

PROJECT NO. 24492

**RULEMAKING PROCEEDING TO § PUBLIC UTILITY COMMISSION
REVISE SUBSTANTIVE RULE §
§25.381, CAPACITY AUCTIONS § OF TEXAS**

**PROPOSAL FOR PUBLICATION AS APPROVED AT THE
DECEMBER 19, 2001 OPEN MEETING**

The Public Utility Commission of Texas (commission) proposes an amendment to §25.381 relating to Capacity Auctions. The proposed amendment will reflect previous good cause exceptions and modify the existing rule to reflect the experience gained from the initial capacity auctions, in regards to the procedures by which affected affiliated power generation companies (PGCs) will auction entitlements to 15% of their Texas jurisdictional installed generation capacity. Project Number 24492 is assigned to this proceeding.

As part of the drafting process, commission staff conducted workshops in Austin, Texas to receive input from potentially affected persons on November 7, 2001, November 14, 2001, and November 28, 2001. Informal comments were solicited at those workshops.

Matthew Troxle, Senior Rate Analyst, Electric Division, has determined that for each year of the first five-year period the proposed section is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the section.

Mr. Troxle has also determined that for each year of the first five years the proposed section is in effect the public benefit anticipated as a result of enforcing the section will be increased competition and liquidity in the wholesale generation market, readily available generation supplies to purchasers, and a variety of products to assist both wholesale market participants and retail electric providers in servicing retail customers, thus ultimately resulting in lower electric energy prices for those customers. Furthermore, there will be no adverse economic effect on small businesses or micro-businesses as a result of enforcing this section. There may be economic costs to affected PGCs and parties interested in participating in the auctions through the preparation and evaluation of bids and in the compliance with applicable credit requirements. These costs are likely to vary from business to business, and are difficult to ascertain. However, it is believed that the benefits accruing from implementation of the proposed section will outweigh these costs. Winners of the auctions will be required to make payments to the affected PGCs for the capacity and energy as directed by the rule.

Mr. Troxle has also determined that for each year of the first five years the proposed section is in effect there should be no effect on a local economy, and therefore no local employment impact statement is required under Administrative Procedure Act §2001.022.

The commission seeks comments on the proposed amendment from interested persons. Comments should be organized in a manner consistent with the organization of the proposed rule. When commenting on specific subsections of the proposed rule, parties are

encouraged to describe "best practice" examples of regulatory policies, and their rationale, that have been proposed or implemented successfully in other states already undergoing electric industry restructuring, if the parties believe that Texas would benefit from application of the same policies. The commission is only interested in receiving "leading edge" examples which are specifically related and directly applicable to the Texas statute, rather than broad citations to other state restructuring efforts.

In addition to comments on specific subsections of the proposed rule, the commission requests that parties specifically address the following issues:

1. In regards to ongoing creditworthiness:
 - a. Should a seller be allowed to require additional security from a purchaser, if the creditworthiness or financial responsibility of the purchaser becomes unsatisfactory, in the reasonable judgement of the seller, at any time during which the entitlement is in effect?
 - b. What are the positives and negatives associated with allowing additional security to be required from the purchaser?
 - c. Should an additional security provision be in place for the seller as well as the purchaser?
2. In regards to auction mechanics:
 - a. Should non-Electric Reliability Council of Texas, Inc. (ERCOT) and non-stranded cost companies be allowed to have different auction processes or mechanics from other companies?

- b. What are the potential gains to allowing differing processes or mechanics and what potential detriments exist in regards to efficiency and loss of standardization?
3. Should the PGCs involved in the capacity auction use a common auction platform?
4. Should the Capacity Auction include a switching rule to minimize price differences across PGCs?

Comments on the proposed amendment (16 copies) may be submitted to the Filing Clerk, Public Utility Commission of Texas, 1701 North Congress Avenue, P.O. Box 13326, Austin, Texas 78711-3326, within 30 days after publication. Reply comments may be submitted within 45 days after publication. The commission invites specific comments regarding the costs associated with, and benefits that will be gained by, implementation of the proposed section. The commission will consider the costs and benefits in deciding whether to adopt this section as proposed. All comments should refer to Project Number 24492.

The commission staff will conduct a public hearing on this rulemaking, if requested under Government Code §2001.029, in the Commissioners' Hearing Room located on the 7th floor of the William B. Travis Building, 1701 North Congress Avenue, Austin, Texas 78701, on Tuesday, February 26, 2002, at 9:30 a.m. The request for public hearing must be made within 30 days after publication.

This amendment is proposed under the Public Utility Regulatory Act, Texas Utilities Code Annotated §14.002 (Vernon 1998, Supplement 2002) (PURA), which provides the Public Utility Commission with the authority to make and enforce rules reasonably required in the exercise of its powers and jurisdiction. The commission also proposes this rule 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, 39.153, 39.201, and 39.262.

§25.381. Capacity Auctions.

(a) - (b) (No change.)

(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~~ For purposes of this section, an "affiliated PGC" refers to any affiliated power generation company that is unbundled from the electric utility in accordance with PURA §39.051. 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. ~~Until January 1, 2002, the term also includes an electric utility as defined in §25.5 of this title (relating to Definitions) that owns or operates for compensation in this state equipment or facilities to generate more than 400 megawatts (MW) of electricity in this state until the electric utility has unbundled, but does not include river authorities.~~
- (2) Assigned units – The PGC-specific generating units that form the block of capacity from which an entitlement is sold.

