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**IBERDROLA RENEWABLES, INC.'S  
APPEAL AND COMPLAINT OF  
ERCOT DECISION TO APPROVE  
PRR 830 RELATING TO REACTIVE  
POWER CAPABILITY  
REQUIREMENT**

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**PUBLIC UTILITY COMMISSION**

**OF TEXAS**

**IBERDROLA RENEWABLES, INC.'S APPEAL AND COMPLAINT OF  
ERCOT DECISION TO APPROVE PRR 830; MOTION FOR SUSPENSION;  
AND MOTION TO EXCEED PAGE LIMIT**

**TABLE OF CONTENTS**

I. INTRODUCTION ..... 4

II. STATEMENT OF THE CASE..... 6

III. AUTHORIZED REPRESENTATIVES ..... 8

IV. JURISDICTION ..... 8

V. RESPONDENTS ..... 10

VI. ISSUES TO BE ADDRESSED ..... 10

VII. STATEMENT OF FACTS ..... 11

VIII. ARGUMENT ..... 16

    A. The Commission should suspend implementation of and reverse approval  
    of PRR 830 because ERCOT exceeded its statutory authority in approving  
    PRR 830. .... 16

        1. PRR 830 violates PURA § 39.001 and § 35.004(e) because it discriminates  
        against wind generators and is neither practical nor limited so as to impose  
        the least impact on competition. .... 16

        2. PRR 830 violates PURA § 39.904(l) because it requires wind generators to  
        address more than their own effects on system reliability. .... 19

    B. The Commission should suspend implementation of and reverse approval  
    of PRR 830 because ERCOT's approval of PRR 830 was arbitrary and  
    capricious and unsupported by substantial evidence. .... 20

        1. PRR 830 is a significant change of ERCOT's reactive power capability  
        requirements. .... 21

        2. The change required by PRR 830 will have a dramatic impact on Iberdrola  
        and other wind generators. .... 25

        3. Despite its far-reaching, anticompetitive effects, PRR 830 is unsupported  
        by any evidence of a need for this change. .... 26

1

IX.	MOTION FOR SUSPENSION.....	27
X.	MOTION TO EXCEED PAGE LIMIT .....	28
XI.	CONCLUSION.....	28
	CERTIFICATE OF SERVICE .....	30

Exhibit A	Affidavit of Brett Hunsucker, IBERDROLA RENEWABLES, Inc.
Exhibit B	Interconnection Study for New Generation in Kenedy County (Peñascal) (12/4/07)
Exhibit C	Interconnection Study - Steady State Study Report (Barton Chapel) (7/27/05)
Exhibit D	ERCOT Letter Regarding Barton Chapel (6/5/09)
Exhibit E	Incident Report filed by ERCOT at Texas Regional Entity (10/14/09)
Exhibit F	Excerpts of ERCOT Protocols § 6.5.7.1 and § 6.7.6 as of March 2004, October 2008, and November 2009
Exhibit G	FERC Order No. 661-A (12/12/2005)
Exhibit H	Draft Reliability and Operations Subcommittee (ROS) Minutes (9/10/09) (Approved on 10/15/09 without revision)*
Exhibit I	Draft Reliability and Operations Subcommittee (ROS) Minutes (10/15/09) (Considered for approval on 12/10/09 but not yet available on ERCOT website)
Exhibit J	Draft Protocol Revisions Subcommittee (PRS) Minutes (9/17/09) (Approved on 10/22/09 as amended by Mark Bruce and Mike Grimes)*
Exhibit K	Draft Protocol Revisions Subcommittee (PRS) Minutes (10/22/09) (Approved on 11/19/09 as amended to note Randy Jones’s abstention from vote to approve 9/17/09 PRS minutes)*
Exhibit L	Approved Technical Advisory Committee (TAC) Minutes (11/5/09)
Exhibit M	Excerpts from ERCOT Board Meeting Transcript (11/17/09)
Exhibit N	ERCOT Record for PRR 830 Approval Process

\*At the time of this filing, the approved version was not yet accessible.

