

PROJECT NO. 27826

RULEMAKING PROCEEDING TO	§	PUBLIC UTILITY COMMISSION
REQUIRE ANOTHER SET OF	§	OF TEXAS
TWO-YEAR STRIPS UNDER THE	§	
CAPACITY AUCTION RULE,	§	
§25.381	§	

**ORDER ADOPTING §25.381, CAPACITY AUCTIONS,
AS APPROVED AT THE JULY 10, 2003 OPEN MEETING**

The Public Utility Commission of Texas (commission) adopts an amendment to §25.381, relating to Capacity Auctions, with changes to the proposed text as published in the June 6, 2003 issue of the *Texas Register* (28 TexReg 4389). Pursuant to §25.381(h)(3)(B)(vi), the commission was required to make an evaluation in June of 2003 as to whether to require affiliated power generation companies (PGCs) to continue to sell two-year strips of capacity (the 24 months of 2004 through 2005), in addition to the other capacity entitlements that are auctioned. Furthermore, under the same provision, if the commission were to deem that another term of two-year strips is not necessary, then subsequent auctions are to auction 50% of entitlements over one-year strips and 50% of the entitlements as discrete months. In its June 6, 2003 proposal, the commission proposed to require that two-year strips be sold in 2003. Because of timing concerns about the effective date of the proposed rule, the commission also proposed delaying the September 2003 auction until October 2003. This amendment is adopted under Project Number 27826.

Based upon comments received in response to the June 6, 2003 proposal, the commission has determined that another set of two-year strips is not necessary. Therefore, the commission is amending §25.381 to require that in September, 2003, one-year strips be auctioned for the 12

months of 2004. Furthermore, the commission will not be changing the auction date as originally proposed on June 6, 2003. Instead, affiliated PGC's will be required to provide the 60-day notice as required in §25.381(h)(2)(B)(i) and include a reference to Project Number 27826 and a statement that the products to be auctioned in the September 2003 auction will not be fully known until after the commission finalizes Project Number 27826. Within five days after this rule amendment becomes effective, affiliated PGC's will be required to revise their notice, with sufficient explanation, to accurately reflect the products to be auctioned. Other language has also been changed to make the rule consistent with the above mentioned changes. Specifically, pursuant to §25.381(h)(3)(B)(iii), the auction in September of a year will auction (1) approximately 50% of the entitlements as the one-year strips for the next year and (2) approximately 20% of the entitlements as discrete months for each of the 12 calendar months of the next year. (Under a provision of the rule that is not being changed, approximately 30% of the entitlements are being auctioned in discrete four-month blocks).

The commission received comments on the proposed amendment from AEP Texas Central Company and AEP Texas North Company (collectively, AEP PGCs), Reliant Resources, Inc. (RRI), Texas Genco, and TXU Generation Company LP (TXU). RRI and Texas Genco supported the two-year strip requirement, while the AEP PGCs and TXU favored one-year strips for reasons that will be summarized in detail below.

§25.381(h)(1)(A)(i) - Auction dates.

The AEP PGCs commented that they supported the postponement of the auction, and stated that if the auction were to be held on September 10, 2003, then the 60th day prior to that date is July 11, 2003. As the commission is scheduled to consider this amendment at the July 10, 2003 Open Meeting, this would not allow enough time to react to the commission's decision, regardless of the substantive outcome, and meet the 60-day notice requirement of the rule.

Texas Genco commented that it would prefer to not delay the starting date of the September 2003 auction. Texas Genco stated that it believes that a better solution is to shorten the notice requirements for the September 2003 auction. Texas Genco stated that the Electric Reliability Council of Texas (ERCOT) market participants have been involved in six previous commission capacity auctions and are familiar with the procedures. Texas Genco commented that the uncertainty concerning the September 2003 auction is very minor and that the proposed delay is undesirable because it delays the ability of market participants to lock in their supplies (or revenue streams). Texas Genco proposed that the September 10, 2003 auction date remain intact and that the notice required under §25.381(h)(2)(B)(i) be filed on July 28, 2003, which is 44 days before the auction and 18 days after the July 10, 2003 Open Meeting. As an alternative, Texas Genco suggested that the currently-required 60-day notice could be filed on July 11, 2003, with language included to identify Project Number 27826 and a statement that a revised notice will be filed after the commission acts on this proposal.

RRI commented that there is no reason to delay the September 10, 2003 auction until October. RRI stated that the delay only serves to compress the timelines on which retail entities must act

to secure future supply. RRI suggested that §25.381(h)(2)(B)(i) be modified to allow a 40-day notice to be applicable to the September auction, instead of the currently required 60-day notice.

Commission response

The commission agrees with Texas Genco and RRI that delaying the September 10, 2003 capacity auction until October is not necessary. This is an issue of timing. The current rule requires 60-day notice before the auction. As illustrated by the AEP PGCs, Texas Genco, and RRI, a 60-day notice requirement is not practical given the September 10, 2003 auction date. There are two ways to resolve this timing problem: (1) delay the auction, or (2) alter the notice requirement.

The commission agrees with Texas Genco's alternative proposal. The appropriate method of resolving the timing problem is to: (1) hold the auction on September 10, 2003 as originally scheduled; (2) require the affiliated PGC's to provide the 60-day notice as required in §25.381(h)(2)(B)(i) to include a reference to Project Number 27826 and a statement that the products to be auctioned in the September 2003 auction will not be fully known until after the commission finalizes Project Number 27826; and, (3) within five days after the rule amendment has become effective, the affiliated PGC's will be required to revise their notice, with sufficient explanation, to accurately reflect the products to be auctioned.

The commission rejects the proposal set forth by Texas Genco and RRI of simply shortening the 60-day notice requirement. As a rule amendment does not become effective until 20-days after it is received by the Secretary of State, the affiliated PGC's would not be in compliance with the rule that is currently in effect and would, instead, be publishing notice based on a rule amendment which has not yet become effective. Requiring that the affiliated PGC's provide a revised notice after the rule amendment has become effective to accurately reflect the products to be auctioned will address the timing concerns of the AEP PGCs, as well as alleviate the issues expressed by Texas Genco and RRI concerning the need of buyers to secure their future power supplies in a timely fashion. The proposed rule language in §25.381(h)(1)(A)(i) and §25.381(h)(2)(B)(i) has been modified to reflect this decision.

§25.381(h)(3) - Term of auctioned capacity.

RRI and Texas Genco stated that they supported the two-year strip requirement of the proposed rule. In addition, RRI commented that it felt that auctioning capacity for a two-year period would give more supply options to retailers as a means to manage their supply needs.

The AEP PGCs commented that they do not support the addition of a two-year strip to the auction. The AEP PGCs stated that the power market is in a time of rapid change. They noted that one of the key changes is in the creditworthiness of buyers and sellers. The AEP PGCs stated that they believe that two-year products have a high-level of risk, and that there could potentially be few, if any, buyers in the market for a two-year strip. The AEP PGCs further

noted that the demand for long-term products could be limited due to the abundance of capacity in the ERCOT market and the fact that the ERCOT Congestion Zones may change over the two-year term. This uncertainty would be taken into account when valuing the two-year products and buyers may either discount their bids for the two-year strips, or purchase shorter-term power.

The comments of TXU largely expressed the same views as the AEP PGCs. TXU added that tying up two years of capacity with sales to the current ERCOT participants would actually reduce liquidity in the wholesale market by reducing the generation available for parties that enter the market between the 2003 and 2004 Capacity Auction. TXU commented that because of the severe credit issues facing the power industry, many parties will be reluctant to take on long-term obligations, such as a two-year strip of capacity. This would result in fewer bidders for the two-year strips and clearing prices that are well below the competitive prices received from the sale of shorter-term products. TXU stated that this would artificially distort the ERCOT wholesale market.

Commission response

While the commission agrees with RRI that a two-year product would give more supply options to retailers to manage their supply needs, the commission finds the arguments of TXU and the AEP PGCs persuasive in that credit issues are now a key concern in the power market and, thus, potential buyers may be hesitant to take on a long-term obligation, such as a two-year strip of capacity. The commission agrees that the price of a two-year strip could potentially be below a

true "market" price and could, therefore, artificially distort the ERCOT wholesale market. The commission finds that, at this time, one-year strips are preferable to two-year strips in the September 2003 capacity auction, and has modified the language in the proposed §25.381(h)(3)(B)(iii) accordingly.

This amendment is adopted under the Public Utility Regulatory Act, Texas Utilities Code Annotated §14.002 (Vernon 1998, Supplement 2003) (PURA) which provides the commission with the authority to make and enforce rules reasonably required in the exercise of its powers and jurisdiction. The commission also proposes this amendment pursuant to PURA §39.153, which grants the commission authority to establish rules that define the scope of the capacity entitlements to be auctioned, and the procedures for the auctions.

Cross Reference to Statutes: Public Utility Regulatory Act §§14.002, 31.002, and 39.153, 39.201, and 39.262.

§25.381. Capacity Auctions.

- (a) **Applicability.** This section applies to all affiliated power generation companies (PGCs) as defined in this section in Texas. This section does not apply to electric utilities subject to the Public Utility Regulatory Act (PURA) §39.102(c) until the end of the utility's rate freeze. It is recognized that certain commission orders issued during 2001 have effectively delayed competition in the service territories of Southwestern Electric Power Company (SWEPCO) and Entergy Gulf States, Inc. (EGSI). This section shall apply to auctions conducted after 2001 by SWEPCO and/or EGSI only when competition is implemented in their respective service territories.
- (b) **Purpose.** The purpose of this section is to promote competitiveness in the wholesale market through increased availability of generation and increased liquidity by requiring electric utilities and their affiliated PGCs to sell at auction entitlements to at least 15% of the affiliated PGC's Texas jurisdictional installed generation capacity, describing the form of products required to be auctioned, prescribing the auction process, and prescribing a true-up procedure, in accordance with PURA §39.262(d)(2).
- (c) **Definitions.** The following words and terms, when used in this section, shall have the following meanings, unless the context indicates otherwise:

- (1) **Affiliated power generation company (PGC)** — Any affiliated power generation company that is unbundled from the electric utility in accordance with PURA §39.051.
- (2) **Assigned units** — The PGC-specific generating units that form the block of capacity from which an entitlement is sold.
- (3) **Auction start date** — The date on which an auction begins.
- (4) **Business day** — Any day on which the affiliated PGC's corporate offices are open for business and that is not a banking holiday.
- (5) **Capacity auction product** — One of the following: "baseload", "gas-intermediate", "gas-cyclic", or "gas-peaking". Each capacity auction product is further described in subsections (f) and (g) of this section.
- (6) **Close of business** — 5:00 p.m., central prevailing time.
- (7) **Congestion zone** — An area of the transmission network that is bounded by commercially significant transmission constraints or otherwise identified as a zone that is subject to transmission constraints, as defined by an independent organization.
- (8) **Credit rating** — A credit rating on an entity's senior unsecured debt, the entity's corporate credit rating, or the entity's issuer rating.
- (9) **Daily gas price** — The index posting for the date of flow in the Financial Times energy publication "Gas Daily" under the heading "Daily Price Survey" for East-Houston-Katy, Houston Ship Channel. For EGSI gas entitlements in the eastern congestion zone, the daily gas price will utilize the "Gas Daily" index posting for

Henry Hub. For EGSI gas entitlements in the western congestion zone, the daily gas price will be an average of the "Gas Daily" index posting for East-Houston-Katy, Houston Ship Channel.

- (10) **Day-ahead** — The day preceding the operating day.
- (11) **Entitlement or capacity entitlement** — The right to purchase and receive, under the applicable capacity auction master agreement, a block of 25 megawatts (MW) of electrical capacity and energy from the assigned units for a specific capacity auction product for one calendar month.
- (12) **Forced outage** — An unplanned component failure or other condition that requires the unit be removed from service before the end of the next weekend.
- (13) **Holder** — A person or entity that has acquired ownership of an entitlement under the terms of the applicable capacity auction Master Agreement.
- (14) **Installed generation capacity** — All potentially marketable electric generation capacity owned by an affiliated PGC, including the capacity of:
 - (A) Generating facilities that are connected with a transmission or distribution system;
 - (B) Generating facilities used to generate electricity for consumption by the person owning or controlling the facility; and
 - (C) Generating facilities that will be connected with a transmission or distribution system and operating within 12 months.
- (15) **Master Agreement or Agreement** — The applicable Capacity Auction EEI/NEMA Master Power Purchase & Sale Agreement.

- (16) **Starts** — Direction by the holder of an entitlement to dispatch a previously idle entitlement.
- (17) **Texas jurisdictional installed generation capacity** — The amount of an affiliated PGC's installed generation capacity properly allocable to the Texas jurisdiction. Such allocation shall be calculated pursuant to an existing commission-approved allocation study, or other such commission-approved methodology, and may be adjusted as approved by the commission to reflect the effects of divestiture or the installation of new generation facilities.
- (d) **General requirements.** Subject to the qualifications for auction entitlements and the auction process described in subsections (e) and (h) of this section, each affiliated PGC subject to this section shall sell at auction capacity entitlements equal to at least 15% of the affiliated PGC's Texas jurisdictional installed generation capacity. Divestiture of a portion of an affiliated PGC's Texas jurisdictional installed generation capacity will be counted toward satisfaction of the affiliated PGC's capacity auction requirement only if the divestiture is made pursuant to a commission order in a business combination proceeding pursuant to PURA §14.101, and after the transfer of the assets and operations to a third party.
- (e) **Product types and characteristics.**
- (1) **Available entitlements and amounts.** The following products, defined separately in subsection (f) of this section for Electric Reliability Council of

Texas, Inc. (ERCOT) and in subsection (g) of this section for non-ERCOT areas, shall be auctioned as capacity entitlements under subsection (d) of this section. Upon showing of good cause by the affiliated PGC and approval by the commission, an affiliated PGC may propose to auction entitlements different from those described in this section, including unit-specific capacity. Each affiliated PGC shall auction an amount of each applicable product in proportion to the amount of Texas jurisdictional installed generating capacity on the affiliated PGC's system that are the respective type of generating units. An affiliated PGC that owns generation in multiple congestion zones shall auction entitlements for delivery in each congestion zone. The amount of each product auctioned in each zone shall be in proportion to the amount of the respective type of generating units located in that zone, but the total shall not be less than 15% of the affiliated PGC's Texas jurisdictional installed generation capacity. The available entitlements for the months of March, April, May, October, and November of each year may be reduced in proportion to the average annual planned outage rate for the group of generating units associated with each type of entitlement. Entitlements shall be for system capacity.