- ~~(3)~~(2) **Auction start conclusion date** – The date on which ~~the bids are due to be received and the winning bids in~~ an auction ~~begins~~are announced.
- ~~(4)~~(3) **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)~~(4) **Close of business** – 5:00 p.m., local Austin, Texas central standard or daylight savings time.
- ~~(7)~~(5) **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)~~(6) **Daily gas price** – The index posting for the date of flow in the Financial Times energy ~~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 a

weighted average of the "Gas Daily" index posting for East-Houston-Katy, Houston Ship Channel.

(10)(7) 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 (immediate, delayed, postponed, startup failure) or other condition that requires the unit be removed from service immediately, within six hours, or 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)(8) Installed generation capacity – All potentially marketable electric generation capacity owned by an affiliated power generation company, including the capacity of:

- (A) Generatinggenerating facilities that are connected with a transmission or distribution system;
- (B) Generatinggenerating facilities used to generate electricity for consumption by the person owning or controlling the facility; and
- (C) Generatinggenerating facilities that will be connected with a transmission or distribution system and operating within 12 months.

~~(9) — **Power generation company (PGC)** — As defined in §25.5 of this title.~~

~~(15)(40)~~ **Starts** – Direction by the owner of an entitlement to dispatch a previously idle entitlement.

~~(16)(41)~~ **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)(f)~~ 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 if and 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 ~~four~~ products, defined separately in subsection (f) for Electric Reliability Council of Texas, Inc. (ERCOT) and in subsection (g) 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.

~~(A) Baseload.~~

- ~~(i) Description. For each baseload capacity entitlement, the scheduled power shall be provided to the purchaser 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 paragraph (5)(C)(i) of this subsection.~~
- ~~(ii) Block size. Each baseload capacity entitlement shall be 25 MW in size.~~
- ~~(iii) Fuel price. The fuel cost owed to the affiliated PGC by the entitlement purchaser 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 excess cost over market (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.~~
- ~~(iv) Starts per month. The purchaser of a baseload capacity entitlement must 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 per month of baseload capacity entitlements.~~

~~(B) Gas intermediate.~~

~~(i) Description. For each gas intermediate capacity entitlement, 30% of the entitlement shall be provided to the purchaser during the month of the entitlement seven days per week and 24 hours per day with the remainder of the block scheduled as day-ahead shaped power, or hour ahead for ancillary services, in accordance with the scheduling requirements and limitations provided in paragraph (5)(C)(ii) of this subsection.~~

~~(ii) Block size. Each gas intermediate capacity entitlement shall be 25 MW in size.~~

~~(iii) Fuel price. The fuel cost owed to the affiliated PGC by the capacity purchaser for the gas intermediate capacity dispatched will be 9,900 British thermal units per kilowatt-hour (BTU/kWh) heat rate times the minimum kilowatt-hours (kWh) that must be taken for gas intermediate capacity as required in paragraph (5)(C)(ii) of this subsection 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 kWh required, the additional fuel price owed to the affiliated PGC will be 9,900 BTU/kWh times the kWh of gas intermediate power dispatched pursuant to the entitlement above the minimum requirement times the daily gas price.~~

~~(iv) Starts per month. The purchaser of gas intermediate capacity must take a minimum of 30% of the power from the entitlement and is therefore not permitted to direct the affiliated PGC to make any starts per month of gas intermediate capacity entitlements.~~

~~(C) Gas cyclic.~~

~~(i) Description. The gas cyclic entitlement shall be flexible day-ahead shaped power and ancillary services.~~

~~(ii) Block size. Each gas cyclic capacity entitlement shall be 25 MW in size.~~

~~(iii) Fuel price. The fuel price owed to the affiliated PGC by the capacity purchaser for gas cyclic capacity dispatched will be 12,100 BTU/kWh times the kWh of the gas cyclic power dispatched under the entitlement times the daily gas price.~~

~~(iv) Starts per month and associated costs. The purchaser 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 by the scheduling procedures adopted by the commission.~~

~~(D) Gas peaking.~~

~~(i) Description. The gas peaking entitlement shall be intra-day power and ancillary services.~~

~~(ii) Block size. Each gas peaking capacity entitlement shall be 25 MW in size.~~

~~(iii) Fuel price. The fuel price owed to the affiliated PGC by the purchaser for gas peaking capacity dispatched will be 14,100 BTU/kWh times the kWh of the gas peaking power dispatched under the entitlement times the daily gas price.~~

~~(iv) Starts per month and associated costs. The purchaser 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) Ancillary services. The owner of a capacity entitlement may use it to meet ancillary services needs, if the needs may be met in a manner that is consistent with procedures developed by the commission. The amount of ancillary services available will be in proportion to the ancillary services capabilities of the units that are used to define the capacity offered in the different entitlement products.~~

~~(F) Other products. 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 subsection, including unit specific capacity.~~

(2) **Forced outages.**

(A) For all entitlements except those described in subparagraph (B) of this paragraph, if ~~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 to the grouping of 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 less generating units, the available reduction due to a forced outage or emergency condition shall be the most recent three-year rolling average of the forced outage rate for the unit(s) supporting the entitlement instead of 2.0%. For example, if the most recent three-year average forced outage rate for the unit(s) supporting an entitlement is 6.5%, then the firmness of the product will become 93.5% instead of 98%.

(C) Notification of any such reductions will take place prior to the next scheduling period.