DOCKET NO. \_\_\_\_\_

**IBERDROLA RENEWABLES, INC.’S** §  
**APPEAL AND COMPLAINT OF** §  
**ERCOT DECISION TO APPROVE** § **PUBLIC UTILITY COMMISSION**  
**PRR 830 RELATING TO REACTIVE** §  
**POWER CAPABILITY** §  
**REQUIREMENT** § **OF TEXAS**

**IBERDROLA RENEWABLES, INC.’S APPEAL AND COMPLAINT OF  
ERCOT DECISION TO APPROVE PRR 830; MOTION FOR SUSPENSION;  
AND MOTION TO EXCEED PAGE LIMIT**

Pursuant to P.U.C. PROC. R. 22.251, IBERDROLA RENEWABLES, Inc. files this Appeal and Complaint of ERCOT Decision to Approve PRR 830; Motion for Suspension; and Motion to Exceed Page Limit (“Appeal and Complaint”) against the Electric Reliability Council of Texas (“ERCOT”) on behalf of its subsidiaries Barton Chapel Wind, LLC, Peñascal Wind Power, LLC, and Peñascal Wind Power II, LLC (collectively, “Iberdrola” or the “Company”). This Appeal and Complaint relates to ERCOT’s approval and adoption of Protocol Revision Request (“PRR”) 830 (Reactive Power Capability Requirements). For the reasons below, Iberdrola seeks immediate suspension of PRR 830, rejection of PRR 830, and rejection of the interpretation implicit in PRR 830 of ERCOT’s reactive power control requirements.

- PRR 830 discriminates against wind generators and is not narrowly tailored to minimize its impact on the competitive market, thus violating PURA<sup>1</sup> § 39.001(c), § 39.001(d), and § 35.004(e).
- PRR 830 imposes reactive power control requirements on wind generators greater than those required to address the wind generators’ own effects on system reliability, thus exceeding ERCOT’s authority under PURA § 39.904(1).
- PRR 830 is arbitrary and capricious because it was passed in the absence of any reliability, economic, or technical study or other evidence that a reliability problem exists or that PRR 830 is an appropriate solution.

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<sup>1</sup> Public Utility Regulatory Act, TEX. UTIL. CODE §§ 11.004-64.158 (West 2007 & Supp. 2009) (“PURA”).

## I. INTRODUCTION

This Appeal and Complaint asks the Public Utility Commission of Texas (“Commission”) to immediately suspend and ultimately reject PRR 830 and to expressly reject ERCOT’s interpretation of its prior reactive power protocol language, which led to the adoption of PRR 830. For more than five years, ERCOT has stood by while dozens of companies have invested billions of dollars in Texas to develop thousands of megawatts of wind generation using reactive power control capabilities that were clearly stated and openly reported to ERCOT on ERCOT-required forms. This includes Iberdrola’s Barton Chapel and Peñascal facilities.<sup>2</sup>

Now, suddenly, without a study and without any reliable evidence of an actual reliability problem, PRR 830 seeks to require a new, heightened level of reactive power control capability that will require dozens of wind generators to spend hundreds of millions of dollars on retroactive changes and will degrade the economics and potential market savings of future wind generation projects in this state. Advocates of PRR 830 acknowledge that there is no reliability crisis<sup>3</sup> and that studies of the reactive power requirements occasioned by the development of CREZ wind resources are just now underway and not yet complete.<sup>4</sup> Nevertheless, in the absence of a demonstrated problem and before studying the issue, ERCOT seeks to impose a very costly requirement on one group of market participants. That is not the way the Texas market operates. It is not the deliberate and fair way ERCOT usually operates.

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<sup>2</sup> Iberdrola’s Barton Chapel facility, located in Jack County, Texas, is a 120 MW wind farm with 60 turbines. Phase 1 of the Peñascal facility, located in Kenedy County, Texas, is a 201.6 MW wind farm consisting of 84 turbines. Phase 2 of the facility is currently under construction and is scheduled to go into operation next year. Phase 2 will also be 201.6 MW in size, consisting of 84 turbines, making the Peñascal facility 403.2 MW in size when Phase 2 is completed.

