 on behalf of WETT with respect to technical service vendors and contractors;
23
- 24 • Evaluated, analyzed, negotiated, implemented, and administered transmission
25 arrangements and ancillary services;
26
- 27 • Oversaw regulatory and legal compliance; and
28
- 29 • Undertook other responsibilities as required in the course of WETT’s
30 business.
31
32

1 WETT Holdings, which owns WETT, is jointly owned by Brookfield SPV, which
2 is based in Canada, and Isolux Concesiones, which is based in Spain. Each owner has
3 three representatives on the Board who may attend its monthly meetings. WETT
4 reimburses Board members' out-of-pocket travel expenses for reasonable airfare,
5 lodging, and ground transportation. This is consistent with my understanding of good
6 utility practice and my experience at other companies and organizations that
7 reimburse Board members for the costs of attending Board meetings.

8 WETT has incurred Board of Managers, or "shareholder," expenses of
9 \$4,282,362 through June 30, 2012, as indicated in the direct testimony of Mr.
10 Flaherty. These costs were billed to WETT under the Affiliate Services Agreements,
11 which are discussed further below (when I discuss affiliate transactions), and in the
12 direct testimony of Mr. Pullin and Mr. Flaherty. They consist predominately of
13 advisory services, travel, and travel-related expenses incurred by the WETT Holdings
14 Board of Managers and advisors attending meetings in Austin and elsewhere.

15 **Q. ARE WETT'S SHAREHOLDER COSTS REASONABLE AND NECESSARY?**

16 **A.** Yes.

17 **C. ADDITIONAL FACILITIES**

18 **Q. WILL WETT HAVE ADDITIONAL CAPITAL COSTS?**

19 **A.** Yes. As I discussed above, WETT has costs associated with control centers,
20 which are necessary to operate WETT's CREZ transmission facilities.

21 **Q. PLEASE DESCRIBE WETT'S OPERATIONS CONTROL CENTERS,**
22 **ASSOCIATED COSTS, AND HOW WETT PLANS TO RECOVER THOSE**
23 **COSTS.**

1 A. WETT will have a primary and a backup control center located in Austin and
2 manned by NERC-certified operators on a 24/7 basis, as required by NERC. Because
3 both control centers are necessary to operate any transmission facilities, WETT is
4 asking that all of their associated costs incurred as of June 30, 2012 be included in
5 rate base in this proceeding. The budgeted total cost of developing the two control
6 centers is \$5,000,000, including certain consultant and accumulated personnel costs
7 prior to beginning operations.

8 Both the primary and backup control centers will be located in Austin, Texas.
9 The control centers require leased space, communications and network control
10 equipment, and office equipment to properly equip and efficiently run these centers.
11 As of June 30, 2012, \$506,120 in control center expenditures have been incurred.

12 WETT performed significant analysis before deciding to operate its own
13 control centers in leased space in Austin, including comparing the costs of self-built
14 control centers in West Texas to the costs of leasing space in Austin. I describe this
15 further below in the "Operations" section of my testimony.

16 **Q. DOES WETT HAVE THE NECESSARY PERMITS AND CERTIFICATIONS**
17 **IN ORDER TO OWN AND OPERATE ITS CONTROL CENTERS?**

18 A. Not yet. WETT has registered with ERCOT as a Transmission Owner and as
19 a Transmission Operator. WETT is in the process of registering with the North
20 American Electric Reliability Corporation ("NERC") as a Transmission Owner and
21 becoming certified as a Transmission Operator. WETT is registered with the NERC
22 as a Transmission Planner.

1 **Q. HOW DOES WETT PLAN TO RECOVER THE COST CATEGORIES**
2 **DESCRIBED IN THIS TESTIMONY?**

3 A. With the exception of financing, all the costs I described above associated
4 with Phase I facilities and accrued through June 30, 2012, have been capitalized and
5 are requested to be included in rate base in this proceeding. Additional capital costs
6 incurred after June 30, 2012, such as additional transmission plant investment, land
7 acquisition costs, and AFUDC, will continue to be capitalized, and WETT will
8 request their inclusion in rate base in a future proceeding.

9 After WETT's transmission facilities are capable of providing service, certain
10 expenses which were initially capitalized above (such as labor and benefits and
11 administrative costs) are included in WETT's A&G expenses, which I describe
12 below.