(3) **Planned outage.** The average MW of monthly planned outage for each product is determined over the past three years, then times 12, to determine the total planned annual outage MW entitlements by which the affiliated PGC can reduce its required commitment (this number shall be rounded down to the nearest whole number). 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)(3) **Generation units offered.** If an affiliated PGC changes the assignment of its power generation units to one of the four available product entitlements (baseload, gas-intermediate, gas-cyclic, or gas-peaking) then ~~Within 60 days after the effective date of this section,~~ the affiliated PGC shall file with the commission ~~theits~~ proposed changes in its assignment of each of the affiliated PGC's power generation units to one of the four available product entitlements ~~identified in paragraph (1) of this subsection,~~ 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 utility's proposed changed assignments. If no comments

are received, the affiliated PGC's proposed utility's assignment shall be deemed appropriate. If any party objects to the affiliated PGC's utility'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)~~**(4) 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 paragraph (5)(C) of this subsection. 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 Capacity Auction EEI/NEMA Master Power Purchase & Sale Agreement (the "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)(f)(2)(A) of this section the point on the transmission system where energy from each entitlement is delivered to the entitlement owner ~~buyer~~.

~~(6)~~**(5) Purchaser receives no possessory interest or obligations** ~~Purchaser's rights and duties.~~

(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 purchaser shall have the right to designate the dispatch of the entitlement, subject to paragraph (2) of this subsection and the scheduling limitations provided for in the applicable Agreement.—~~In addition, the following scheduling limitations apply based upon the type of capacity entitlement being scheduled.~~
- (i) ~~Baseload. Baseload capacity entitlements must be scheduled at a minimum of 80% of the block size. A baseload entitlement purchaser may vary the amount of energy scheduled between 80% and 100% of the block size on a day-ahead basis. Such schedule changes must be in hourly increments of no more than +/- 10% of the block size per hour. Baseload capacity entitlements can be scheduled only on a day-ahead basis. Nothing in this paragraph affects the right or obligation of the owner of a baseload entitlement to schedule the delivery of power from the entitlement through the independent organization.~~
- (ii) ~~Gas intermediate. Gas intermediate entitlements can be scheduled on a day-ahead basis. Gas intermediate ancillary~~

~~services can be scheduled on a day-ahead or hour-ahead basis. An entitlement must be scheduled at a minimum of 30% of the block size, with a maximum allowable hourly swing of +/- 25% of the block size. Other than for ancillary services, there shall be no hour-ahead scheduling for intermediate capacity entitlements.~~

~~(iii) Gas cyclic. Gas cyclic entitlements shall be scheduled consistent with the scheduling procedures developed by the commission.~~

~~(iv) Gas peaking. Gas peaking entitlements shall be scheduled consistent with the scheduling procedures developed by the commission.~~

~~(7)(D)~~ **Credit requirements.**

~~(A)(i)~~ Standards. Entities submitting bids ~~shall must~~ satisfy one of the following credit standards:

~~(i)(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)(II)~~ The entity provides an escrowed deposit equal to the capacity price for the shorter of the duration of the entitlement or three months bid amount 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 subsection (h)(6)(A)(vi) of this section~~minimum required dispatch~~;

~~(iii)(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~~bid amount~~ plus the amount that would be paid to exercise the entitlement for the shorter of the duration of the entitlement or a rolling three-month period at the assumed~~minimum~~ dispatch provided in subsection (h)(6)(A)(vi) of this section~~required~~, irrevocable for the duration of the entitlement;

~~(iv)(IV)~~ The entity provides a guaranty from another entity with an investment grade credit rating; or

~~(v)(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.

(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 a 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.

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

(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 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)(ii) All cash and other instruments used as credit security shall be unencumbered by pledges for collateral.

(D) If a bidder 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 and the affiliated PGC and reasonably acceptable by an issuer of surety bonds.

(E)(iii) 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 ~~must~~ provide alternative financial evidence within three business~~ten~~ days.

(F)(iv) The holder of the entitlement shall ~~must~~ notify the affiliated PGC of any material changes that impact the financial requirement contained in the credit standards.

(G)(v) In the event the holder of the entitlement fails to meet or continue to meet its security requirement, 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)(i)(2)(A) of this section.

(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 from an entitlement.

(ii) Balancing energy service up deployed – The number of MWh of balancing energy service up deployed from an entitlement.

(iii) Daily capacity commitment – The amount of capacity scheduled by an entitlement owner 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 owner to an affiliated PGC of the entitlement owner'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 owner to ERCOT as its default QSE.

- (vi) Energy scheduled – The final schedule for energy, for each settlement interval, that an entitlement owner 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 owner 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 owner to an affiliated PGC no later than one hour before the end of an adjustment period of the entitlement owner's scheduled use of the entitlement for the operating hour for that adjustment period.
- (xii) Non-spinning energy deployed – Energy deployed 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 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 from the regulation service as determined under the procedures of paragraph (2)(B) of this subsection.

(xvi) Responsive energy deployed – Energy deployed 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 owner to the affiliated PGC of the entitlement owner'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 owner may not use an entitlement for the provision of balancing energy service until a responsibility transfer (RT) between the entitlement owner's and the affiliated PGC's respective QSEs is established and operated in accordance with the ERCOT protocols for the deployment of balancing energy service. The entitlement owner shall establish a separate RT with the affiliated PGC for each congestion zone from which the entitlement owner 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 owner, the parties shall negotiate in good faith to establish the capability to use RTs between their respective QSEs to:
- (I) Allow the entitlement owner to provide balancing energy service from the entitlement; and
- (II) Allocate the cost of establishing that capability.
- (iii) The entitlement owner's QSE shall act as the controller of RTs used for balancing energy service from an entitlement. The entitlement owner'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 owner'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 owner may wish to deploy balancing energy service from an entitlement.

(v) The affiliated PGC's QSE is only responsible for complying with RTs sent by the entitlement owner's QSE and is not responsible for ERCOT instructions sent to the entitlement owner.