- (2) **Forced outages.** For any given congestion zone:
 - (A) For all entitlements except those described in subparagraph (B) of this paragraph, if all units providing capacity to an entitlement product experience a forced outage or an emergency condition prevents or restricts the ability of an affiliated PGC to dispatch a particular entitlement

product, the entitlements of that product may be reduced in proportion to the percentage reduction in capacity of the units assigned to that entitlement; provided that such reductions in availability of any single entitlement do not exceed 2.0% of the total monthly energy available from the entitlement.

- (B) For entitlements that are supported by two or fewer generating units, if one or more of the units providing capacity to an entitlement product experiences a forced outage or an emergency condition that prevents or restricts the ability of an affiliated PGC to dispatch a particular entitlement product, the entitlements of that product may be reduced in proportion to the percentage reduction in capacity of the units assigned to that entitlement; provided that such reductions in availability of any single entitlement do not exceed the most recent three-year rolling average of the forced outage rate for the unit(s) supporting the entitlement. The three-year rolling average of the forced outage rate applicable to entitlements under this subparagraph shall be included in the notice of capacity available for auction, under subsection (h)(2)(B)(ii)(II) of this section.
- (C) Notification of any such reductions will take place as soon as possible, but in any event, at least one hour prior to the hour-ahead scheduling period applicable to when the reduction is to take place.
- (3) **Planned outage.** The total MW reduction for planned outages is determined by calculating the average MW of monthly planned outage for the generating plants

associated with a product over the previous three calendar years, multiplied by 12. The resulting planned outage hours are then rounded down to the nearest whole entitlement (25 MW block). These "outage entitlements" can then be removed from any of the five specified outage months (March, April, May, October, and November) in any combination.

- (4) **Generation units offered.** If an affiliated PGC changes the assignment of a power generation unit to one of the four available product entitlements (baseload, gas-intermediate, gas-cyclic, or gas-peaking), then the affiliated PGC shall file with the commission the proposed changes in its assignment of each of its power generation units to one of the four available product entitlements and the resulting amount of each type of entitlement to be auctioned. As part of this filing, the affiliated PGC shall provide planned outage histories for the years 1998, 1999, and 2000 for each generating unit to be used to calculate the average annual planned outage rate for each group of generating units. Interested parties shall have 30 days in which to provide comments on the affiliated PGC's proposed changed assignments. If no comments are received, the affiliated PGC's proposed assignment shall be deemed appropriate. If any party objects to the affiliated PGC's proposed assignments, then the commission shall determine the appropriate assignment considering the manner in which the affiliated PGC expects to use such generation units.
- (5) **Obligations of affiliated PGC.** The affiliated PGC shall dispatch entitlements only as directed by the holder of the entitlement in accordance with the applicable

product description. The affiliated PGC may not refuse to dispatch the entitlement and may not curtail the dispatch of an entitlement unless expressly authorized by this section or by the applicable Master Agreement, or unless directed to do so by the independent organization in order to alleviate a system emergency. The affiliated PGC shall specify in its notice provided pursuant to subsection (h)(2)(B) of this section the point on the transmission system where energy from each entitlement is delivered to the entitlement holder.

(6) Entitlement holder receives no possessory interest or obligations.

(A) No possessory interest. The entitlements sold at auction shall include no possessory interest in the unit or units from which the power is produced.

(B) No possessory obligations. The entitlements sold at auction shall include no obligation of a possessory owner of an interest in the unit or units from which the power is produced.

(C) Scheduling. The entitlement holder shall have the right to designate the dispatch of the entitlement, subject to other provisions of this subsection and the scheduling limitations provided for in the applicable Agreement.

(7) Credit requirements.

(A) Standards. Entities submitting bids and all entitlement holders shall satisfy one of the following credit standards:

(i) The entity holds an investment grade credit rating (BBB- or Baa3 from Standard and Poor's or Moody's respectively or an equivalent);

- (ii) The entity provides an escrowed deposit equal to the capacity price for the shorter of the duration of the entitlement or three months plus the amount that would be paid to exercise the entitlement for the shorter of the duration of the entitlement or three months at the assumed dispatch provided in either subsection (h)(6)(A)(iii) or subsection (h)(6)(C)(vi) of this section;
 - (iii) The entity provides a letter of credit or surety bond equal to the capacity price for the shorter of the duration of the entitlement or three months plus the amount that would be paid to exercise the entitlement for the shorter of the duration of the entitlement or three-months at the assumed dispatch provided in either subsection (h)(6)(A)(iii) or subsection (h)(6)(C)(vi) of this section, irrevocable for the duration of the entitlement;
 - (iv) The entity provides a guaranty from another entity with an investment grade credit rating; or
 - (v) The entity makes other suitable arrangements with the affiliated PGC, provided that the affiliated PGC makes such arrangements available on a non-discriminatory basis.
- (B) Unsecured credit. To be eligible for unsecured credit, entities submitting bids shall satisfy the criteria in either clause (i), (ii), or (iii) of this subparagraph, with the amount of unsecured credit to be provided to such entities to be determined as follows:

- (i) For bidders with an investment grade credit rating. The amount of credit available to a bidder relying on an investment grade credit rating of itself or its guarantor will be determined according to procedures set out below. If the bidding entity or its guarantor has an investment grade credit rating and minimum equity of \$100 million, the amount of credit available will be determined using the lesser of \$125 million, or the applicable percentage of the bidder's stockholder equity set out in the following table, except that the amount of credit will be reduced to the extent appropriate to take into account any outstanding commitments that a bidder has for existing capacity auction entitlements.

Credit Rating (if split ratings, use lower rating)		% of stockholder equity
S&P	Moody's	
AAA	Aaa2	3.00%
AAA-	Aaa3	3.00%
AA+	Aa1	2.95%
AA	Aa2	2.85%
AA-	Aa3	2.70%
A+	A1	2.55%
A	A2	2.35%
A-	A3	2.10%
BBB+	Baa1	1.80%
BBB	Baa2	1.40%
BBB-	Baa3	0.70%
Below BBB-	Below Baa3	Must use another form of security

- (ii) If the bidder is a municipality or cooperative not publicly rated. If the bidder is a municipality or electric cooperative that is not

publicly rated but has a minimum equity (patronage capital) of \$25 million, a minimum times-interest-earned ratio (TIER) of 1.05, a minimum debt service coverage (DSC) ratio of 1.00, and a minimum equity-to-assets ratio of 0.15, then the amount of credit will be the lesser of \$125 million or 5.0% of the bidder's unencumbered assets, except that the amount of credit will be reduced to the extent appropriate to take into account any outstanding commitments that a bidder has for existing capacity auction entitlements.

- (iii) If the bidder is a privately-held entity not publicly rated. If the bidder is a privately-held entity that is not publicly rated, but has a minimum equity of \$100 million, a minimum tangible net worth of \$100 million, a minimum current ratio of 1.0, a maximum debt-to-capital ratio of 0.60, and a minimum ratio of earnings before interest, taxes, depreciation, and amortization (EBITDA) to interest and current maturities of long term debt (CMLTD) of 2.0, then the amount of credit will be the lesser of \$125 million or 1.80% of the bidder's stockholder equity, except that the amount of credit will be reduced to the extent appropriate to take into account any outstanding commitments that a bidder has for existing capacity auction entitlements.

- (C) All cash and other instruments used as credit security shall be unencumbered by pledges for collateral.
- (D) If a bidder or entitlement holder chooses to use a surety bond to satisfy its credit requirements, then the form of such surety bond will be negotiated in good faith between the bidder or entitlement holder and the affiliated PGC and reasonably acceptable by an issuer of surety bonds.
- (E) In the event the holder of the entitlement initially relied on its investment grade credit rating but subsequently loses it during the entitlement period, the holder of the entitlement shall provide alternative financial evidence within three business days.
- (F) The holder of the entitlement shall notify the affiliated PGC of any material changes that impact its compliance with the financial requirements it relied on in meeting the credit standards in this section.
- (G) In the event the holder or seller of the entitlement fails to meet or continue to meet its security requirement, or an Event of Default results in the termination of the Agreement, the entitlement shall revert to the affiliated PGC and shall be auctioned in the next auction for which notice can be provided of the sale of the entitlement pursuant to subsection (h)(2)(B) of this section.
- (H) If an entitlement holder's creditworthiness or financial security materially and adversely changes after the auction is completed, as a result of an event specified in the Agreement, the affiliated PGC shall provide the

entitlement holder with written notice requesting additional credit support or performance assurance in a commercially reasonable manner, as set forth in the Agreement. The seller's credit requirements shall clearly identify objective criteria that would trigger a request for additional security and the methods and time frame in which an entitlement holder must satisfy such a request. The affiliated PGC may suspend delivery of any capacity or energy for which the affiliated PGC has not already received payment until the performance assurance is received, in accordance with the Agreement.

- (I) If at any time after the auction is completed, there shall occur a downgrade event with respect to the credit standing of the seller, then the entitlement holder may require the seller to provide a credit assurance in an amount determined by the entitlement holder in a commercially reasonable manner. In the event the seller fails to provide a commercially reasonable performance assurance or guarantee within three business days of the receipt of notice, then an event of default shall be deemed to have occurred, and the entitlement holder will be entitled to suspend performance under the Agreement and withhold payments for energy not yet delivered, and may ultimately terminate the Agreement after the suspension period as prescribed in the Agreement.

(f) **Product descriptions for capacity auctions in ERCOT.** The provisions in this subsection apply to capacity auctions in ERCOT. Subsection (g) of this section contains provisions applicable to capacity auctions in non-ERCOT areas.

(1) **Definitions.**

(A) The following words and terms, when used in this subsection shall have the following meanings, unless the context indicates otherwise.

- (i) Balancing energy service down deployed — The number of megawatt-hours (MWh) of balancing energy service down deployed by ERCOT from an entitlement.
- (ii) Balancing energy service up deployed — The number of MWh of balancing energy service up deployed by ERCOT from an entitlement.
- (iii) Daily capacity commitment — The amount of capacity scheduled by an entitlement holder that an affiliated PGC must make available from an entitlement for the provision of energy or permitted ancillary services for an operating day from an entitlement.
- (iv) Day-ahead schedule — A schedule submitted by an entitlement holder to an affiliated PGC of the entitlement holder's scheduled usage of the entitlement for the following operating day.
- (v) Default qualifying scheduling entity (QSE) — The QSE that is designated by the entitlement holder to ERCOT as its default QSE.

- (vi) Energy scheduled — The final schedule for energy, for each settlement interval, that an entitlement holder submits to an affiliated PGC, subject to the limits on timing and amounts of schedules contained in the capacity auction product descriptions.
- (vii) Energy deployed down — The sum of regulation energy down energy deployed and balancing energy service down energy deployed.
- (viii) Energy deployed up — The sum of regulation energy up energy deployed, responsive energy deployed, non-spinning energy deployed, and balancing energy service up energy deployed.
- (ix) Grouped entitlements — All of the entitlements from an affiliated PGC that an entitlement holder holds for a particular entitlement month.
- (x) Grouped ancillary services — The amount of each type of ancillary service available from each entitlement grouped by:
 - (I) Type of ancillary service;
 - (II) Type of capacity auction product; and
 - (III) Congestion zone for those ancillary services that are, or may be, dispatched by congestion zone.
- (xi) Hour-ahead schedule — A schedule other than a day-ahead schedule submitted by an entitlement holder to an affiliated PGC no later than one hour before the end of an adjustment period of

the entitlement holder's scheduled use of the entitlement for the operating hour corresponding to that adjustment period.

- (xii) Non-spinning energy deployed — Energy deployed by ERCOT from the non-spinning reserve service as determined under the procedures in paragraph (2)(B) of this subsection.
- (xiii) Product — Electric capacity, energy, capacity auction products or other product(s) related thereto as specified in a transaction by reference to a product listed in the Agreement or as otherwise specified by the parties in a transaction.
- (xiv) Regulation energy down deployed — Energy deployed down by ERCOT from the regulation energy service as determined under the procedures of paragraph (2)(B) of this subsection.
- (xv) Regulation energy up deployed — Energy deployed up by ERCOT from the regulation service as determined under the procedures of paragraph (2)(B) of this subsection.
- (xvi) Responsive energy deployed — Energy deployed by ERCOT from the responsive reserve service as determined under the procedures of paragraph (2)(B) of this subsection.
- (xvii) Two-day-ahead schedule — A schedule submitted by the entitlement holder to the affiliated PGC of the entitlement holder's scheduled usage of the entitlement for the operating day two days in the future.

(B) The following terms have the respective meanings given to them in the ERCOT protocols as amended from time to time:

- (i) Ancillary services;
- (ii) Balancing energy service;
- (iii) Congestion zone;
- (iv) Non-spinning reserve service;
- (v) Operating day;
- (vi) Operating hour;
- (vii) Regulation service;
- (viii) Responsive reserve service;
- (ix) Settlement interval; and
- (x) Zonal market clearing price.

(2) **General provisions.**

(A) Responsibility transfers.