13 **Q. WHEN WILL FINAL, ACTUAL CREZ INVESTMENT BE DETERMINED?**

14 A. The final, actual CREZ investment will be determined after Phase II is
15 completed and energized. WETT will file a general rate case to determine the
16 prudence of its investment that was included in rate base through interim TCOS
17 updates.

18 **Q. DOES WETT REQUEST RECOVERY OF THE CAPITALIZED COSTS**
19 **DESCRIBED ABOVE IN THIS PROCEEDING?**

20 A. Yes, partly. WETT requests recovery of the actual capitalized costs as of June
21 30, 2012 that are associated with Phase I. WETT has justified these expenses as
22 being reasonable and necessary in order to timely develop its projects and has
23 properly accounted for these expenses by capitalizing them as a regulatory asset to be

1 included in rate base and depreciated in accordance with the asset account to which
2 they are assigned. WETT is not requesting recovery of any estimated or projected
3 costs.

4 **VII. FINANCING COSTS**

5 **Q. WHAT FINANCING HAS WETT OBTAINED?**

6 A. WETT'S financing costs in the test year were associated with obtaining loans
7 up to the amount of \$506.8 million to finance all three of the CCN projects. This
8 short-term construction loan is a credit facility: if WETT does not require the full
9 \$506.8 million, it is not required to draw the full amount, and is bound to repay only
10 the funds it used. This financing was obtained on July 28, 2011, at interest rates that
11 range from 1.25 – 2.5% above the London Interbank Offered Rate ("LIBOR"). Funds
12 are available via monthly draws during the availability periods defined in the credit
13 facilities, and will be repaid in quarterly installments after construction of the CREZ
14 Projects is completed.

15 **Q. PLEASE DESCRIBE WETT'S FINANCING COSTS.**

16 A. As of June 30, 2012, WETT has incurred financing costs of approximately
17 \$14.5 million. These costs include underwriting and origination fees, lender fees,
18 financial consultant fees, and legal fees.

19 **Q. IS WETT ASKING TO CAPITALIZE ITS FINANCING COSTS IN RATE** 20 **BASE?**

21 A. No. Unlike the operation and development costs I described above, financing
22 costs are not directly capitalized in rate base. Instead, they are deferred and
23 amortized into the cost of debt over the life of the loan. Financing costs are thus

1 reflected in the cost of debt calculation, as explained in the direct testimony of Dr.
2 Fairchild.

3 **Q. ARE WETT'S FINANCING COSTS REASONABLE AND NECESSARY?**

4 A. Yes. Based upon my involvement in the project financing, I believe these
5 expenses are reasonable and necessary in order for WETT to timely secure funding
6 for its transmission project. Financing was necessary in order for WETT to construct
7 and operate the CREZ Projects, as ordered by the PUC. Obtaining funds at a low cost
8 keeps costs down and minimizes the utility's revenue requirement, which ultimately
9 benefits rate payers.

10 WETT's financing is limited to debt specific to the project and to WETT only;
11 there is no inter-company debt between WETT and its parent owners, Brookfield and
12 Grupo Isolux, or their affiliates. Nor does WETT plan or expect to incur any inter-
13 company debt with its parents in the future. Furthermore, the construction financing
14 that WETT obtained is not a shared credit facility between WETT and any Brookfield
15 or Grupo Isolux affiliate. Finally, WETT has not pledged, nor does WETT plan or
16 expect to pledge, any of its assets to any Brookfield or Grupo Isolux affiliate.

17 **VIII. SELF INSURANCE RESERVE**

18 **Q. IS WETT REQUIRED TO HAVE INSURANCE COVERAGE FOR ITS**
19 **TRANSMISSION ASSETS?**

20 A. Yes, it is. In order to obtain a construction loan, the lenders required that
21 WETT have insurance coverage on its transmission lines. That condition is found in
22 Appendix A, Section 1.h.(iii) of WETT's credit agreement. This excerpt from
23 WETT's credit agreement is included in Mr. Wilson's workpapers. It requires WETT

1 to have insurance coverage on its transmission lines at the “highest limit that is
2 commercially available and economically feasible, but in no event less than
3 \$10,000,000 per occurrence.” These requirements were from lenders experienced in
4 infrastructure financing and familiar with risks attendant to owning and operating
5 transmission assets; hence, the phrase in the condition that such coverage be
6 “commercially available.” Accordingly, if such coverage is not available under
7 commercially reasonable terms, WETT will have to use other methods to insure
8 against catastrophic losses.