(vi) The affiliated PGC and the entitlement owner 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 owner 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 owner 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 of ancillary services under clause (i) or (v) of this subparagraph, the entitlement owner 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 owner shall give the affiliated PGC a written list of all entitlements from the affiliated PGC that are held by the entitlement owner for that entitlement month. The list shall contain sufficient detail for the affiliated PGC to identify the entitlements held by the entitlement owner 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 owner for each operating hour, both for individual entitlements and for each grouped ancillary service.

(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 ancillary service for an operating hour is the amount stated in the final timely schedule submitted by the entitlement owner to the affiliated PGC for that operating hour for each entitlement in the entitlement group.

(iii) Deployed ancillary services.

(I) For balancing energy service, the amount of energy 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 owner from its grouped entitlements to the total amount of that specific ancillary service scheduled from resources in the affiliated PGC's QSE;

(-b-) Times 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 owner from the entitlement to the total amount of that specific ancillary service scheduled from resources in the affiliated PGC's QSE;

(-b-) Times the amount of energy deployed 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 owner'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 owner's entitlements of that type in ERCOT.

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

(-a) For incremental deployments:

(-1) First: Baseload entitlements;

(-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.

(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 owner shall submit a day-ahead schedule for the entitlement. The entitlement owner shall submit a two-day-ahead schedule for the entitlement if notified to do so by ERCOT.

(ii) Timing of scheduling.

(I) The entitlement owner 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 owner 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 owner 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 owner 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 owner 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 owner 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 owner may not schedule energy at less than 20 MW from the entitlement at any time during the month.

(II) Ancillary services. The entitlement owner may use a baseload entitlement to provide either responsive reserve service at a level of one MW, and/or non-spinning reserve service, up to a combined total of three MWs. 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 owner schedules energy in each hour generally cannot change more than plus or minus two MWs. The following additional restrictions apply.

(-a-) If the entitlement owner 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 energy scheduled from the first settlement interval in one hour to the first settlement interval in the next hour is plus or minus two MWs.

(-c-) The maximum change in energy scheduled from one settlement interval to the next is plus or minus one MW.

(-d-) 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 MWs.

(IV) Starts. Because the entitlement owner shall schedule energy from a baseload entitlement for every settlement interval, the entitlement owner may not direct any starts of the entitlement.

(V) Default schedule. If the entitlement owner 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 MWs of energy and zero MW of ancillary services to be delivered to the entitlement owner'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 owner and the affiliated PGC for the entitlement shall include:

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

(ii) Energy payment. The fuel cost owed to the affiliated PGC by the entitlement purchaser for the dispatched baseload power will be the average cost of coal, lignite, and nuclear

fuel (in dollars per MWh) 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 owner 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 MWhs equal to 20 MWs 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 owner 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 owner 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 owner 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 owner 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 owner 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 owner any net amount under the contract price calculation, it will pay that amount to the entitlement owner in accordance with the other terms of the Agreement.

(4) Gas-intermediate product.

(A) Gas-intermediate scheduling.

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

(ii) Timing of scheduling.

(I) The entitlement owner 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 owner 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 owner 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 owner 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 owner 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 owner 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 owner from the entitlement; and

(II) For each hour, the MW scheduled to be reserved for the entitlement owner's use of each ancillary service from the entitlement. The entitlement owner 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 MWs and the rate at which ancillary services is reserved or scheduled by the entitlement owner in each hour cannot change more than plus or minus six MWs. The restrictions in items (-a-) and (-b-) of this subclause apply.

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

(-b-) Maximum energy. The entitlement owner 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-) Total. Generally, the rate at which energy is scheduled by the entitlement owner in each hour cannot change more than plus or minus six MWs and the rate at which ancillary services are scheduled or reserved by the entitlement owner in each hour cannot change more than plus or minus six MWs. 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 MWs.

(-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 MWs.

(-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 MWs.

(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 MWs;

(-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 MWs if the entitlement owner schedules any two MW changes in the levels of energy between settlement intervals during the hour;

(-2-) Five MWs if the entitlement owner schedules any one MW, but not two MW, changes in the levels of energy between settlement intervals during the hour; or

(-3-) Six MWs if the entitlement owner does not schedule any changes in the levels of energy between settlement intervals during the hour.

(-c-) In addition to the limitations in items (-a-) and (-b-) of this subclause, the total MWs 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 MWs equal to the difference between 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 MWs equal to the difference between the energy scheduled for that settlement interval minus eight MWs.

(-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 owner 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 owner 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 owner 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 owner 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 MWs for the daily capacity commitment, eight MWs of energy to be delivered to the entitlement owner's designated default QSE, and zero MW of ancillary services, and that deemed schedule may not be changed in any hour-ahead schedule.

(B) Gas-intermediate ancillary services. Subject to the scheduling limits in subparagraph (A) of this paragraph, the entitlement owner 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 owner, and the entitlement owner 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 owner and the affiliated PGC for the entitlement shall include:

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

(ii) Energy payment.

(I) The energy payment from the entitlement owner 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 product of (the excess fuel price defined in subclause (II)(-b-) of this clause,) times (energy scheduled minus two MWhs plus energy deployed up minus energy deployed down).

(II) Fuel price.

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

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

(iii) Ancillary services payment.

(I) The ancillary services cost adjustment payment to be paid by the entitlement owner 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 the product of a heat rate adjustment equal to 1.015 MMBTUs 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 owner the sum of the 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 owner 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.