- (i) The entitlement holder may not use an entitlement for the provision of balancing energy service until a responsibility transfer (RT) between the entitlement holder's QSE and the affiliated PGC's QSE is established and operated in accordance with the ERCOT protocols for the deployment of balancing energy service. The entitlement holder shall establish a separate RT with the affiliated PGC for each congestion zone from which the entitlement holder desires to provide balancing energy service.

- (ii) When ERCOT has developed the details and specifications of RTs between QSEs, including without limitation, mechanics, settlement, and communication, then, at the request of the entitlement holder, the parties shall negotiate in good faith to transfer responsibility between their respective QSEs to:
 - (I) Allow the entitlement holder to provide balancing energy service from the entitlement; and
 - (II) Allocate the cost of establishing that capability.
- (iii) The entitlement holder's QSE shall act as the controller of RTs used for balancing energy service from an entitlement. The entitlement holder's QSE shall use RTs to provide instructions regarding balancing energy service to the affiliated PGC's QSE. These instructions shall comply with all the limitations in the applicable capacity auction product description.
- (iv) Both the entitlement holder's QSE and the affiliated PGC's QSE shall enter an inter-QSE trade in accordance with the ERCOT protocols to represent an RT before any operating hour in which the entitlement holder deploys balancing energy service from an entitlement.
- (v) The affiliated PGC's QSE is only responsible for complying with RTs sent by the entitlement holder's QSE and is not responsible for ERCOT instructions sent to the entitlement holder.

- (vi) The affiliated PGC and the entitlement holder shall rely upon any integration of the RT over each settlement interval performed by ERCOT. If ERCOT does not perform that integration, then the integration shall be performed in a manner mutually agreed to by both parties.
 - (vii) The entitlement holder is deemed not to have provided any balancing energy service from an entitlement if the affiliated PGC loses or does not receive the balancing energy service signal from ERCOT. The affiliated PGC will promptly notify the entitlement holder if it does not receive or loses the balancing energy service signal from ERCOT.
- (B) Deployment of energy from ancillary services. Subject to the limitations and conditions set out in this subsection, and except when the affiliated PGC is excused from hierarchical dispatch by ERCOT of ancillary services under clause (i) or (v) of this subparagraph, ERCOT shall be deemed to have dispatched ancillary services from the entitlements in the entitlement group in a hierarchical order according to the requirements of this subsection. Otherwise, ancillary services shall be dispatched for each entitlement in an entitlement group independently.
- (i) Notice of grouped entitlements. Not later than five days before the beginning of an entitlement month, the entitlement holder shall notify the affiliated PGC of all entitlements from the affiliated

PGC that are held by the entitlement holder for that entitlement month. The list shall contain sufficient detail for the affiliated PGC to identify the entitlements held by the entitlement holder for that month, including without limitation any unique entitlement number assigned by the affiliated PGC to the entitlement and listed on the letter confirmation for the entitlement. If the affiliated PGC does not timely receive this notice, then the affiliated PGC is excused from its obligation to dispatch ancillary services on a hierarchical basis under this section.

- (ii) Amount of ancillary services scheduled from entitlements.
 - (I) The affiliated PGC shall track the amount of each ancillary service for each operating hour and the amount of each ancillary service scheduled by the entitlement holder for each operating hour, both for individual entitlements and for each grouped entitlement.
 - (II) For ancillary services other than the balancing energy service, which is determined by an RT, the amount of ancillary service scheduled from each entitlement and for each grouped entitlement for an operating hour is the amount stated in the final timely schedule submitted by the entitlement holder to the affiliated PGC for that operating hour for each entitlement or the entitlement group.

- (iii) Deployed ancillary services.
 - (I) For balancing energy service, the amount of energy that ERCOT is deemed to have deployed is determined by the integration described in subparagraph (A) of this paragraph.
 - (II) For all ancillary services other than balancing energy service, the affiliated PGC shall track the deployment of ancillary services from the entitlement group by each grouped ancillary service for each hour in the entitlement month, except for hours in which the affiliated PGC is excused from dispatching ancillary services on a hierarchical basis under clause (i) or (v) of this subparagraph. The total amount of each grouped ancillary service deployed in an hour shall be calculated by the product of:
 - (-a-) The ratio of the amount of the grouped ancillary service scheduled by the entitlement holder from its grouped entitlements to the total amount of that specific ancillary service scheduled from resources in the affiliated PGC's QSE;

- (-b-) The amount of energy deployed out of that grouped ancillary service in a particular congestion zone or in ERCOT as a whole, whichever is applicable.
 - (III) For all ancillary services other than balancing energy service, the amount of each ancillary service that ERCOT is deemed to have deployed from each entitlement, for hours in which the affiliated PGC is excused from dispatching ancillary services on a hierarchical basis under clause (i) or (v) of this subparagraph, shall be calculated by the product of:
 - (-a-) The ratio of the amount of that ancillary service scheduled by the entitlement holder from the entitlement to the total amount of that specific ancillary service scheduled from resources in the affiliated PGC's QSE;
 - (-b-) The amount of energy deployed by ERCOT out of that ancillary service in a particular congestion zone or in ERCOT as a whole, whichever is applicable.
 - (iv) Hierarchical deployment of grouped ancillary services.
 - (I) For determination of the contract price for each entitlement in a grouped entitlement, ERCOT is deemed to have first deployed grouped ancillary services that are deployed by

congestion zone pursuant to subclause (III) of this clause with the amount for each entitlement spread proportionally among the entitlement holder's entitlements of that type in that congestion zone.

(II) After deploying grouped ancillary services by congestion zone pursuant to subclause (I) of this clause, ERCOT is deemed to have deployed the remainder of each grouped ancillary service pursuant to subclause (III) of this clause, with the amount for each type of entitlement spread proportionally among the entitlement holder's entitlements of that type in ERCOT.

(III) Deployed energy shall be assigned to the entitlement holder's entitlements that scheduled those ancillary services on a hierarchical basis as follows:

(-a-) For incremental deployments:

(-1-) First: Baseload entitlements, with the highest priority given to the Baseload entitlements with the lowest energy price;

(-2-) Second: Gas-intermediate entitlements;

(-3-) Third: Gas-cyclic entitlements; and

(-4-) Fourth: Gas-peaking entitlements.

(-b-) For decremental deployments:

- (-1-) First: Gas-peaking entitlements;
 - (-2-) Second: Gas-cyclic entitlements;
 - (-3-) Third: Gas-intermediate entitlements; and
 - (-4-) Fourth: Baseload entitlements, with the highest priority given to the Baseload entitlements with the highest energy price.
 - (v) Exception to dispatching on hierarchical basis. The affiliated PGC is not required to dispatch ancillary services from the entitlement group on a hierarchical basis if the affiliated PGC does not have the information necessary to dispatch ancillary services from the entitlement group in a hierarchical fashion. Necessary information includes, but is not limited to, the signal from ERCOT deploying balancing energy service or the signal from ERCOT deploying other ancillary services.
- (3) **Baseload product.**
 - (A) Baseload scheduling.
 - (i) Schedule types. The entitlement holder shall submit a day-ahead schedule for the entitlement. The entitlement holder shall submit a two-day-ahead schedule for the entitlement if notified to do so by ERCOT.
 - (ii) Timing of scheduling. All of the times for scheduling referred to in this subparagraph are based on the times in the ERCOT

protocols. If the times in the ERCOT protocols are changed, then the times in this subparagraph will be considered to have changed to equitably accommodate the changes in the ERCOT protocols.

- (I) The entitlement holder shall submit day-ahead or two-day-ahead schedules for the entitlement to the affiliated PGC no later than 8:00 a.m. The entitlement holder shall submit hour-ahead schedules for ancillary services from the entitlement to the affiliated PGC no later than one hour before the deadline for the affiliated PGC's QSE to submit hour-ahead schedules to ERCOT.
- (II) On days that ERCOT allows QSEs to change their day-ahead or two-day-ahead schedules to ERCOT by 1:00 p.m. for congestion or capacity insufficiency, the entitlement holder may submit a revised day-ahead or two-day-ahead schedule for energy from the entitlement to the affiliated PGC no later than noon.
- (III) The entitlement holder may submit to the affiliated PGC a revised day-ahead or two-day-ahead schedule for the non-spinning reserve ancillary services from the entitlement no later than 1:45 p.m. The entitlement holder cannot change the amount of energy scheduled in a revised schedule for the non-spinning reserve ancillary services.

- (IV) No hour-ahead schedules are permitted for energy from baseload entitlements. Hour-ahead schedules are permitted for ancillary services from baseload entitlements.
- (iii) Schedule content. Each schedule shall specify, for each settlement interval, the MW of energy scheduled to be delivered to the entitlement holder from the entitlement and the MW of each permitted ancillary service to be scheduled from the entitlement, subject to the scheduling limits in clause (iv) of this subparagraph.
- (iv) Scheduling limits.
- (I) Minimum energy. The entitlement holder may not schedule energy at less than 20 MW from the entitlement at any time during the month.
- (II) Ancillary services. The entitlement holder may use a baseload entitlement to provide responsive reserve service at a level of one MW, and non-spinning reserve service, up to a combined total of three MW. The baseload entitlement may not be used for any other ancillary service. Non-spinning reserve service may be provided from the entitlement in 30 minutes, and responsive reserve service may be provided from the entitlement in ten minutes.
- (III) Maximum changes. Subject to the minimum energy rate specified in subclause (I) of this clause, the rate at which

the entitlement holder schedules energy in each hour generally cannot change more than plus or minus two MW.

The following additional restrictions apply.

- (-a-) If the entitlement holder schedules or reserves any ancillary services in an hour, then the level of energy scheduled shall be the same in each settlement interval of the hour.
 - (-b-) The maximum change in ancillary services scheduled from the first settlement interval in one hour to the first settlement interval of the next hour is plus or minus three MW.
 - (-c-) The maximum change in energy scheduled from the first settlement interval in one hour to the first settlement interval in the next hour is plus or minus two MW.
 - (-d-) The maximum change in energy scheduled from one settlement interval to the next is plus or minus one MW.
- (IV) Starts. The entitlement holder shall schedule energy from a baseload entitlement for every settlement interval and may not direct any starts of the entitlement.

- (V) Default schedule. If the entitlement holder does not submit a timely day-ahead or two-day ahead schedule, as applicable, then the schedule for the applicable operating day is deemed to be 20 MW of energy and zero MW of ancillary services to be delivered to the entitlement holder's designated default QSE in every settlement interval of the applicable operating day.
- (B) Contract price for baseload. The items included in the contract price between the entitlement holder and the affiliated PGC for the entitlement shall include:
- (i) Capacity payment. The capacity payment from the entitlement holder to the affiliated PGC is the capacity price in dollars per MW specified in the letter confirmation for the entitlement times 25 MW.
 - (ii) Energy payment. The fuel cost owed to the affiliated PGC by the entitlement holder for the dispatched baseload power will be the average cost of coal, lignite, and nuclear fuel (in dollars per MWh), as applicable to the appropriate congestion zone in which the underlying generation units are located, based on the affiliated PGC's final excess cost over market (ECOM) model as determined pursuant to PURA §39.201. Affiliated PGCs of the electric utilities without an ECOM determination in their proceeding

conducted pursuant to PURA §39.201 shall propose, for commission review, an average cost of fuel in a similar manner. The energy payment from the entitlement holder to the affiliated PGC is the fuel cost in dollars per MWh for the entitlement times the greater of:

- (I) The sum of the total energy scheduled from the entitlement during the entitlement month plus energy deployed up from the entitlement during the entitlement month; or
 - (II) An amount of MWh equal to 20 MW times the number of hours in the entitlement month.
- (iii) Ancillary services payment. For baseload entitlements, the ancillary services payment to be paid by the entitlement holder to the affiliated PGC is zero.
- (iv) Energy deployed up reimbursement payment. For energy deployed up, for all settlement intervals in the entitlement month, the affiliated PGC shall pay the entitlement holder the sum of the zonal market clearing price of energy (MCPE) in dollars per MWh paid by ERCOT for that settlement interval times the energy deployed up in that settlement interval.
- (v) Energy deployed down reimbursement payment. For energy deployed down for all settlement intervals in the entitlement month, the entitlement holder shall pay the affiliated PGC the sum

of the MCPE in dollars per MWh paid to ERCOT for that settlement interval times the energy deployed down in that settlement interval.

- (C) Timing of payment of contract price. The entitlement holder shall pay the affiliated PGC the capacity payment portion of the contract price not less than five days before the beginning of the entitlement month or 20 days after receiving an invoice for the capacity payment from the affiliated PGC, whichever is later. The entitlement holder shall pay the remainder of the contract price to the affiliated PGC after receiving an invoice for that amount in accordance with the other terms of the applicable Agreement. If the affiliated PGC owes the entitlement holder any net amount under the contract price calculation, it will pay that amount to the entitlement holder in accordance with the other terms of the Agreement.
- (4) **Gas-intermediate product.**
 - (A) Gas-intermediate scheduling.
 - (i) Schedule types. The entitlement holder shall submit a day-ahead schedule for the entitlement and may submit hour-ahead schedules. The entitlement holder shall submit a two-day-ahead schedule for the entitlement if notified to do so by ERCOT.
 - (ii) Timing of scheduling. All of the times for scheduling referred to in this subparagraph are based on the times in the ERCOT protocols. If the times in the ERCOT protocols are changed, then

the times in this subparagraph will be considered to have changed to equitably accommodate the changes in the ERCOT protocols.