9 **Q. DO YOU BELIEVE IT WOULD BE IRRESPONSIBLE FOR WETT TO**
10 **OPERATE ITS TRANSMISSION LINES WITHOUT INSURANCE**
11 **COVERAGE?**

12 A. Yes. Not only would it be irresponsible, it would violate the insurance
13 coverage condition of its credit agreement.

14 **Q. DID WETT SEEK TO OBTAIN INSURANCE IN THE COMMERCIAL**
15 **INSURANCE MARKET?**

16 A. Yes, it did. WETT engaged the services of USI, an independent insurance
17 broker, to obtain insurance quotes covering transmission assets. As a result of USI’s
18 efforts, it was able to get a quote for \$10,000,000 of coverage for one year. The
19 policy was for only one year, and there was no guarantee that it would be renewed in
20 subsequent years.

21 **Q. WHAT WAS THE QUOTE FOR SUCH COVERAGE?**

22 A. The quote was a premium of \$2,000,000 for one year of coverage.
23 Additionally, the policy had a \$2,500,000 deductible. Thus, at a minimum WETT

1 would be out of pocket \$2,000,000, and up to \$4,500,000 per year if including the full
2 amount of the deductible. The insurance quote is included in Mr. Wilson's
3 workpapers.

4 **Q. ARE YOU AWARE OF ANY ELECTRIC UTILITY IN TEXAS THAT**
5 **INSURES ITS TRANSMISSION ASSETS WITH COMMERCIAL**
6 **PROPERTY AND CASUALTY INSURANCE?**

7 A. No, I am not. I believe many utilities in Texas use the self insurance reserve
8 as provided in Section 36.064 of the Public Utility Regulatory Act and Section
9 25.231(b)(1)(G) of the Commission's Substantive Rules in order to provide
10 catastrophic loss coverage for their transmission assets.

11 **Q. WHAT AMOUNT DOES WETT CONSIDER TO BE A CATASTROPHIC**
12 **LOSS?**

13 A. WETT has set \$25,000 as the amount which constitutes a catastrophic loss.

14 **Q. HOW DOES THE SELF INSURANCE RESERVE OPERATE?**

15 A. The mechanics of how WETT's self insurance reserve operates is addressed in
16 more detail in the testimony of Mr. Wilson.

17 **IX. OPERATIONS EXPENSES**

18 **Q. WOULD YOU PLEASE DESCRIBE GENERALLY WHAT IS COVERED BY**
19 **"OPERATIONS" IN "OPERATIONS & MAINTENANCE"?**

20 A. "Operations" refers to the active management of the transmission system.
21 Among other things, operations includes monitoring flows on WETT's transmission
22 system to ensure facility capacity is not exceeded, and managing switching through
23 circuit breakers and other switchgear. This will require a primary operations center

1 manned by NERC-certified operators on a 24/7 basis. A backup operations center is
2 also required by NERC. WETT will be responsible for complying with NERC
3 operations requirements.

4 **Q. HOW IS WETT GOING TO PERFORM THE OPERATIONS FUNCTIONS**
5 **YOU JUST DESCRIBED?**

6 A. WETT is constructing its own primary control center and backup control
7 center in order to perform its transmission system operations functions.

8 **Q. HOW WILL WETT IN-HOUSE PERSONNEL MANAGE OPERATIONS**
9 **FUNCTIONS?**

10 A. The Operations and Planning Manager will be primarily responsible for
11 monitoring operations functions. Primarily, Operations consists of the day to day
12 management of the WETT system. This includes monitoring system status through
13 our operations center, controlling the system per ERCOT protocols and NERC
14 requirements, evaluating disturbances, and evaluating system protection status. As
15 mentioned in my testimony, WETT decided to perform this function internally.