(D) Timing of payment of contract price. The entitlement owner 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 owner 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 owner any net amount under the contract price calculation, it will pay that amount to the entitlement owner in accordance with the other terms of the Agreement.

(5) Gas-cyclic.

(A) Gas-cyclic scheduling.

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

(ii) Timing of scheduling.

(I) The entitlement owner 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 owner 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 owner 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 owner 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 owner 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 owner 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 owner from the entitlement; and

(II) For each hour, the MW scheduled to be reserved for the entitlement owner's use of each ancillary service from the entitlement. The entitlement owner 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 MWs and the rate at which ancillary services is reserved or scheduled by the entitlement owner in each hour cannot change more than plus or minus six MWs. The restrictions in items (-a-) and (-b-) of this subclause apply.

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

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

owner 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 MWs;

(-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 MWs; and

(-c-) Subject to the limitation 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 MWs.

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

(-a-) The total MWs 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 MWs;

(-b-) Subject to the limitations in item (-a-) of this subclause, the total MWs 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 MWs if the entitlement owner schedules any two MW changes in the levels of energy between settlement intervals during the hour;

(-2-) Five MWs if the entitlement owner schedules any one MW, but not two MW changes in the levels of energy

between settlement intervals during the hour; or

(-3-) Six MWs if the entitlement owner does not schedule any changes in the levels of energy between settlement intervals during the hour.

(-c-) In addition to the limitations in items (-a-) and (-b-) of this subclause, the total MWs 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 MWs equal to the difference between 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 MWs of regulation service down and balancing energy service down from the entitlement in a settlement interval shall not

exceed an amount of MWs equal to the difference between the energy scheduled for that settlement interval minus five MWs.

(-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 owner may not direct more than 20 starts during the month of the entitlement, and the entitlement owner may not direct more than one start per day. A start occurs every time a schedule increases the MWs of energy from zero MW. Once 20 starts have occurred during the entitlement, the energy scheduled by the entitlement owner may not be lower than a rate of five MWs 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 owner 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 owner 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 owner, and the entitlement owner 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 owner and the affiliated PGC for the entitlement shall include:

(i) Capacity payment. The capacity payment from the entitlement owner to the affiliated PGC is the capacity price

in dollars per MW specified in the letter confirmation for the entitlement times 25 MWs.

(ii) Energy payment.

(I) The energy payment for each settlement interval from the entitlement owner to the affiliated PGC is the product of 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 owner by 8:00 a.m. in the day-ahead or two-day-ahead schedule, is the product of a heat rate equal to 12.1 MMBTUs 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 the product of a heat rate equal to 12.1

MMBTUs 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 owner 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 the product of a heat rate adjustment equal to 1.622 MMBTUs 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 owner the sum of the 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 owner 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.

(D) Timing of payment of contract price. The entitlement owner 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 owner 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 owner any net amount under the contract price calculation, it will pay that amount to the entitlement owner in accordance with the other terms of the Agreement.

(6) Gas-peaking.

(A) Gas-peaking scheduling.

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

(ii) Timing of scheduling.

- (I) The entitlement owner 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 owner 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 owner 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 owner 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 owner 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 owner 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 MWs of energy scheduled to be delivered to the entitlement owner from the entitlement; and

(II) For each hour, the MWs scheduled to be reserved for the entitlement owner'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 owner in each settlement interval during an hour shall be either zero MW or 25 MWs and cannot change during the hour.

(-b-) Subject to the requirement of item (-a-) of this subclause, if the entitlement owner schedules any energy from the entitlement in an hour, the rate at which energy is scheduled shall continue uninterrupted at a level of 25 MWs for not less than four hours.

(-c-) Subject to the requirements of items (-a-) and (-b-) of this subclause, when the entitlement owner 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 owner 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 owner 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 owner and the affiliated PGC for the entitlement shall include:
- (i) Capacity payment. The capacity payment from the entitlement owner to the affiliated PGC is the capacity price in dollars per MW specified in the letter confirmation for the entitlement times 25 MWs.
- (ii) Energy payment.
- (I) The energy payment for each settlement interval, from the entitlement owner to the affiliated PGC is

the product of 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 owner designated its daily capacity commitment by 8:00 a.m. in the day-ahead or two-day ahead schedule, is the product of a heat rate equal to 14.1 MMBTUs per MWh times the daily gas price.

(-b-) The fuel price, for operating days for which the entitlement owner 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 14.1 MMBTUs 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 owner to the affiliated PGC is the product of \$1.00 per MW times the total number of

MWs 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 owner 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 owner 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 owner 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 owner any net amount under the contract price calculation, it will pay that amount to the entitlement owner 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 purchaser that seller shall make available for the provision of energy from an entitlement.

(B) **Day ahead schedule** – A schedule submitted by purchaser to seller of the purchaser'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 purchaser submits to seller, subject to the limits on timing and amounts of schedules contained in this subsection.

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

(E) **Hour-ahead schedule** – A schedule other than a day-ahead schedule submitted by purchaser to seller of purchaser'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 purchaser 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 MWs in size.

(C) Fuel price. The fuel cost owed to the affiliated PGC by the entitlement purchaser 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 purchaser 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 per month of baseload capacity entitlements.

(E) Baseload scheduling.

(i) Schedule types. Purchaser shall submit a day-ahead schedule for the entitlement.

(ii) Timing of scheduling.

(I) Purchaser 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 baseload entitlement by the 8:00 a.m. schedule.

(II) Purchaser 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 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 purchaser from the entitlement.

(iv) Scheduling limits.

(I) Minimum energy. Purchaser may not schedule energy at less than 20 MWs from the entitlement at any time during the month.