- (I) The entitlement holder shall submit day-ahead or two-day-ahead schedules for the entitlement to the affiliated PGC no later than 8:00 a.m. The daily capacity commitment is determined for a gas-intermediate entitlement by the 8:00 a.m. schedule. The entitlement holder shall submit hour-ahead schedules for ancillary services for the entitlement to the affiliated PGC no later than one hour before the deadline for the affiliated PGC's QSE to submit hour-ahead schedules to ERCOT.
- (II) The entitlement holder may submit to the affiliated PGC a revised day-ahead or two-day-ahead schedule for energy from the entitlement no later than 10:00 a.m., subject to the limit on maximum energy in clause (iv)(I)(-b-) of this subparagraph.
- (III) On days that ERCOT allows QSEs to change their day-ahead or two-day-ahead schedules to ERCOT by 1:00 p.m. for congestion or capacity insufficiency, the entitlement holder may submit a revised day-ahead or two-day-ahead schedule for energy from the entitlement to the affiliated

PGC no later than noon, subject to the limit on maximum energy in clause (iv)(I)(-b-) of this subparagraph.

- (IV) The entitlement holder may submit to the affiliated PGC a revised day-ahead or two-day-ahead schedule for ancillary services from the entitlement no later than 1:45 p.m. The entitlement holder cannot change the amount of energy scheduled in a revised schedule for ancillary services.
- (V) No hour-ahead schedules are permitted for energy from gas-intermediate entitlements. Hour-ahead schedules are permitted for ancillary services from gas-intermediate entitlements.
- (iii) Schedule content. Each schedule shall specify:
 - (I) For each settlement interval, the MW of energy scheduled to be delivered to the entitlement holder from the entitlement; and
 - (II) For each hour, the MW scheduled to be reserved for the entitlement holder's use of each ancillary service from the entitlement. The entitlement holder shall include any MW bid (but not pricing) for the balancing energy up and balancing energy down ancillary services on the schedule.
- (iv) Scheduling limits.

(I) Total. Generally, the rate at which energy is scheduled cannot change more than plus or minus six MW and the rate at which ancillary services is reserved or scheduled by the entitlement holder in each hour cannot change more than plus or minus six MW. The restrictions in items (-a-) and (-b-) of this subclause apply.

(-a-) Minimum energy. The entitlement holder may not schedule energy at less than eight MW from the entitlement at any time during the month, unless the entitlement holder has elected the gas-intermediate Start Option, in which case the entitlement holder may reduce energy below eight MW as specified in subclause (IV)(-a-) of this clause.

(-b-) Maximum energy. The entitlement holder may not schedule energy at any level greater than the daily capacity commitment in any settlement interval.

(II) Maximum changes. Subject to the limitations specified in subclause (I) of this clause:

(-a-) Generally, the rate at which energy is scheduled by the entitlement holder in each hour cannot change more than plus or minus six MW and the rate at which ancillary services are scheduled or reserved

by the entitlement holder in each hour cannot change more than plus or minus six MW. The restrictions in items (-b-) and (-c-) apply.

(-b-) Energy. Subject to the maximum change specified in item (-a-) of this subclause:

(-1-) The maximum change in energy scheduled from the first settlement interval in one hour to the first settlement interval of the next hour is plus or minus six MW.

(-2-) Subject to the limitation in subitem (-1-) of this item, the maximum change in energy scheduled from one settlement interval to the next is plus or minus two MW.

(-c-) Ancillary services. Subject to the maximum change specified in item (-a-) of this subclause, the maximum change in ancillary services scheduled from the first settlement interval in one hour to the first settlement interval of the next hour is plus or minus six MW.

(III) Ancillary services. Subject to the limitations in subclauses (I) and (II) of this clause:

- (-a-) The total MW of non-spinning reserve service, regulation service up, regulation service down, responsive reserve service, and balancing energy service up and balancing energy service down from the entitlement in one hour shall not exceed ten MW;
- (-b-) Subject to the limitations in item (-a-) of this subclause, the total MW of regulation service up, regulation service down, responsive reserve service, and bids for balancing energy service up and balancing energy service down from the entitlement in one hour shall not exceed:
 - (-1-) Four MW if the entitlement holder schedules any two-MW changes in the levels of energy within the hour;
 - (-2-) Five MW if the entitlement holder schedules any one-MW, but not two-MW changes in the levels of energy within the hour; or
 - (-3-) Six MW if the entitlement holder does not schedule any changes in the levels of energy within the hour.

- (-c-) In addition to the limitations in items (-a-) and (-b-) of this subclause, the total MW of non-spinning reserve service, regulation service up, responsive reserve service, and balancing energy service up from the entitlement in a settlement interval shall not exceed an amount of MW equal to the daily capacity commitment for the settlement interval minus the energy scheduled for that settlement interval.
- (-d-) In addition to the limitations in items (-a-), (-b-), and (-c-) of this subclause, the total MW of regulation service down and balancing energy service down from the entitlement in a settlement interval shall not exceed an amount of MW equal to the energy scheduled for that settlement interval minus eight MW.
- (-e-) In addition to the limitations in items (-a-), (-b-), and (-c-) of this subclause, if the energy schedule is at zero as permitted under subclause (IV)(-a-) of this clause, then the entitlement holder may not schedule any ancillary services from the gas-intermediate entitlement.

- (-f) Non-spinning reserve service may be provided from the entitlement in 30 minutes, and other permitted ancillary services may be provided from the entitlement in ten minutes.
- (IV) Starts, minimum off time, and minimum run time.
 - (-a) The entitlement holder may reduce the energy schedule from the gas-intermediate entitlement to zero MW two times during the entitlement month.
 - (-b) Once the energy schedule is reduced to zero, it shall remain at zero for not less than 48 hours.
 - (-c) If the entitlement holder increases the energy schedule from zero, then energy shall be scheduled at a minimum of eight MW, and the energy schedule may not be reduced to zero again for at least 72 hours after the energy schedule increased from zero.
- (v) Default schedule. If the entitlement holder does not submit a timely day-ahead or two-day ahead schedule, as applicable, then the schedule, for the applicable operating day is deemed to be, in every settlement interval of the applicable operating day, eight MW for the daily capacity commitment, eight MW of energy to be delivered to the entitlement holder's designated default QSE, and

zero MW of ancillary services, and that deemed schedule may not be changed in any hour-ahead schedule. However, if the entitlement holder has used up its allowable starts for the entitlement month, then the schedule for the applicable operating day is deemed to be, in every settlement interval of the applicable operating day, zero MW for the daily capacity commitment.

- (B) Gas-intermediate ancillary services. Subject to the scheduling limits in subparagraph (A) of this paragraph, the entitlement holder may use the entitlement in any one hour for one or more of these ancillary services: regulation service up, regulation service down, responsive reserve service, non-spinning reserve service, balancing energy service up, and balancing energy service down. When ERCOT requires mandatory balancing energy down bids, then the affiliated PGC shall so notify the entitlement holder, and the entitlement holder shall then submit a balancing energy down bid to ERCOT in the same percentage that ERCOT requires of the affiliated PGC, subject to the MW limits for gas-intermediate in the applicable Schedule CA of the applicable Agreement.
- (C) Contract price for gas-intermediate. The items included in the contract price between the entitlement holder and the affiliated PGC for the entitlement shall include:
- (i) Capacity payment. The capacity payment from the entitlement holder to the affiliated PGC is the capacity price in dollars per MW

specified in the letter confirmation for the entitlement times 25 MW.

(ii) Energy payment.

(I) The energy payment from the entitlement holder to the affiliated PGC for each settlement interval in the entitlement month, is the sum of the minimum energy payment and the excess energy payment.

(-a-) The minimum energy payment is the product of the number of hours in the entitlement month at which the energy level is not zero as permitted under subparagraph (A)(iv)(IV)(-a-) of this paragraph, times eight MWh, times the minimum fuel price.

(-b-) The excess energy payment for each settlement interval is the excess fuel price defined in subclause (II)(-b-) of this clause, times (energy scheduled minus two MWh plus energy deployed up minus energy deployed down).

(II) Fuel price.

(-a-) The minimum fuel price is a heat rate equal to 9.9 Million British Thermal Units (MMBtu) per MWh times the daily gas price.

(-b-) The excess fuel price is a heat rate equal to 9.9 MMBtu per MWh times the daily gas price.

(iii) Ancillary services payment.

(I) The ancillary services cost adjustment payment to be paid by the entitlement holder to the affiliated PGC is the ancillary services cost defined in subclause (II) of this clause times the difference, for each settlement interval of the entitlement, between the daily capacity commitment and energy scheduled.

(II) The ancillary services cost is a heat rate adjustment equal to 1.015 MMBtu per MW times the daily gas price.

(iv) Energy deployed up reimbursement payment. For energy deployed up for all settlement intervals in the entitlement month, the affiliated PGC shall pay the entitlement holder the MCPE in dollars per MWh paid by ERCOT for a settlement interval times the energy deployed up in a settlement interval.

(v) Energy deployed down reimbursement payment. For energy deployed down for all settlement intervals in the entitlement month, the entitlement holder shall pay the affiliated PGC the MCPE in dollars per MWh paid to ERCOT for a settlement interval times the energy deployed down in a settlement interval.

- (D) Timing of payment of contract price. The entitlement holder shall pay the affiliated PGC the capacity payment portion of the contract price not less than five days before the beginning of the entitlement month or 20 days after receiving an invoice for the capacity payment from the affiliated PGC, whichever is later. The entitlement holder shall pay the remainder of the contract price after receiving an invoice for that amount in accordance with the Agreement. If the affiliated PGC owes the entitlement holder any net amount under the contract price calculation, it will pay that amount to the entitlement holder in accordance with the Agreement.
- (5) **Gas-cyclic.**
- (A) Gas-cyclic scheduling.
- (i) Schedule types. The entitlement holder shall submit a day-ahead schedule for the entitlement and may submit hour-ahead schedules for both energy and ancillary services. The entitlement holder shall submit a two-day-ahead schedule for the entitlement if notified to do so by ERCOT.
- (ii) Timing of scheduling. All of the times for scheduling referred to in this subparagraph are based on the times in the ERCOT protocols. If the times in the ERCOT protocols are changed, then the times in this subparagraph will be considered to have changed to equitably accommodate the changes in the ERCOT protocols.

- (I) The entitlement holder shall submit day-ahead or two-day-ahead schedules for the entitlement to the affiliated PGC no later than 8:00 a.m. The daily capacity commitment is determined for a gas-cyclic entitlement by the 8:00 a.m. schedule, unless the entitlement holder notifies the affiliated PGC, in the schedule, that it is exercising its option to set the daily capacity commitment in the last schedule submitted before the gas-cyclic start deadline defined in subclause (V) of this clause. The entitlement holder shall submit hour-ahead schedules for the entitlement to the affiliated PGC no later than one hour before the deadline for the affiliated PGC's QSE to submit hour-ahead schedules to ERCOT.
- (II) The entitlement holder may submit to the affiliated PGC a revised day-ahead or two-day-ahead schedule for energy from the entitlement no later than 10:00 a.m.
- (III) On days that ERCOT allows QSEs to change their day-ahead or two-day ahead schedules to ERCOT by 1:00 p.m. for congestion or capacity insufficiency, the entitlement holder may submit a revised day-ahead or two-day-ahead schedule for energy from the entitlement to the affiliated PGC no later than noon.

- (IV) The entitlement holder may submit to the affiliated PGC a revised day-ahead or two-day-ahead schedule for ancillary services from the entitlement no later than 1:45 p.m.
 - (V) The gas-cyclic start deadline for declaring the daily capacity commitment for each settlement interval in an operating hour is 14 hours before the end of the adjustment period for that operating hour.
- (iii) Schedule content. Each schedule shall specify:
- (I) For each settlement interval, the MW of energy scheduled to be delivered to the entitlement holder from the entitlement; and
 - (II) For each hour, the MW scheduled to be reserved for the entitlement holder's use of each ancillary service from the entitlement. The entitlement holder shall include any MW bid (but not pricing) for the balancing energy up and balancing energy down ancillary services on the schedule.
- (iv) Scheduling limits.
- (I) Total. Generally, the rate at which energy is scheduled cannot change more than plus or minus six MW and the rate at which ancillary services is reserved or scheduled by the entitlement holder in each hour cannot change more

than plus or minus six MW. The restrictions in items (-a-) and (-b-) of this subclause apply.

(-a-) Minimum energy. The entitlement holder may not schedule energy at any level between zero MW and five MW from the entitlement at any time during the month.

(-b-) Maximum energy. The entitlement holder may not schedule energy at any level greater than the daily capacity commitment in any settlement interval after the entitlement holder designates its daily capacity commitment.

(II) Maximum changes. Subject to the limits specified in subclause (I) of this clause:

(-a-) The maximum change in the rate at which energy is scheduled from the first settlement interval in one hour to the first settlement interval in the next hour is plus or minus six MW;

(-b-) Subject to the limitation in item (-a-) of this subclause, the maximum change in the rate at which energy is scheduled from one settlement interval to the next is plus or minus two MW; and

- (-2-) Five MW if the entitlement holder schedules any one-MW, but not two-MW changes in the levels of energy within the hour; or
 - (-3-) Six MW if the entitlement holder does not schedule any changes in the levels of energy within the hour.
 - (-c-) In addition to the limitations in items (-a-) and (-b-) of this subclause, the total MW of non-spinning reserve service, regulation service up, responsive reserve service, and balancing energy service up from the entitlement in a settlement interval shall not exceed an amount of MW equal to the daily capacity commitment for the settlement interval minus the energy scheduled for that settlement interval.
 - (-d-) In addition to the limitations in items (-a-), (-b-), and (-c-) of this subclause, the total MW of regulation service down and balancing energy service down from the entitlement in a settlement interval shall not exceed an amount of MW equal to the energy scheduled for that settlement interval minus five MW.