<sup>3</sup> ERCOT Board Meeting Tr. at 133:25-134:1 (Nov. 17, 2009) (“[I]t’s not a reliability crisis right now . . . .”)  
(Exhibit M at 21-22 of 108).

<sup>4</sup> *Id.* at 121:22-25 (Exhibit M at 11 of 108) (“We’re about to embark on a significant study of the reactive requirements associated with the many billions of dollars associated with the CREZ investment.”).

The issue before the Commission is whether wind generators have been and should be required to provide “triangular” or “rectangular” reactive power control capabilities, referring to how the capabilities look when represented graphically.<sup>5</sup> Iberdrola believes that, prior to PRR 830, the ERCOT Protocols required wind generators to have reactive power capabilities that increased proportionately as generation output increased—the triangle. Advocates of PRR 830 now argue that the ERCOT Protocols have always required, and should require going forward, that generators have a constant level of reactive power capability regardless of their actual generating output level—the rectangle.

Frankly, Iberdrola is at a loss to understand how anyone could credibly argue, as advocates of PRR 830 do, that the Protocols have always required the rectangle and that PRR 830 merely clarifies that interpretation.<sup>6</sup> The record evidence demonstrates beyond any reasonable dispute that between March 2004 and the passage of PRR 830, ERCOT Protocol § 6.7.6(5) required a minimum reactive power capability equal to “the required installed reactive capability *multiplied by the ratio of the lower active power output to the generating unit’s continuous rated active power output.*”<sup>7</sup> The italicized language unambiguously describes the proportional, triangular requirement. In layman’s terms, the ratio described above is the percentage of rated capacity at which a unit is operating. A unit operating at 75% of its rated capacity is only required to provide 75% of its maximum reactive power capability.

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<sup>5</sup> A graphical depiction of the “triangle,” as contained in Section 7.4 of ERCOT’s “Resource Asset Registration Guide,” can be found in Exhibit N at 227 of 491.

<sup>6</sup> See ERCOT Board Meeting Tr. at 119:17-20 (Exhibit M at 9 of 108) (“They were clearly understood. And, in fact, they’re recognized and have been by most of the members of ERCOT for many, many years.”).

<sup>7</sup> Exhibit F includes (a) the version of Protocols 6.7.6(5) originally passed in March 2004, (b) the October 2008 version in effect when ERCOT issued its November 13, 2008 Interpretation, and (c) the November 2009 version in effect until ERCOT passage of PRR 830. All three versions contain the referenced language.

In the face of the unambiguous prior requirement, the absence of any study or evidence indicating that there is a current reliability problem, or that PRR 830 is best designed to address any such problem, Iberdrola asks the Commission to:

- suspend PRR 830 immediately pending a decision in this Appeal and Complaint;
- reverse the ERCOT Board's decision to approve PRR 830; and
- in reversing PRR 830, affirm that the ERCOT Protocols have previously required and should continue to require, absent a demonstrated need to do otherwise, the triangular, proportional reactive power requirement.

## II. STATEMENT OF THE CASE

Iberdrola requests that the Commission suspend implementation and reverse approval of PRR 830, which revised ERCOT Protocols 2.1 (Definitions), 2.2 (Acronyms), 6.5.7 (Voltage Support Service), 6.5.7.1 (Generation Resources Required to Provide VSS Installed Reactive Capability), and 6.7.6 (Deployment of Voltage Support Service).<sup>8</sup> At first glance, PRR 830 might appear to affect all generation resources. In practice, however, its effects are narrowly aimed at “WGRs that commenced operation on or after February 17, 2004, and have signed a Standard Generation Interconnection Agreement (SGIA) on or before December 1, 2009[.]”<sup>9</sup> It specifically exempts “generating units connected before May 17, 2005, whose owners can demonstrate . . . that design and/or equipment procurement decisions were made prior to February 17, 2004, based upon previous standards, whose design does not allow them to meet the Reactive Power requirements established in [PRR 830].”<sup>10</sup>

ERCOT Staff submitted PRR 830 on September 8, 2009, pursuant to Section 21 of the Protocols.<sup>11</sup> PRR 830 was approved by the Protocol Revisions Subcommittee on October 22,

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<sup>8</sup> See 830PRR-41 Board Action Report 111709 at 8-12 (Exhibit N at 423-427 of 491).