(II) Maximum energy. Purchaser 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:

(-a-) Total. Generally, the rate at which energy is scheduled by purchaser in each hour cannot change more than plus or minus two MWs.

(-b-) Energy. Subject to the maximum change specified in item (-a-) of this subclause, the maximum change in energy scheduled from one scheduling interval to the next scheduling interval cannot exceed plus or minus two MWs.

(v) Default schedule. If purchaser 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 20 MWs for the daily capacity commitment.

(F) Contract price for baseload. The items to be included in the contract price between the entitlement owner and the affiliated PGC for the entitlement shall include:

(i) Capacity payment. The capacity payment from the entitlement owner to the affiliated PGC is the capacity price

in dollars per MW specified in the letter confirmation for the entitlement times 25 MWs.

(ii) Energy payment. The fuel price is as specified on the letter confirmation for the entitlement. The energy payment from the entitlement owner 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 owner 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 owner 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 owner any net amount under the contract price calculation, it will pay that amount to the entitlement owner in accordance with the other terms of the Agreement.

(3) Gas-intermediate product.

(A) Description. For each gas-intermediate capacity entitlement, 30% of the entitlement shall be provided to the purchaser at any time when any of the entitlement is being dispatched by the purchaser, 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 MWs 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 purchaser for the gas-intermediate capacity dispatched will be 10,850 BTUs per kilowatt hour (kWh) heat rate times the minimum kWhs 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 kWhs required, the additional fuel price owed to the affiliated PGC will be 10,850 BTUs per kWh times the kWhs 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 purchaser for the gas-intermediate capacity dispatched will be 10,850 BTUs per kWh heat rate times the minimum kWhs 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 kWhs required, the additional fuel price owed to the affiliated PGC will be 10,850 BTUs per kWh times the kWhs 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 purchaser for the gas-

intermediate capacity dispatched will be 10,850 BTUs per kWh heat rate times the minimum kWhs that shall be taken for gas-intermediate capacity as required in subparagraph (A) of this paragraph times the weighted 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 kWhs required, the additional fuel price owed to the affiliated PGC will be 10,850 BTUs per kWh times the kWhs of gas-intermediate power dispatched pursuant to the entitlement above the minimum requirement times the weighted average of the Henry Hub daily gas price and the Houston Ship Channel daily gas price.

- (D) Starts per month. The purchaser of gas-intermediate capacity shall take a minimum of 30% of the power from the entitlement and is therefore not permitted to direct the affiliated PGC to make any starts per month of gas intermediate capacity entitlements.
- (E) Gas-intermediate scheduling.

- (i) Schedule types. Purchaser shall submit a day-ahead schedule for the entitlement.
- (ii) Timing of scheduling.

 - (I) Purchaser 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-intermediate entitlement by the 8:00 a.m. schedule.
 - (II) Purchaser 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 purchaser from the entitlement.
- (iv) Scheduling limits.

 - (I) Minimum energy. Purchaser may not schedule energy at less than eight MWs from the entitlement at any time during the month.

(II) Maximum energy. Purchaser 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 sum of the rate energy is scheduled by purchaser in each hour cannot change more than plus or minus six MWs.

(v) Default schedule. If purchaser 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 MWs 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 owner and the affiliated PGC for the entitlement shall include:

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

(ii) Energy payment.

(I) The energy payment from the entitlement owner 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 MWhs 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 10.85 MMBTU_s per MWh times the daily gas price.

(-b-) The excess fuel price is the product of a heat rate equal to 10.85 MMBTU_s per MWh times the daily gas price.

(G) Timing of payment of contract price. The entitlement owner 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 owner 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 owner any net amount under the contract price calculation, it will pay that amount to the entitlement owner in accordance with the other 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 MWs 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 purchaser for gas-cyclic capacity dispatched will be 12,100 BTUs per kWh times the kWhs 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 purchaser for the gas-cyclic capacity dispatched will be 12,100 BTUs per kWh times the kWhs 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 purchaser for the gas-cyclic capacity dispatched will be 12,100 BTUs per kWh times the kWhs of gas-cyclic power dispatched under the entitlement times the weighted average of the Henry Hub daily gas price and the Houston Ship Channel daily gas price.

(D) Starts per month and associated costs. The purchaser 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. Purchaser shall submit a day-ahead schedule for the entitlement.

(ii) Timing of scheduling.

- (I) Purchaser 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 purchaser 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) Purchaser 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 purchaser from the entitlement.

(iv) Scheduling limits.

(I) Minimum energy. Purchaser may not schedule energy at any level between zero MW and five MWs from the entitlement at any time during the month.

(II) Maximum energy. Purchaser 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 sum of the rate energy is scheduled by purchaser in each hour cannot change more than plus or minus six MWs.

(v) Starts. Purchaser shall not direct more than 20 starts during the month of the entitlement, and the purchaser shall not direct more than one start per day. A start occurs every time a schedule increases the MWs of energy from zero MW. Once the maximum number of starts have occurred during the entitlement, the energy scheduled by purchaser may not be lower than a rate of five MWs 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 purchaser 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 owner and the affiliated PGC for the entitlement shall include:

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

(ii) Energy payment.

(I) The energy payment for each settlement interval from the entitlement owner 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 owner by 8:00 a.m. in the

day-ahead schedule, is the product of a heat rate equal to 12.1 MMBTUs 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 12.1 MMBTUs per MWh times (the sum of the daily gas price plus \$.25.)