- (-e-) Non-spinning reserve service may be provided from the entitlement in 30 minutes, and other permitted ancillary services may be provided from the entitlement in ten minutes.
- (IV) Starts. Subject to the limits specified in subclause (I) - (III) of this clause, the entitlement holder may not direct more than 20 starts during the month of the entitlement, and the entitlement holder may not direct more than one start per day. A start occurs every time a schedule increases the MW of energy from zero MW. Once 20 starts have occurred during the entitlement, the energy scheduled by the entitlement holder may not be lower than a rate of five MW unless that level is lowered to zero MW, at which time the level may not be raised above zero MW for the remainder of the entitlement.
- (v) Default schedule. If the entitlement holder does not submit a timely day-ahead or two-day ahead schedule, as applicable, then the schedule for the applicable operating day is deemed to be, in every settlement interval of the applicable operating day, zero MW for the daily capacity commitment, zero MW of energy, and zero MW of ancillary services. This deemed schedule may not be changed in any hour-ahead schedule.

- (B) Gas-cyclic ancillary services. Subject to the scheduling limits in subparagraph (A) of this paragraph, the entitlement holder may use the entitlement in any one hour for one or more of these ancillary services: regulation service up, regulation service down, responsive reserve service, non-spinning reserve service, balancing energy service up, and balancing energy service down. When ERCOT requires mandatory balancing energy service down bids, then the affiliated PGC shall so notify the entitlement holder, and the entitlement holder shall then submit a balancing energy service down bid in the same percentage that ERCOT requires of the affiliated PGC, subject to the MW limits for gas-cyclic in this paragraph.
- (C) Contract price for gas-cyclic. The items to be included in the contract price between the entitlement holder and the affiliated PGC for the entitlement shall include:
- (i) Capacity payment. The capacity payment from the entitlement holder to the affiliated PGC is the capacity price in dollars per MW specified in the letter confirmation for the entitlement times 25 MW.
 - (ii) Energy payment.
 - (I) The energy payment for each settlement interval from the entitlement holder to the affiliated PGC is the fuel price defined in subclause (II) of this clause times (energy

scheduled plus energy deployed up minus energy deployed down.)

(II) Fuel price.

(-a-) The fuel price, for the portion of the daily capacity commitment that is designated by the entitlement holder by 8:00 a.m. in the day-ahead or two-day-ahead schedule, is a heat rate equal to 12.100 MMBtu per MWh times the daily gas price.

(-b-) The fuel price, for the portion of the daily capacity commitment that is not released or committed at 8:00 a.m., but is committed before the gas-cyclic start deadline, is a heat rate equal to 12.100 MMBtu per MWh times (the sum of the daily gas price plus \$.25.)

(iii) Ancillary services payment.

(I) The ancillary services payment to be paid by the entitlement holder to the affiliated PGC is the product of the ancillary services cost defined in subclause (II) of this clause times the difference, for each settlement interval of the entitlement, between the daily capacity commitment and energy scheduled.

- (II) The ancillary services cost is a heat rate adjustment equal to 1.622 MMBtu per MW times the daily gas price.
- (iv) Energy deployed up reimbursement payment. For energy deployed up, for all settlement intervals in the entitlement month, the affiliated PGC shall pay the entitlement holder the MCPE in dollars per MWh paid by ERCOT for a settlement interval times the energy deployed up in a settlement interval.
- (v) Energy deployed down reimbursement payment. For energy deployed down for all settlement intervals in the entitlement month, the entitlement holder shall pay the affiliated PGC the MCPE in dollars per MWh paid to ERCOT for a settlement interval times the energy deployed down in a settlement interval.
- (D) Timing of payment of contract price. The entitlement holder shall pay the affiliated PGC the capacity payment portion of the contract price not less than five days before the beginning of the entitlement month or 20 days after receiving an invoice for the capacity payment from the affiliated PGC, whichever is later. The entitlement holder shall pay the remainder of the contract price after receiving an invoice for that amount in accordance with the other terms of the Agreement. If the affiliated PGC owes the entitlement holder any net amount under the contract price calculation, it will pay that amount to the entitlement holder in accordance with the other terms of the Agreement.

(6) **Gas-peaking.**

(A) Gas-peaking scheduling.

(i) Schedule types. The entitlement holder shall submit a day-ahead schedule for the entitlement and may submit hour-ahead schedules. The entitlement holder shall submit a two-day-ahead schedule for the entitlement if notified to do so by ERCOT.

(ii) Timing of scheduling. All of the times for scheduling referred to in this subparagraph are based on the times in the ERCOT protocols. If the times in the ERCOT protocols are changed, then the times in this subparagraph will be considered to have changed to equitably accommodate the changes in the ERCOT protocols.

(I) The entitlement holder shall submit day-ahead or two-day-ahead schedules for the entitlement to the affiliated PGC no later than 8:00 a.m. The daily capacity commitment is determined for a gas-peaking entitlement by the 8:00 a.m. schedule, unless the entitlement holder notifies the affiliated PGC, in the schedule, that it is exercising its option to set the daily capacity commitment in the last schedule submitted before the gas-peaking start deadline defined in subclause (V) of this clause. The entitlement holder shall submit hour-ahead schedules for the entitlement to the affiliated PGC no later than one hour

before the deadline for the affiliated PGC's QSE to submit hour-ahead schedules to ERCOT.

- (II) The entitlement holder may submit to the affiliated PGC a revised day-ahead or two-day-ahead schedule for energy from the entitlement no later than 10:00 a.m.
 - (III) On days that ERCOT allows QSEs to change their day-ahead or two-day ahead schedules to ERCOT by 1:00 p.m. for congestion or capacity insufficiency, the entitlement holder may submit a revised day-ahead or two-day-ahead schedule for energy from the entitlement to the affiliated PGC no later than noon.
 - (IV) The entitlement holder may submit to the affiliated PGC a revised day-ahead or two-day-ahead schedule for the non-spinning reserve service from the entitlement no later than 1:45 p.m.
 - (V) The gas-peaking start deadline for declaring the daily capacity commitment for each settlement interval in an operating hour is one hour before the end of the adjustment period for that operating hour.
- (iii) Schedule content. Each schedule shall specify:

- (I) For each settlement interval, the MW of energy scheduled to be delivered to the entitlement holder from the entitlement; and
 - (II) For each hour, the MW scheduled to be reserved for the entitlement holder's use of the non-spinning reserve service from the entitlement.
- (iv) Scheduling limits.
- (I) Total.
 - (-a-) The rate at which energy is scheduled or ancillary services reserved or scheduled by the entitlement holder in each settlement interval during an hour shall be either zero MW or 25 MW and cannot change during the hour.
 - (-b-) Subject to the requirement of item (-a-) of this subclause, if the entitlement holder schedules any energy from the entitlement in an hour, the rate at which energy is scheduled shall continue uninterrupted at a level of 25 MW for not less than four hours.
 - (-c-) Subject to the requirements of items (-a-) and (-b-) of this subclause, when the entitlement holder decreases a schedule for energy to zero MW from

the entitlement in an hour, the rate at which energy is scheduled or at which ancillary services is scheduled or reserved shall continue uninterrupted at a level of zero MW for not less than two hours.

- (II) Starts. The number of starts of the entitlement is not limited.
- (v) Default schedule. If the entitlement holder does not submit a timely day-ahead or two-day ahead schedule, as applicable, then the schedule, for the applicable operating day is deemed to be, in every settlement interval of the applicable operating day, zero MW for the daily capacity commitment, zero MW of energy, and zero MW of the non-spinning reserve service. This deemed schedule may not be changed in any revised day-ahead or two-day ahead schedule, or in any hour-ahead schedule.
- (B) Gas-peaking ancillary services. The entitlement holder may not use the entitlement for any ancillary service except the non-spinning reserve service.
- (C) Contract price for gas-peaking. The items to be included in the contract price between the entitlement holder and the affiliated PGC for the entitlement shall include:
 - (i) Capacity payment. The capacity payment from the entitlement holder to the affiliated PGC is the capacity price in dollars per MW

specified in the letter confirmation for the entitlement times 25 MW.

(ii) Energy payment.

(I) The energy payment for each settlement interval, from the entitlement holder to the affiliated PGC is the fuel price defined in subclause (II) of this clause times (energy scheduled plus non-spinning energy deployed plus non-spinning energy instructed deviation.)

(II) Fuel price.

(-a-) The fuel price, for operating days for which the entitlement holder designated its daily capacity commitment by 8:00 a.m. in the day-ahead or two-day ahead schedule, is a heat rate equal to 14.100 MMBtu per MWh times the daily gas price.

(-b-) The fuel price, for operating days for which the entitlement holder exercises its option to designate its daily capacity commitment after 8:00 a.m. and before the gas-peaking start deadline, is a heat rate equal to 14.100 MMBtu per MWh times the sum of the daily gas price plus \$.25.

(iii) Ancillary services payment. The ancillary services payment to be paid by the entitlement holder to the affiliated PGC is the product

of \$1.00 per MW times the total number of MW of non-spinning reserve service scheduled during each hour of the entitlement month.

(iv) Ancillary services reimbursement payment. The ancillary services reimbursement payment from the affiliated PGC to the entitlement holder is the sum of the MCPE for energy in dollars per MWh paid by ERCOT for each MWh of non-spinning energy deployed and the price that ERCOT pays for uninstructed deviations for each MWh of non-spinning energy uninstructed deviation.

(D) Timing of payment of contract price. The entitlement holder shall pay the affiliated PGC the capacity payment portion of the contract price not less than five days before the beginning of the entitlement month or 20 days after receiving an invoice for the capacity payment from the affiliated PGC, whichever is later. The entitlement holder shall pay the remainder of the contract price after receiving an invoice for that amount in accordance with the other terms of the Agreement. If the affiliated PGC owes the entitlement holder any net amount under the contract price calculation, it will pay that amount to the entitlement holder in accordance with the other terms of the Agreement.

(g) **Product descriptions for capacity in non-ERCOT areas.** The provisions in this subsection apply to capacity auctions in non-ERCOT areas. Subsection (f) of this section contains provisions applicable to capacity auctions in ERCOT.

(1) **Definitions.** The following words and terms when used in this subsection shall have the following meanings unless the context indicates otherwise:

(A) **Daily capacity commitment** — The amount of capacity scheduled by the entitlement holder that a seller shall make available for the provision of energy from an entitlement.

(B) **Day ahead schedule** — A schedule submitted by the entitlement holder to a seller of the entitlement holder's scheduled usage of the entitlement for the following operating day.

(C) **Energy scheduled** — For each settlement interval, the final schedule for energy that the entitlement holder submits to a seller, subject to the limits on timing and amounts of schedules contained in this subsection.

(D) **Grouped entitlements** — All of the entitlements from a seller that the entitlement holder holds for a particular entitlement month.

(E) **Hour-ahead schedule** — A schedule other than a day-ahead schedule submitted by the entitlement holder to a seller of the entitlement holder's scheduled usage of the entitlement for the following operating hour.

(2) **Baseload product.**

(A) **Description.** For each baseload capacity entitlement, the scheduled power shall be provided to the entitlement holder during the month of the

entitlement seven days per week and 24 hours per day, in accordance with the scheduling requirements and limitations provided in subparagraph (E) of this paragraph.

- (B) Block size. Each baseload capacity entitlement shall be 25 MW in size.
- (C) Fuel price. The fuel cost owed to the affiliated PGC by the entitlement holder for the dispatched baseload power will be the average cost of coal, lignite, and nuclear fuel, in dollars per MWh, based on the company's final ECOM model as determined in the proceeding pursuant to PURA §39.201 as projected for the relevant time period. Electric utilities without an ECOM determination in their proceeding conducted pursuant to PURA §39.201 shall propose for commission review an average cost of fuel in a similar manner.
- (D) Starts per month. The entitlement holder of a baseload capacity entitlement shall take power from the entitlement seven days per week and 24 hours per day and is therefore not permitted to direct the affiliated PGC to make any starts of baseload capacity entitlements.
- (E) Baseload scheduling.
 - (i) Schedule types. The entitlement holder shall submit a day-ahead schedule for the entitlement.
 - (ii) Timing of scheduling.
 - (I) The entitlement holder shall submit day-ahead schedules for the entitlement to the seller no later than 8:00 a.m. The

daily capacity commitment is determined for a baseload entitlement by the 8:00 a.m. schedule.

- (II) The entitlement holder may submit to the seller a revised day-ahead schedule for energy from the entitlement no later than noon, subject to the limit on maximum energy in clause (iv)(II) of this subparagraph.
 - (III) No hour-ahead schedules are permitted for energy from baseload entitlements.
- (iii) Schedule content. Each schedule shall specify, for each scheduling interval, subject to the scheduling limits in clause (iv) of this subparagraph, the energy scheduled to be delivered to the entitlement holder from the entitlement.
- (iv) Scheduling limits.
- (I) Minimum energy. The entitlement holder may not schedule energy at less than 20 MW from the entitlement at any time during the month.
 - (II) Maximum energy. The entitlement holder may not schedule energy at any level greater than the daily capacity commitment in any scheduling interval.
 - (III) Maximum changes. Subject to the minimum energy rate specified in subclause (I) of this clause:

entitlement holder to the affiliated PGC is the fuel price in dollars per MWh specified in the letter confirmation for the entitlement times the greater of:

- (I) The total energy scheduled from the entitlement during the entitlement month; or
 - (II) An amount of MWh equal to 20 MW times the number of hours in the entitlement month.
- (G) Timing of payment of contract price. The entitlement holder shall pay the affiliated PGC the capacity payment portion of the contract price not less than five days before the beginning of the entitlement month or 20 days after receiving an invoice for the capacity payment from the affiliated PGC, whichever is later. The entitlement holder shall pay the remainder of the contract price to the affiliated PGC after receiving an invoice for that amount in accordance with the other terms of the Agreement. If the affiliated PGC owes the entitlement holder any net amount under the contract price calculation, it will pay that amount to the entitlement holder in accordance with the other terms of the Agreement.

(3) **Gas-intermediate product.**

- (A) Description. For each gas-intermediate capacity entitlement, not less than 30% of the entitlement shall be provided to the entitlement holder at any time when any of the entitlement is being scheduled by the entitlement holder, with the remainder of the block scheduled as day-ahead shaped

power in accordance with the scheduling requirements and limitations provided in subparagraph (E) of this paragraph.