16 **Q. HOW DID WETT DECIDE TO PERFORM ITS OWN OPERATION**
17 **FUNCTIONS AS OPPOSED TO OUTSOURCING THESE ACTIVITIES?**

18 A. WETT engaged two engineering firms through competitive bidding, KEMA,
19 Inc. ("KEMA") and Pike, to assist with this decision. For operations functions,
20 KEMA identified the requirements for sourcing and staffing an operations center, and
21 Pike helped WETT decide between building its own primary and/or backup control
22 center, using a third party's control center(s), or using a joint control center with
23 another transmission service provider. After evaluating several options, including

1 contracting out control center functions to third parties, Pike determined that though
2 control center costs are higher if WETT constructs its own primary and backup
3 control centers, owning and operating its own centers will enable WETT to best
4 monitor and control compliance with applicable regulations. Pike determined that if a
5 third party were used, WETT would have limited contractual ability to manage its
6 liability for NERC and other regulatory compliance, some of which involve
7 potentially high penalties for any failures to comply with standards. Given the
8 difficulty in contractually managing that risk, WETT chose to retain control of its
9 operations functions by operating its own facilities. Pike's analysis revealed that the
10 facilities would be more cost-effective both in terms of initial investment and ongoing
11 staffing costs if WETT retrofitted leased space in the Austin area rather than
12 constructing facilities on property it owns in West Texas. Thus, WETT elected to
13 install and operate its own, self-run control centers in leased space in Austin. These
14 self-run control centers will best enable WETT to monitor and manage its system in
15 accordance with applicable regulations.

16 **Q. ARE OPERATIONS EXPENSES INCLUDED IN WETT'S HISTORICAL**
17 **DATA?**

18 A. Some of the expenses such as salaries for operators and compliance staff and
19 expenditures were incurred during part of the historical year. Annualizing the salaries
20 constitute a known and measurable change to WETT's historical expenditures.

21 WETT's requested operations expenses are derived from known, necessary
22 hires. WETT has hired six of the seven necessary operations personnel as well as the
23 compliance analyst. WETT has calculated the costs of operating these control

1 centers, and submits them as known and measurable changes to its historical
2 expenditures.

3 To the extent that any of these operations expenses are not included as known
4 and measurable changes to WETT's historical year, WETT requests deferred
5 accounting, as discussed in Mr. Perlman's direct testimony.

6 **Q. PLEASE DESCRIBE WETT'S OPERATIONS EXPENSES.**

7 A. As I noted above, WETT is leasing, equipping, and staffing its own operations
8 and backup control centers. The costs of operating WETT's own operations center
9 and backup operations center are reasonable, and as explained above, WETT believes
10 it is better to directly manage its own control centers. The capital costs of equipping
11 the operations center and backup operations center to date are included in WETT's
12 rate base; the detail of the operations center and backup center costs was provided in
13 Section VII(C), above. In addition to capital and equipment costs, WETT will incur
14 salaries and other expenses of staffing and operating the control centers as well as
15 complying with NERC standard requirements. These expenses are \$953,035, as
16 reflected in Schedule II-D-1-CCN1-2 and CCN3 as part of WETT's rate filing
17 package. WETT has hired five operators, a supervisor and a compliance analyst and
18 is still seeking to hire an engineer in order to operate and help maintain its
19 transmission system. The salaries associated with these positions represent known
20 and measurable changes to WETT's historical year expenditures.

21 Accordingly, WETT's requested annual operations expenditures based on
22 known and measurable changes are \$953,035.

1 **Q. WETT HAS SAID ITS OPERATIONS EXPENSES ARE KNOWN AND**
2 **MEASURABLE. HOW WERE THOSE EXPENSES CALCULATED?**

3 A. WETT must incur certain expenses to operate its lines in accordance with
4 applicable standards. Thus, it developed detailed operations expenses based upon
5 known factors such as WETT's annualized lease expense for control center space, the
6 number of required operations employees, and the known costs of necessary software.
7 WETT calculated its operations payroll by annualizing the salaries of hired
8 employees and including the minimum salary for the known vacant operations
9 position. I believe WETT has calculated reasonably certain operations expenses
10 representative of the operations expenses WETT can expect to incur during the period
11 its rates are in effect.

12 **Q. IS WETT REQUESTING ALL ITS OPERATIONS EXPENSES BE**
13 **INCLUDED IN BASE RATES AT THIS TIME?**

14 A. Yes. WETT must have a primary and back-up control center and associated
15 staff to operate any transmission within ERCOT under NERC requirements,
16 regardless of how many miles of transmission facilities are in service. Though
17 WETT's operations expenses will eventually allow WETT to safely operate all
18 phases of its facilities, they are necessary now in order for Phase I to provide service
19 to the public. Because these facilities and staff are necessary to operate Phase I,
20 WETT is requesting that these expenses be included in its base rates in this
21 proceeding.