(G) Timing of payment of contract price. The entitlement owner 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 owner 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 owner any net amount under the contract price calculation, it will pay that amount to the entitlement owner in accordance with the other 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 MWs 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 purchaser for gas-peaking capacity dispatched will be 14,100 BTUs per kWh times the kWhs 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 purchaser for the gas-peaking capacity dispatched will be 14,100 BTUs per kWh times the kWhs 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 purchaser for the gas-peaking capacity dispatched will be 14,100 BTUs per kWh times the kWhs of gas-peaking power dispatched

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

(D) Starts per month and associated costs. The purchaser 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. Purchaser shall submit a day-ahead schedule for the entitlement and may submit hour-ahead schedules.

(ii) Timing of scheduling.

(I) Purchaser 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-peaking entitlement by the 8:00 a.m. schedule, unless purchaser 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-peaking start deadline defined in subclause (III) of this clause. Purchaser shall submit hour-

ahead schedules for the entitlement to seller no later than one hour before the start of the operating hour.

(II) Purchaser may submit to 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 purchaser from the entitlement.

(iv) Scheduling limits.

(I) The rate at which energy is scheduled by purchaser in each scheduling interval during one hour shall be either zero MW or 25 MWs and cannot change during the hour.

(II) Subject to the requirement of subclause (I) of this clause, if purchaser schedules any energy from the entitlement in one hour, the rate at which energy is scheduled shall continue uninterrupted at a level of 25 MWs for not less than four hours.

(III) Subject to the requirements of subclause (I) and (II) of this clause, when the purchaser decreases a schedule for energy to zero MW from the entitlement in one hour, the rate at which energy is scheduled shall continue uninterrupted at a level of zero MW for not less than two hours.

(v) Default Schedule. If purchaser 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 owner and the affiliated PGC for the entitlement shall include:

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

(ii) Energy payment.

(I) The energy payment for each settlement interval from the entitlement owner 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 owner designated its daily capacity commitment by 8:00 a.m. in the day-ahead schedule, is the product of a heat rate equal to 14.1 MMBTUs per MWh times the daily gas price.

(-b-) The fuel price, for operating days for which the entitlement owner 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 14.1 MMBTUs per MWh times (the sum of the daily gas price plus \$.25).

(G) Timing of payment of contract price. The entitlement owner 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 owner 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 owner any net amount under the contract price calculation, it will pay that amount to the entitlement owner in accordance with the other terms of the Agreement.

(6) **Scheduling discrepancies.** If purchaser 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 hour most closely preceding that scheduled hour that was not a non-conforming schedule. Seller shall promptly notify purchaser 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 all parties at the current FERC-approved rates.

(h)(f) **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.~~Initial auction. The initial capacity auction shall be concluded on or before September 1, 2001.~~
- (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.~~Subsequent auctions. Capacity auctions subsequent to the initial auction shall be concluded on March 15, 2002, July 15, 2002, September 1, 2002, and November 15, 2002. Auctions conducted in the years following 2002 will be~~

~~concluded in the same months and day of the month, as the auctions conducted in 2002 (or in the event that date falls on a weekend or banking holiday, on the first business day before the weekend or banking holiday).~~

- (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.~~auction conclusion date.~~

- (iii) Confidentiality and posting of bids. The affiliated PGC shall only provide the quantities requested by bidders during the auction. 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(s) 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 with all of the bids, 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 no 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~~~~onclusion~~ 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, the commission shall review the notice for compliance with clause (ii) of this subparagraph. The commission may administratively approve, reject, or approve the notice with modifications. The commission shall provide on its Internet site a continually updated list of pending auctions for each affiliated PGC subject to this section.

(ii) Contents of notice.

(I) Such notice shall include the auction ~~start~~~~onclusion~~ 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 formula that will be used to adjust the price of entitlements between rounds of the auction. This formula shall require that all affiliated PGCs use the following range of bid increments for each product type:

(-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 described in subsections (f)(3)(B)(ii) and (g)(2)(F)(ii) ~~subsection (e)(1)(A)(iii)~~ of this section at the time of the auction. ~~If gas intermediate, gas cyclic, or gas peaking entitlements are being auctioned, the utility shall specify the fuel service cost.~~

- (iii) The affiliated PGCs shall publish their respective notices on their web sites no later than 30 calendar days before the start of each auction. Each entity that wants to bid in an affiliated PGC's auction shall download the appropriate forms from the affiliated PGC's web site. The completed forms, which include the first page of the cover sheet to the Agreement, shall be submitted to the affiliated PGC at least 15 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 ~~4,~~ 2001, each entitlement ~~was will be~~ 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) Subsequent auctions.

- (i) The auction ~~in~~ March ~~15~~ 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 ~~15~~ 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 ~~1~~ of a year will auction:
 - (I) Approximately 30% 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 ~~15~~ 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) In June of 2003, an evaluation will be made by the commission as to the need for another set of two-year strips (the 24 months of 2004 through 2005). If such term is deemed to be necessary, the next set of two-year strips will be auctioned on September 1 of 2003. If such term is not deemed to be necessary, then subsequent auctions will auction 50% of entitlements over one-year strips and 50% of the entitlements as discrete months.
- (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 conclusion~~ 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 described~~ in subsection (e)(1) of this section by 25 to determine the number of blocks of each type to be auctioned.
- (B) Divisibility. For purposes of the initial auction, if the amount to be auctioned for an affiliated PGC for a particular product is not evenly divisible by 25, the remainder shall be added to the next highest heat-rate product available (in the order of baseload, gas-intermediate, gas cyclic, and gas peaking). The remainder for the highest heat-rate product available shall then be rounded up to 25.