- (B) Block size. Each gas-intermediate capacity entitlement shall be 25 MW in size.
- (C) Fuel price.
 - (i) Except as specified otherwise in clause (ii) of this subparagraph, the fuel cost owed to the affiliated PGC by the entitlement holder for the gas-intermediate capacity dispatched will be 10.850 MMBtu per MWh heat rate times the minimum MWh that shall be taken for gas-intermediate capacity as required in subparagraph (A) of this paragraph times the first-of-the-month index posted in the publication "Inside FERC" for the Houston Ship Channel for the month of the entitlement. For power dispatched above the minimum MWh required, the additional fuel price owed to the affiliated PGC will be 10.850 MMBtu per MWh times the MWh of gas-intermediate power dispatched pursuant to the entitlement above the minimum requirement times the daily gas price.
 - (ii) EGSI.
 - (I) For EGSI gas-intermediate capacity in the eastern congestion zone, the fuel cost owed to its affiliated PGC by the capacity entitlement holder for the gas-intermediate capacity dispatched will be 10.850 MMBtu per MWh heat

rate times the minimum MWh that shall be taken for gas-intermediate capacity as required in subparagraph (A) of this paragraph times the first-of-the-month index posted in the publication "Inside FERC" for Henry Hub for the month of the entitlement. For power dispatched above the minimum MWh required, the additional fuel price owed to the affiliated PGC will be 10.850 MMBtu per MWh times the MWh of gas-intermediate power dispatched pursuant to the entitlement above the minimum requirement times the Henry Hub daily gas price.

- (II) For EGSI gas-intermediate capacity in the western congestion zone, the fuel cost owed to its affiliated PGC by the capacity entitlement holder for the gas-intermediate capacity dispatched will be 10.850 MMBtu per MWh heat rate times the minimum MWh that shall be taken for gas-intermediate capacity as required in subparagraph (A) of this paragraph times the average of the first-of-the-month index posted in the publication "Inside FERC" for Henry Hub for the month of the entitlement and the first-of-the-month index posted in the publication "Inside FERC" for the Houston Ship Channel for the month of the entitlement. For power dispatched above the minimum MWh required,

the additional fuel price owed to the affiliated PGC will be 10.850 MMBtu per MWh times the MWh of gas-intermediate power dispatched pursuant to the entitlement above the minimum requirement times the average of the Henry Hub daily gas price and the Houston Ship Channel daily gas price.

- (D) Starts per month. The entitlement holder of gas-intermediate capacity shall take a minimum of 30% of the power from the entitlement in each interval and is therefore not permitted to direct the affiliated PGC to make any starts of gas intermediate capacity entitlements.
- (E) Gas-intermediate scheduling.
 - (i) Schedule types. The entitlement holder shall submit a day-ahead schedule for the entitlement.
 - (ii) Timing of scheduling.
 - (I) The entitlement holder shall submit day-ahead schedules for the entitlement to the seller no later than 8:00 a.m. The daily capacity commitment is determined for a gas-intermediate entitlement by the 8:00 a.m. schedule.
 - (II) The entitlement holder may submit to seller a revised day-ahead schedule for energy from the entitlement no later than noon, subject to the limit on maximum energy in clause (iv)(II) of this subparagraph.

- (III) No hour-ahead schedules are permitted for energy from gas-intermediate entitlements.
- (iii) Schedule content. Each schedule shall specify, for each scheduling interval, the energy scheduled to be delivered to the entitlement holder from the entitlement.
- (iv) Scheduling limits.
 - (I) Minimum energy. The entitlement holder may not schedule energy at less than eight MW from the entitlement at any time during the month.
 - (II) Maximum energy. The entitlement holder may not schedule energy at a level greater than the daily capacity commitment in any scheduling interval.
 - (III) Maximum changes. Subject to the minimum energy rate specified in subclause (I) of this clause and the maximum energy rate specified in subclause (II) of this clause, the energy scheduled by the entitlement holder in each hour cannot change more than plus or minus six MW.
- (v) Default schedule. If the entitlement holder does not submit a timely day-ahead schedule, as applicable, then the schedule for the applicable operating day shall be deemed to be, in every settlement interval of the applicable operating day, a total of eight MW for the

daily capacity commitment. This deemed schedule may not be changed in any hour-ahead schedule.

(F) Contract price for gas-intermediate. The items to be included in the contract price between the entitlement holder and the affiliated PGC for the entitlement shall include:

(i) Capacity payment. The capacity payment from the entitlement holder to the affiliated PGC is the capacity price in dollars per MW specified in the letter confirmation for the entitlement times 25 MW.

(ii) Energy payment.

(I) The energy payment from the entitlement holder to the affiliated PGC is the sum, for each settlement interval in the entitlement month, of the minimum energy payment and the excess energy payment.

(-a-) The minimum energy payment is the product of eight MWh times the minimum fuel price.

(-b-) The excess energy payment is the product, for each settlement interval, of the excess fuel price defined in subclause (II)(-b-) of this clause times energy scheduled.

(II) Fuel price.

- (-a-) The minimum fuel price is the product of a heat rate equal to 10.850 MMBtu per MWh times the daily gas price.
 - (-b-) The excess fuel price is the product of a heat rate equal to 10.850 MMBtu per MWh times the daily gas price.
 - (G) Timing of payment of contract price. The entitlement holder shall pay the affiliated PGC the capacity payment portion of the contract price not less than five days before the beginning of the entitlement month or 20 days after receiving an invoice for the capacity payment from the affiliated PGC, whichever is later. The entitlement holder shall pay the remainder of the contract price after receiving an invoice for that amount in accordance with the terms of the Agreement. If the affiliated PGC owes the entitlement holder any net amount under the contract price calculation, it will pay that amount to the entitlement holder in accordance with the terms of the Agreement.
- (4) **Gas-cyclic product.**
 - (A) Description. The gas-cyclic entitlement shall be flexible day-ahead shaped power.
 - (B) Block size. Each gas-cyclic capacity entitlement shall be 25 MW in size.
 - (C) Fuel price.

- (i) Except as specified otherwise in clause (ii) of this subparagraph, the fuel price owed to the affiliated PGC by the capacity entitlement holder for gas-cyclic capacity dispatched will be 12.100 MMBtu per MWh times the MWh of the gas-cyclic power dispatched under the entitlement times the daily gas price.
- (ii) EGSI.
 - (I) For EGSI gas-cyclic capacity in the eastern congestion zone, the fuel cost owed to its affiliated PGC by the capacity entitlement holder for the gas-cyclic capacity dispatched will be 12.100 MMBtu per MWh times the MWh of gas-cyclic power dispatched under the entitlement times the Henry Hub daily gas price.
 - (II) For EGSI gas-cyclic capacity in the western congestion zone, the fuel cost owed to its affiliated PGC by the capacity entitlement holder for the gas-cyclic capacity dispatched will be 12.100 MMBtu per MWh times the MWh of gas-cyclic power dispatched under the entitlement times the average of the Henry Hub daily gas price and the Houston Ship Channel daily gas price.
- (D) Starts per month and associated costs. The entitlement holder of gas-cyclic capacity shall be entitled to direct the selling affiliated PGC to

make up to the amount of starts per month of each entitlement of gas-cyclic capacity allowed pursuant to subparagraph (E)(v) of this paragraph.

- (E) Gas-cyclic scheduling.
- (i) Schedule types. The entitlement holder shall submit a day-ahead schedule for the entitlement.
 - (ii) Timing of scheduling.
 - (I) The entitlement holder shall submit day-ahead schedules for the entitlement to seller no later than 8:00 a.m. The daily capacity commitment is determined for a gas-cyclic entitlement by the 8:00 a.m. schedule, unless the entitlement holder notifies seller, in the schedule, that it is exercising its option to set the daily capacity commitment in the last schedule submitted before the gas-cyclic start deadline pursuant to subclause (IV) of this clause.
 - (II) The entitlement holder may submit to seller a revised day-ahead schedule for energy from the entitlement no later than noon, subject to the limit on maximum energy in clause (iv)(II) of this subparagraph.
 - (III) No hour-ahead schedules are permitted for energy from gas-cyclic entitlements.
 - (IV) The gas-cyclic start deadline for declaring the daily capacity commitment for each settlement interval in an

operating hour is 15 hours before the start of the operating hour.

- (iii) Schedule content. Each schedule shall specify, for each scheduling interval, the energy scheduled to be delivered to the entitlement holder from the entitlement.
- (iv) Scheduling limits.
 - (I) Minimum energy. The entitlement holder may not schedule energy at any level between zero MW and five MW from the entitlement at any time during the month.
 - (II) Maximum energy. The entitlement holder may not schedule energy at any level greater than the daily capacity commitment in any scheduling interval.
 - (III) Maximum changes. Subject to the minimum energy rate specified in subclause (I) of this clause and the maximum energy rate specified in subclause (II) of this clause, the energy scheduled by the entitlement holder in each hour cannot change more than plus or minus six MW.
- (v) Starts. The entitlement holder shall not direct more than 20 starts during the month of the entitlement, and the entitlement holder shall not direct more than one start per day. A start occurs every time a schedule increases the MW of energy from zero MW. Once the maximum number of starts have occurred during the

entitlement, the energy scheduled by the entitlement holder may not be lower than a rate of five MW unless that level is lowered to zero MW, at which time the level may not be raised above zero MW for the remainder of the month.

(vi) Default schedule. If the entitlement holder does not submit a timely day-ahead schedule as applicable, then the schedule for the applicable operating day is deemed to be, in every settlement interval of the applicable operating day, zero MW for the daily capacity commitment and zero MW of energy. This deemed schedule may not be changed.

(F) Contract price for gas-cyclic. The items to be included in the contract price between the entitlement holder and the affiliated PGC for the entitlement shall include:

(i) Capacity payment. The capacity payment from the entitlement holder to the affiliated PGC is the capacity price in dollars per MW specified in the letter confirmation for the entitlement times 25 MW.

(ii) Energy payment.

(I) The energy payment for each settlement interval from the entitlement holder to the affiliated PGC is the product, of the fuel price defined in subclause (II) of this clause times energy scheduled.

- (II) Fuel price.
 - (-a-) The fuel price, for the portion of the daily capacity commitment that is designated by the entitlement holder by 8:00 a.m. in the day-ahead schedule, is the product of a heat rate equal to 12.100 MMBtu per MWh times the daily gas price.
 - (-b-) The fuel price for the portion of the daily capacity commitment that is not released or committed at 8:00 a.m., but committed before the gas-cyclic start deadline, is the product of a heat rate equal to 12.100 MMBtu per MWh times (the sum of the daily gas price plus \$ 0.25.)
- (G) Timing of payment of contract price. The entitlement holder shall pay the affiliated PGC the capacity payment portion of the contract price not less than five days before the beginning of the entitlement month or 20 days after receiving an invoice for the capacity payment from the affiliated PGC, whichever is later. The entitlement holder shall pay the remainder of the contract price after receiving an invoice for that amount in accordance with the terms of the Agreement. If the affiliated PGC owes the entitlement holder any net amount under the contract price calculation, it will pay that amount to the entitlement holder in accordance with the terms of the Agreement.

(5) **Gas-peaking product.**

- (A) Description. The gas-peaking entitlement shall be intra-day power.
- (B) Block size. Each gas-peaking capacity entitlement shall be 25 MW in size.
- (C) Fuel price.
 - (i) Except as specified in clause (ii) of this subparagraph, the fuel price owed to the affiliated PGC by the entitlement holder for gas-peaking capacity dispatched will be 14.100 MMBtu per MWh times the MWh of the gas-peaking power dispatched under the entitlement times the daily gas price.
 - (ii) EGSI.
 - (I) For EGSI gas-peaking capacity in the eastern congestion zone, the fuel cost owed to its affiliated PGC by the capacity entitlement holder for the gas-peaking capacity dispatched will be 14.100 MMBtu per MWh times the MWh of gas-peaking power dispatched under the entitlement times the Henry Hub daily gas price.
 - (II) For EGSI gas-peaking capacity in the western congestion zone, the fuel cost owed to its affiliated PGC by the capacity entitlement holder for the gas-peaking capacity dispatched will be 14.100 MMBtu per MWh times the MWh of gas-peaking power dispatched under the

entitlement times the average of the Henry Hub daily gas price and the Houston Ship Channel daily gas price.

- (D) Starts per month and associated costs. The entitlement holder of gas-peaking capacity shall be entitled to direct the selling affiliated PGC to make unlimited starts per month of each entitlement of gas-peaking capacity.
- (E) Gas-peaking scheduling.
 - (i) Schedule types. The entitlement holder shall submit a day-ahead schedule for the entitlement and may submit hour-ahead schedules.
 - (ii) Timing of scheduling.
 - (I) The entitlement holder shall submit day-ahead schedules for the entitlement to the seller no later than 8:00 a.m. The daily capacity commitment is determined for a gas-peaking entitlement by the 8:00 a.m. schedule, unless the entitlement holder notifies the seller, in the schedule, that it is exercising its option to set the daily capacity commitment in the last schedule submitted before the gas-peaking start deadline defined in subclause (III) of this clause. The entitlement holder shall submit hour-ahead schedules for the entitlement to the seller no later than one hour before the start of the operating hour.

- (II) The entitlement holder may submit to the seller a revised day-ahead schedule for energy from the entitlement no later than noon.
- (III) The gas-peaking start deadline for declaring the daily capacity commitment for each operating hour is two hours before the beginning of the operating hour.
- (iii) Schedule content. Each schedule shall specify, for each scheduling interval, the energy scheduled to be delivered to the entitlement holder from the entitlement.
- (iv) Scheduling limits.
 - (I) The rate at which energy is scheduled by the entitlement holder in each scheduling interval during one hour shall be either zero MW or 25 MW and cannot change during the hour.
 - (II) Subject to the requirement of subclause (I) of this clause, if the entitlement holder schedules any energy from the entitlement in one hour, the rate at which energy is scheduled shall continue uninterrupted at a level of 25 MW for not less than four hours.
 - (III) Subject to the requirements of subclause (I) and (II) of this clause, when the entitlement holder decreases a schedule for energy to zero MW from the entitlement in one hour,

the energy scheduled shall continue uninterrupted at a level of zero MW for not less than two hours.

- (v) Default Schedule. If the entitlement holder does not submit a timely day-ahead schedule then the schedule for the applicable operating day shall be deemed to be, in every settlement interval of the applicable operating day, zero MW for the daily capacity commitment and zero MW of energy. This deemed schedule may not be changed in any revised day-ahead schedule, or in any hour-ahead schedule.
- (F) Contract price for gas-peaking. The items to be included in the contract price between the entitlement holder and the affiliated PGC for the entitlement shall include:
 - (i) Capacity payment. The capacity payment from the entitlement holder to the affiliated PGC is the capacity price in dollars per MW specified in the letter confirmation for the entitlement times 25 MW.
 - (ii) Energy payment.
 - (I) The energy payment for each settlement interval from the entitlement holder to the affiliated PGC is the product of the fuel price defined in subclause (II) of this clause times energy scheduled.
 - (II) Fuel price.

- (-a-) The fuel price, for operating days for which the entitlement holder designated its daily capacity commitment by 8:00 a.m. in the day-ahead schedule, is the product of a heat rate equal to 14.100 MMBtu per MWh times the daily gas price.
 - (-b-) The fuel price, for operating days for which the entitlement holder exercised its option to designate its daily capacity commitment after 8:00 a.m. and before the gas-peaking start deadline, is the product of a heat rate equal to 14.100 MMBtu per MWh times (the sum of the daily gas price plus \$.25).
- (G) Timing of payment of contract price. The entitlement holder shall pay the affiliated PGC the capacity payment portion of the contract price not less than five days before the beginning of the entitlement month or 20 days after receiving an invoice for the capacity payment from the affiliated PGC, whichever is later. The entitlement holder shall pay the remainder of the contract price after receiving an invoice for that amount in accordance with the terms of the Agreement. If the affiliated PGC owes the entitlement holder any net amount under the contract price calculation, it will pay that amount to the entitlement holder in accordance with the terms of the Agreement.

- (6) **Scheduling discrepancies.** If the entitlement holder submits a schedule to seller for an entitlement that violates any of the scheduling requirements for that capacity auction product type, the schedule shall be deemed a non-conforming schedule for a scheduled hour. The schedule for that non-conforming scheduled hour shall then be deemed to be the same as the schedule for the nearest preceding hour for which the schedule was not a non-conforming schedule. The seller shall promptly notify the entitlement holder of a non-conforming schedule.
- (7) **Ancillary services.** Until such time that all ancillary services issues are addressed and resolved within the context of a Federal Energy Regulatory Commission (FERC) approved regional transmission organization, entitlements will include rights only to energy and capacity as described in this subsection and specifically exclude any ancillary services rights. Such exclusion is consistent with subsection (e)(1) of this section, which allows products other than those described in this subsection to be offered with good cause. In the interim, the affiliated PGC shall provide the required ancillary services to eligible customers at the current FERC-approved rates.
- (h) **Auction process.**
- (1) **Timing issues.**
- (A) **Frequency of auctions.**
- (i) Auction dates. Capacity auctions shall begin on March 10, July 10, September 10, and November 10 of each year. If the date for

an auction start falls on a weekend or banking holiday, then that auction shall begin on the first business day after the weekend or banking holiday.

(ii) Simultaneous auctions. Auctions for a product will be held simultaneously by all affiliated PGCs of entitlements within the respective North American Electric Reliability Council (NERC) regions in Texas. For example, ERCOT and non-ERCOT auctions can be held at different times and dates.

(iii) Termination of the capacity auction process. The obligation of an affiliated PGC to auction entitlements shall continue until the earlier of 60 months after the date customer choice is introduced or the date the commission determines that 40% or more of the electric power consumed by residential and small commercial customers within the affiliated transmission and distribution utility's certificated service area before the onset of customer choice is provided by nonaffiliated retail electric providers. The determination of the 40% threshold shall be as prescribed by the commission's rule relating to the price to beat.

(B) Auction conclusion.

(i) Receipt of bids. In order for an affiliated PGC that is auctioning capacity to consider a bid, the bid must be received by that

affiliated PGC by close of the round for which the bid is to be submitted.

- (ii) Concluding each individual auction. The affiliated PGC shall provide notice of the winning bid(s) to auction participants and the commission by the close of business on the first day after the auction closes that is not a weekend or banking holiday.
- (iii) Confidentiality and posting of bids. The affiliated PGC shall designate non-marketing personnel to evaluate the bids, and persons reviewing the bids shall not disclose the bids to any person engaged in marketing activities for the affiliated PGC or use any competitively sensitive information received in the bidding process. Upon announcement of the winning bids, the affiliated PGC shall provide the commission and all auction participants information on the quantity of each product requested by bidders during each round of an auction, but shall not divulge the identity of any particular bidders. Upon specific request by the commission, and under standard protective order procedures, the utility shall provide the identity of the bidders to the commission.
- (iv) The affiliated PGC shall be deemed to have met the 15% requirement if it offered products in a product category (for example, gas-intermediate) and successfully sold, at least, all of the entitlements offered in one particular month, in that product

category. If there is no month in which all of the products in a product category are sold, the affiliated PGC shall comply with the provisions of paragraph (7)(C) of this subsection.

(2) **Auction administration.**

(A) Each auction shall be administered by the affiliated PGC selling the entitlement. An affiliated PGC or group of affiliated PGCs may retain the services of a qualified third-party to perform the auction administration functions.

(B) Notice of capacity available for auction.

(i) Method of notice. At least 60 days before each auction start date, each affiliated PGC offering capacity entitlements at auction shall file with the commission notice of the pending auction. Within 20 days of the filing of the notice, interested parties may provide comments on the affiliated PGC's proposed notice. If no comments are received, the affiliated PGC's proposed notice shall be deemed appropriate. If any party objects to the affiliated PGC's proposed notice, then the commission shall administratively approve, reject, or approve the notice with modifications. With respect to the September 10, 2003 auction:

(I) Affiliated PGC's shall include a reference to Project Number 27826, *Rulemaking Proceeding to Require Another Set of Two-Year Strips Under the Capacity*

Auction Rule, §25.381, in their 60-day notice with a statement that the products to be auctioned in the September 2003 auction will not be fully known until after the commission finalizes Project Number 27826; and

(II) Within five days after the rule amendment in Project Number 27826 becomes effective, affiliated PGC's shall revise their notice, with sufficient explanation, to accurately reflect the products to be auctioned.

(ii) Contents of notice.

(I) The auction notice shall include the auction start date, the date and time by which bids must be received for the first round, and the types, quantity (number of blocks), congestion zone, and term of each entitlement available in that auction. The notice shall also include the following range of bid increments for each product type to be used to adjust the price of entitlements between rounds of the auction:

(-a-) Baseload - \$.05 to \$.75;

(-b-) Gas-intermediate - \$.02 to \$.30;

(-c-) Gas-cyclic - \$.02 to \$.30;

(-d-) Gas-peaking - \$.02 to \$.30.

- (II) The affiliated PGC shall also specify which power generation units will be used to meet the entitlement for each type of entitlement to be auctioned. If baseload entitlements are being auctioned, the utility shall also specify the fuel cost prescribed in subsections (f)(3)(B)(ii) and (g)(2)(F)(ii) of this section at the time of the auction. If an entitlement to be auctioned is subject to the forced outage provision in subsection (e)(2)(B) of this section, then the notice must include the applicable three-year rolling average of the forced outage rate.
- (iii) The affiliated PGCs shall publish their respective notices and application forms on their web sites no later than 45 calendar days before the start of each auction. Each entity that intends to bid in an affiliated PGC's auction shall complete the forms, which include the first page of the cover sheet to the Agreement, and submit them to the affiliated PGC at least 20 business days before the auction starts, to allow enough time for evaluation and approval of credit. Potential bidders may submit the required documents after that time, but at the risk of not having credit and document approval in time for them to participate in the auction.

- (iv) Credit approval for entities bidding on capacity auction products in ERCOT or in non-ERCOT areas of Texas will be performed pursuant to subsection (e)(7) of this section.
- (v) The affiliated PGC shall notify an approved bidder of its available credit and send the approved bidder a completed capacity auction-specific version of the applicable Agreement, executed by the affiliated PGC, within ten business days after the bidder has submitted the required information. The approved bidder should attempt to execute and return the executed Agreement to the affiliated PGC no later than five business days before the auction starts. The executed Agreement shall be received by the affiliated PGC no later than two business days before the auction starts. The affiliated PGC shall provide a password or passwords to the approved bidder to allow access to the auction web site and to allow it to bid no later than one business day before the auction starts. An approved bidder may not request or receive additional credit after the auction starts.
- (vi) Specific information on how to place bids and navigate the auction sites will be provided by the affiliated PGCs to their qualified bidders prior to the beginning of the capacity auction.

(3) Term of auctioned capacity.

- (A) Initial auction. For the initial auction in September 2001, each entitlement was one month in duration, with:
- (i) Approximately 20% of the entitlements auctioned as two one-year strips with the strips auctioned jointly (the 12 months of 2002 and 2003),
 - (ii) Approximately 30% of the entitlements as one-year strips (the 12 months of 2002), and
 - (iii) Approximately 20% of the entitlements as discrete months for each of the 12 months of 2002 (January through December of 2002)
 - (iv) Approximately 30% of the entitlements as discrete months for the first four months of 2002 (January through April of 2002).
 - (v) Reductions in the amounts of entitlements available during the months of March, April, May, October, and November of each calendar year shall be accounted for in the entitlements offered as discrete months.
- (B) Schedule of subsequent auctions.
- (i) The auction in March of a year will auction approximately 30% of the entitlements as the discrete months of May through August of that year.
 - (ii) The auction in July of a year will auction approximately 30% of the entitlements as the discrete months of September through December of that year.

- (iii) The auction in September of a year will auction:
 - (I) Approximately 50% of the entitlements as the one-year strips for the next year; and
 - (II) Approximately 20% of the entitlements as discrete months for each of the 12 calendar months of the next year.
 - (iv) The auction in November of a year will auction approximately 30% of the entitlements as the discrete months of January through April of the next year.
 - (v) Reductions in the amounts of entitlements available during the months of March, April, May, October, and November of each calendar year shall be accounted for in the entitlements offered as discrete months.
 - (vi) The commission will periodically evaluate the need to sell one-year and two-year strips and make appropriate adjustments to the terms of the auctions.
- (C) Modification of term. If the auction is for a one-year or two-year strip term and the affiliated retail electric provider (REP) expects to reach the 40% load loss threshold in paragraph (1)(A)(iii) of this subsection, the affiliated PGC may request a shorter term strip by providing evidence of the loss of customer load. Similarly, prior to an auction for the next four available months, an affiliated PGC may request to not auction months in which it projects reaching the 40% threshold. Such filings shall be made

90 days before the auction start date. An affiliated PGC that will satisfy its auction requirements through divestiture, as described in subsection (d) of this section may petition the commission to set an appropriate term for entitlements. The affiliated PGC may not adjust the amount or length of an entitlement to be auctioned except as authorized by the commission.

- (4) Quantity to be auctioned.
 - (A) Block size and number of blocks. The block size of the auctioned capacity entitlement is 25 MW. The affiliated PGC shall divide the amount determined for each product referenced in subsection (e)(1) of this section by 25 to determine the number of blocks of each type to be auctioned.
 - (B) Divisibility. If the amount to be auctioned for an affiliated PGC for a particular product is not evenly divisible by 25, any remainder shall be added to the product most highly valued in the immediately preceding auction for products of the same duration and shall increase by one the number of entitlements of that product.
 - (C) Total amount. The sum of the blocks of capacity auctioned shall total no less than 15% of the affiliated PGC's Texas jurisdictional installed generation capacity.
- (5) **Bidders.** For each auction, potential bidders shall pre-qualify by demonstrating compliance with the credit requirements in subsection (e)(7) of this section in advance of submission of a bid.

- (6) **Bidding procedures.** For purposes of this section, the term "set of entitlements" shall refer to all of a seller's products of the same type and period. For example, a quantity of baseload products sold as a one-year strip for 2002 would be a set of baseload-annual 2002 entitlements, while a quantity of baseload products sold as the discrete month of July 2002 would be a set of baseload-July 2002 entitlements.
- (A) Method of auction for affiliated PGCs within ERCOT. Each auction shall be a simultaneous, multiple round, auction that includes procedures that allow switching by bidders between affiliated PGCs and product types.
- (i) Auction duration. Once a product auction commences it will continue through each business day until that auction concludes.
- (ii) Round duration. Each auction's first round will begin promptly at 8:00 a.m. and each round will last for 30 minutes with 30 minutes between rounds. For example, the first round of bidding will start at 8:00 a.m. and end at 8:30 a.m., the second round will start at 9:00 a.m. and end at 9:30 a.m., etc. No round may start later than 4:00 p.m. All times are in central prevailing time.
- (iii) Credit calculation. An entitlement bidder's credit limit shall be adjusted during the auction based on the value of the entitlements bid upon, and will be determined by using an assumed fuel price stated by the entitlement seller, and the capacity price for the lesser of three months or the duration of the entitlement plus the amount

that would be paid to exercise the entitlement for the lesser of three months or the duration of the entitlement at the assumed dispatch for each product as follows:

Product	Peak Months (May-Sept.)	Off-Peak Months (Oct.-April)
Baseload	100%	90%
Gas-intermediate	50%	20%
Gas-cyclic	20%	10%
Gas-peaking	10%	2%

- (B) Mechanism for auction for affiliated PGCs within ERCOT. Each affiliated PGC shall conduct the auction over the Internet on a secure web page and shall assign a password and bidder's number to each entity that has satisfied the credit requirements in this section.
- (C) Method of auction for affiliated PGCs in non-ERCOT areas. Each auction shall be a simultaneous, multiple round, open bid auction.
- (i) First round. For the first round of the auction, the affiliated PGC will post the opening bid price determined in accordance with paragraph (7) of this subsection for each set of entitlements available for purchase at the auction. Each bidder will specify the number of entitlements it wishes to purchase of each set of entitlements at the opening bid price(s). If the total demand for a set of entitlements is less than the available quantity of the set of entitlements, the price for each of the entitlements in the set will be

the opening bid price and each bidder in the round will receive all of the entitlements in the set they demanded. Any remaining entitlements of the set will be held for future auction as noticed by the affiliated PGC in accordance with its notice given pursuant to paragraph (7) of this subsection.