For subsequent auctions, a remainder shall be added to the product most highly valued in the immediately preceding auction 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~~must pre-qualify by demonstrating compliance with the credit requirements in subsection ~~(e)(7)(e)(5)(D)(i)~~ 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 the pairing of a particular product with a term. 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 in a quantity of ten would be a set of baseload-July 2002 entitlements.

(A) Method of auction. Each auction shall be a simultaneous, multiple round, open bid auction. ~~Rounds shall be held open for a reasonable amount of time to allow bidders to submit bids while still allowing efficient conclusion of the 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 of

set of entitlements available for purchase at the auction. Each bidder will specify the number 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 is more than or equal to the available quantity, the affiliated PGC will adjust the price upward. Bidders shall then submit bids for the quantities they wish to purchase of each set of entitlements at the new price(s). Subsequent rounds shall continue until demand is less than ~~or equal to~~ 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(s) 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.

<u>Bidders</u>	<u>Bids</u>		<u>Awarded</u>	<u>Differential Between Rounds</u>
	<u>Next-To-Last Round</u>	<u>Last Round Bid</u>		
<u>A</u>	<u>4 – 10:50</u>	<u>3</u>	<u>3</u>	<u>1</u>
<u>B</u>	<u>6 – 10:20</u>	<u>6</u>	<u>6</u>	<u>0</u>
<u>C</u>	<u>3 – 10:44</u>	<u>2</u>	<u>2</u>	<u>1</u>
<u>D</u>	<u>3 – 10:59</u>	<u>None – 0</u>	<u>-</u>	<u>3</u>
<u>Total</u>	<u>16</u>	<u>11</u> <u>(3 leftover)</u>	<u>11</u> <u>(3 avail)</u>	
<p><u>In this example, bidder "D" would receive the first unsubscribed entitlement and their differential would be reduced by one since they possess the largest differential (see below).</u></p>				

<u>Bidders</u>	<u>Bids</u>		<u>Awarded</u>	<u>Differential Between Rounds</u>
	<u>Next-To-Last Round</u>	<u>Last Round Bid</u>		
<u>A</u>	<u>4 – 10:50</u>	<u>3</u>	<u>3</u>	<u>1</u>
<u>B</u>	<u>6 – 10:20</u>	<u>6</u>	<u>6</u>	<u>0</u>
<u>C</u>	<u>3 – 10:44</u>	<u>2</u>	<u>2</u>	<u>1</u>
<u>D</u>	<u>3 – 10:59</u>	<u>None - 0</u>	<u>1</u>	<u>2</u>
<u>Total</u>	<u>16</u>	<u>11</u> <u>(3 leftover)</u>	<u>12</u> <u>(2 avail)</u>	
<p><u>Since bidder "D" still contains the largest differential and there are still two unsubscribed entitlements, they will again be awarded an entitlement (see below).</u></p>				

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

For the last remaining entitlement there are three bidders that all have a delta 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 they have the earliest time stamp in the next-to-last round. The completed auction would appear as follows:

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

(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 local Austin, Texas time.

(vi) Credit calculation. A purchaser's credit limit shall be adjusted during the auction based on entitlement value of entitlements awarded to the purchaser, which will be determined by using 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:

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

(B) Activity rules.

- (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.

(C) Mechanism for auction. Each affiliated PGC shall conduct the auction over the ~~Internet~~internet on a secure web page(s) 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, then it shall ~~Within 60 days of the effective date of this section, the affiliated PGC may~~ 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 ~~utility'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 winners, 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~~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 a congestion zone, 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 no month awards all of the entitlements of a particular product, then the affiliated PGC shall, in its notice pursuant to paragraph (2)(B)(i) of this subsection, make a proposal to the commission ~~The affiliated PGC shall, in its notice propose an auction of additional entitlements of the products for which the minimum bid was met 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.
- ~~(i)(g) **Resale of entitlement.** The winners of an entitlement may resell the entitlement (or portions thereof) to any eligible purchaser except the affiliated REP of the affiliated PGC that originally auctioned the entitlement. The third party must meet the same credit requirements that had been required of the initial bid winner. Alternatively, a winner may assign the entitlement to a third party that does not meet the associated credit requirements provided that the original winner retains all payment and other related obligations. Owners of entitlements may direct the~~

~~dispatch of those entitlements to any lawful purchaser of electricity, including the affiliated REP.~~

- (1) **Compliance with provisions.** An entitlement acquired by a bidder may be assigned, sold or transferred by the entitlement owner, or by any subsequent 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 owner may assign, sell, or transfer an entitlement to any person or entity other than an affiliated REP, but the entitlement owner 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 owner 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.

(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. An assignment, sale, or transfer of an entitlement is not effective unless the non-assigning party receives notice of the assignment, sale, or transfer at least three days before the beginning of the entitlement month.

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

(1) **Process.** For 2002 and 2003, For each month beginning on February 1, 2002 to the month following the date a final order is issued in the PURA

~~§39.262 proceeding~~, 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 Excess Cost over Market (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.

(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~~rule.

~~(m)(k)~~ **Contract terms.** ~~Parties shall utilize a standard agreement adopted by the commission in detailing the terms, conditions, and obligations of the selling and buying parties.~~

(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 bilateral credit terms that are applicable to both the buying and selling parties, 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 EGSI area 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 owner shall schedule the dispatch of its entitlements using that electronic interface.

(4) **Scheduling discrepancies.** If an entitlement owner 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 owner of a non-conforming schedule.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

**ISSUED IN AUSTIN, TEXAS ON THE 3rd DAY OF JANUARY 2001 BY THE
PUBLIC UTILITY COMMISSION OF TEXAS
RHONDA G. DEMPSEY**