- (ii) Subsequent rounds. If the total demand for a set of entitlements in any round is more than or equal to the available quantity, the affiliated PGC will adjust the price upward within the range for each specific product type as noticed according to paragraph (2)(B)(ii)(I) of this subsection. Bidders shall then submit bids for the quantities they wish to purchase of each set of entitlements at the new price. Subsequent rounds shall continue until demand is less than supply for each set of entitlements. The auction then closes and the market clearing price for each set of entitlements is set at the last price for which demand equaled or exceeded supply. Bidders shall then be awarded the entitlements they demanded in the final round, plus a pro-rata share of any entitlements they demanded in the next to last round as described in clause (iii) of this paragraph.
- (iii) Pro-rata entitlement allocation. The pro-rata allocation of entitlements will be implemented by determining a bid differential between the next-to-last round bid and the number of awarded

entitlements based on the last round and awarding the remaining entitlement to the bidder with the largest differential. The awarded entitlement will then be subtracted from that bidder's differential and the process will iterate until all entitlements have been awarded. In the event that the differential between two or more bidders is the same, the tie will be broken based on the timestamp of each bidder's last bid submitted in the next-to-last round. For example, 14 baseload one-year strip entitlements are available and bidders A, B, C, and D are bidding. In the last round, demand was only 11 entitlements and bidder D did not bid.

	Bids Next-To-Last Round	Last Round Bid		Differential Between Rounds
A	4 - 10:50	3	3	1
B	6 - 10:20	6	6	0
C	3 - 10:44	2	2	1
D	3 - 10:59	None - 0	-	3
Total	16	11 (3 leftover)	11 (3 avail)	
In this example, bidder "D" would receive the first unsubscribed entitlement and its differential would be reduced by one since it possesses the largest differential.				

	Bids Next-To-Last Round	Last Round Bid		Differential Between Rounds
A	4 - 10:50	3	3	1
B	6 - 10:20	6	6	0
C	3 - 10:44	2	2	1
D	3 - 10:59	None - 0	1	2
Total	16	11 (3 leftover)	12 (2 avail)	

Since bidder "D" still contains the largest differential and there are still two unsubscribed entitlements, "D" will again be awarded an entitlement.

Bidders	Bids Next-To-Last Round		Awarded	Differential Between Rounds
A	4 - 10:50	3	3	1
B	6 - 10:20	6	6	0
C	3 - 10:44	2	2	1
D	3 - 10:59	None - 0	2	1
Total	16	11 (3 leftover)	13 (1 avail)	

For the last remaining entitlement there are three bidders that all have a differential of one: "A", "C", and "D". Therefore, a tie exists and the timestamp tiebreaker will be used to determine which of the three bidders should receive the entitlement. Based on the timestamps bidder "C" would receive the last entitlement, because it has the earliest time stamp in the next-to-last round. The completed auction would appear as follows:

Bidders	Bids Next-To-Last Round	Last Round Bid	Awarded	Differential Between Rounds
A	4 - 10:50	3	3	1
B	6 - 10:20	6	6	0
C	3 - 10:44	2	3	0
D	3 - 10:59	None - 0	2	1
Total	16	11 (3 leftover)	14 (0 avail)	

- (iv) Auction duration. Once a product auction commences it will continue through each business day until that auction concludes.
- (v) Round duration. Each auction's first round will begin promptly at 8:00 a.m. and each round will last for 30 minutes with 30 minutes between rounds. For example, the first round of bidding will start at 8:00 a.m. and end at 8:30 a.m., the second round will start at 9:00 a.m. and end at 9:30 a.m., etc. No round may start later than 4:00 p.m. All times are in central prevailing time.
- (vi) Credit calculation. An entitlement holder's credit limit shall be adjusted during the auction based on the value of the entitlements awarded to the holder, which will be determined by using an assumed fuel price stated by the entitlement seller, and the capacity price for the lesser of three months or the duration of the entitlement plus the amount that would be paid to exercise the entitlement for the lesser of three months or the duration of the entitlement at the assumed dispatch for each product as follows:

Product	Peak Months (May - Sept.)	Off-Peak Months (Oct. - April)
Baseload	100%	90%
Gas-intermediate	50%	20%
Gas-cyclic	20%	10%
Gas-peaking	10%	2%

- (D) Activity rules for affiliated PGCs in non-ERCOT areas.

- (i) A bidder must bid in the first round for a particular entitlement to participate in subsequent rounds.
 - (ii) A bidder may not bid a greater quantity than it bid in a previous round for a particular entitlement.
- (E) Mechanism for auction for affiliated PGCs in non-ERCOT areas. Each affiliated PGC shall conduct the auction over the Internet on a secure web page and shall assign a password and bidder's number to each entity that has satisfied the credit requirements in this section.
- (7) **Establishment of opening bid price.**
 - (A) If an affiliated PGC intends to change the minimum opening bid prices that would otherwise be applicable under subparagraph (B) of this paragraph, it shall file with the commission, not less than 90 days before the auction start date on which the change is proposed to be applicable, a methodology for determining an opening bid price for each type of entitlement, if needed, based on the affiliated PGC's expected variable cost of operation, but excluding any return on equity. The opening price may not include any cost included in the fuel price to be paid by entitlement holders, nor any cost being recovered by its affiliated transmission and distribution utility through non-bypassable delivery charges, but may recover variable costs not included in the fuel prices, such as fuel service costs and start up fees. Parties shall have 30 days after filing to challenge the methodology. If no challenges are received, the affiliated PGC's

proposed methodology shall be deemed appropriate. If any party objects to the affiliated PGC's proposed methodology, then the commission shall determine the appropriate methodology.

- (B) Minimum opening bids for entitlements shall be the same as the minimum opening bids used in the most recent auction that included those entitlements, except that sellers with plants that have been affected by congestion zone changes since the most recent auction may use minimum opening bids that are different than the minimum opening bids in the most recent auction, provided that the seller maintains the same weighted-average, by MW, of the most recent auction's minimum bids, for all of its plants of the same product type in all congestion zones, to compute the new minimum opening bids for each product type. Nothing in this subparagraph shall prevent the commission from ordering a different methodology for a seller, if the seller proves that good cause exists for the change.
- (C) In the notice provided pursuant to paragraph (2)(B)(i) of this subsection, the affiliated PGC may make available an opening bid price calculated pursuant to the commission-approved methodology for each type of entitlement to be offered for sale at auction. The affiliated PGC shall not be obligated to accept any bid for a product less than the opening bid price, but shall notify the commission that the opening bid price was not met. The affiliated PGC shall be deemed to have met the 15%

requirement if it offered products in a product category (for example, gas-intermediate) and successfully sold, at least, all of the entitlements offered in one particular month, in that product category. If there is an auction where there is no month in which all of the entitlements of a particular product are sold, then the affiliated PGC shall, in its notice pursuant to paragraph (2)(B)(i) of this subsection, make a proposal to the commission in order to comply with the 15% requirement. The affiliated PGC's proposal may include revisions to the product category, product price, or offer alternative products for auction.

- (8) **Results of the auction.** The results of the auction shall be simultaneously announced to all bidders by posting on the affiliated PGC's auction web site with posting of the market clearing price for each set of entitlements.
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- (i) **Resale of entitlement.**
 - (1) **Compliance with provisions.** An entitlement may be assigned, sold or transferred by the entitlement holder only by following the provisions of this section. Any purported assignment, sale, or transfer of an entitlement that does not follow the provisions of this section is void and ineffective against the affiliated PGC.
 - (2) **Eligible entities.** An entitlement holder may assign, sell, or transfer an entitlement to any person or entity other than an affiliated REP, but the entitlement holder may dispatch the output of the entitlement to an affiliated REP.

- (3) **Obligations.** An entitlement that is assigned, sold, or transferred under this section remains subject to the provisions of the Agreement under which it originated, and the assignee of that entitlement succeeds to all of the rights and obligations of the assignor with respect to that entitlement.
- (4) **Liability.** Neither the assignor nor any previous entitlement holder that has remained liable for payments due to the affiliated PGC in connection with the entitlement as a result of a previous assignment, sale, or transfer is released from liability to the affiliated PGC for payments due in connection with the entitlement unless:
- (A) At least 14 days before the effective date of the assignment, sale, or transfer, assignee has provided security to the affiliated PGC that is equal to or greater than the security originally given to the affiliated PGC for the entitlement; and
- (B) At least ten days before the effective date of the assignment, sale, or transfer, the affiliated PGC has notified both assignor and assignee in writing that the security has been approved and accepted by the affiliated PGC.
- (5) **Requests to approve security.** The affiliated PGC shall respond to written requests to approve security to be offered by a prospective assignee within 14 days after receipt of that request. Approval shall not be unreasonably withheld.
- (6) **Effective date.** No assignment, transfer, or sale of the entitlement by a party is binding on the non-assigning party until the non-assigning party receives written

notice of the assignment, sale, or transfer and a copy of the executed assignment, sale, or transfer document, and the assignment, sale, or transfer is not effective unless such notice is received at least three days before the beginning of the entitlement month.

(j) **True-up process.**

- (1) **Process.** For 2002 and 2003, the affiliated PGC shall reconcile, and either credit or bill to the transmission and distribution utility, any difference between the price of power obtained through the capacity auctions under this section and the power cost projections that were employed for the same time period in the ECOM model to estimate stranded costs for the affiliated PGC in the PURA §39.201 proceeding.
- (2) **PGCs without stranded costs.** An affiliated PGC that does not have stranded costs described by PURA §39.254 is not required to comply with paragraph (1) of this subsection.
- (3) Any order by the commission that finally resolves an affiliated PGC's stranded costs, prior to true-up, supersedes this subsection.

(k) **True-up process for electric utilities with divestiture.** If an affiliated PGC meets its capacity auction requirements through a divestiture as allowed by subsection (d) of this section, the proceeds of the divestiture shall be used for purposes of the true-up calculation.

- (l) **Modification of auction procedures or products.** Upon a finding by the commission that the auction procedures or products require modification to better value the products or to better suit the needs of the competitive market, the commission may, by order, modify the procedures or products detailed in this section.

- (m) **Contract terms.**
 - (1) **Standard agreement.** Parties shall utilize the Agreement in the form prepared by the Edison Electric Institute (Version 2.1). The Cover Sheet to the Agreement shall provide for credit terms that are based upon objective credit standards determined by the commission. There may be different versions of the Agreement applicable to sales of capacity auction products in different regions in Texas. For example, ERCOT and the non-ERCOT areas may have different versions of the Agreement.
 - (2) **Applicability.** The terms and conditions set forth in any Agreement apply only to the entitlements obtained in the capacity auctions under this section.
 - (3) **Electronic scheduling.** The Agreement shall require that, if the affiliated PGC provides an electronic scheduling interface for the dispatch of entitlements, then the entitlement holder shall schedule the dispatch of its entitlements using that electronic interface.
 - (4) **Scheduling discrepancies.** If an entitlement holder submits a non-conforming schedule to the affiliated PGC for an entitlement that violates any of the

scheduling requirements for that capacity auction product type for a scheduled hour, then the schedule for that hour is deemed to be the same as the schedule for the hour most closely preceding that scheduled hour that was not a non-conforming schedule. The affiliated PGC shall promptly notify the entitlement holder of a non-conforming schedule. However, the requirements of this paragraph are subject to the default scheduling requirements for baseload and gas-intermediate products delineated in subsections (f)(3)(A)(iv)(V) and (f)(4)(A)(v) of this section for ERCOT areas, and subsections (g)(2)(E)(v) and (g)(3)(E)(v) of this section for non-ERCOT areas.

- (5) **Alternative dispute resolution.** Alternative dispute resolution shall be a condition precedent to any right of any legal action regarding a dispute arising under, or in connection with, the standard agreement adopted by the commission. The parties may mutually agree to dispute resolution procedures. If the parties are unable to agree upon such procedures within five days after such dispute arises, the parties shall use the alternative dispute resolution procedures contained in the ERCOT protocols.
- (6) **Seller's failure to fulfill obligation.** If an entitlement holder is assessed for imbalanced schedules, failure to procure ancillary services, or any other charges from ERCOT due to the failure of the affiliated PGC to fulfill the auctioned obligation, the affiliated PGC shall be responsible for these costs incurred by the entitlement holder.

This agency hereby certifies that the rule, as adopted, has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority. It is therefore ordered by the Public Utility Commission of Texas that §25.381, relating to Capacity Auctions, is hereby adopted with changes to the text as proposed.

ISSUED IN AUSTIN, TEXAS ON THE 10th DAY OF JULY 2003.

PUBLIC UTILITY COMMISSION OF TEXAS

Rebecca Klein, Chairman

Brett A. Perlman, Commissioner

Julie Parsley, Commissioner