<sup>9</sup> See 830PRR-01 Reactive Power Capability Requirement at 5, § 6.5.7.1(2) (Exhibit N at 9 of 491).

<sup>10</sup> *Id.* § 6.5.7.1(4).

<sup>11</sup> See 830PRR-01 Reactive Power Capability Requirement 090809 (Exhibit N at 5-11 of 491).

2009,<sup>12</sup> by the Technical Advisory Commission on November 5, 2009,<sup>13</sup> and by the ERCOT Board on November 17, 2009.<sup>14</sup> The issue of ERCOT's reactive power capability requirements for wind generation resources, the subject of this Appeal and Complaint, was submitted to the Commission earlier this year in Docket No. 36482, *Appeal of Competitive Wind Generators Regarding the Electric Reliability Council of Texas' Interpretation of the Reactive Power Protocols*, but was ultimately rejected on purely procedural grounds.<sup>15</sup> That appeal opposed ERCOT's November 13, 2008, legal interpretation ("Interpretation") of ERCOT Protocols § 6.5.7.1(2) and § 6.7.6(5) (the "Interpretation"),<sup>16</sup> which is reflected in PRR 830.<sup>17</sup>

As required by P.U.C. PROC. R. 22.251, no entity may file a complaint with the Commission regarding ERCOT conduct without first using (i) Section 20 of the ERCOT Protocols (Alternative Dispute Resolution Procedures, or ADR), (ii) Section 21 of the Protocols (Process for Protocol Revision), or (iii) other Applicable ERCOT Procedures, which includes Sections 20 and 21 of the Protocols and "other applicable sections of the ERCOT protocols that are available to challenge or modify ERCOT conduct, including participation in the protocol revision process."<sup>18</sup> As described in Section IV of this Appeal and Complaint, Iberdrola has satisfied all necessary prerequisites, and this Appeal and Complaint is properly before the Commission. The Commission has jurisdiction to hear this case pursuant to PURA §§ 14.001, 39.001, 39.151, P.U.C. SUBST. R. 25.362, and P.U.C. PROC. R. 22.251.

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<sup>12</sup> See 830PRR-16 PRS Recommendation Report 102209 (Exhibit N at 87-94 of 491).

<sup>13</sup> See 830PRR-27 TAC Recommendation Report 110509 (Exhibit N at 162-171 of 491).

<sup>14</sup> See 830PRR-41 Board Action Report 111709 (Exhibit N at 416-427 of 491).

<sup>15</sup> See *Appeal of Competitive Wind Generators Regarding the Electric Reliability Council of Texas' Interpretation of the Reactive Power Protocols*, Docket No. 36482, Order (Dec. 8, 2009).

<sup>16</sup> "Protocol Interpretation Request on Reactive Power Capability Requirements," M-D111308-01 Legal (Nov. 13, 2008) (Exhibit N at 241 of 491).

<sup>17</sup> See 830PRR-33 Horizon Statement of Position (Exhibit N at 241-43 of 491).d

<sup>18</sup> P.U.C. PROC. R. 22.251(c).

### **III. AUTHORIZED REPRESENTATIVES**

The telephone numbers and addresses of Iberdrola's authorized legal representatives are as follows:

Toan Nguyen  
Senior Counsel  
Iberdrola Renewables, Inc.  
1125 Northwest Couch, Suite 700  
Portland, Oregon 97209  
(503) 241-3204  
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toan.nguyen@iberdrolausa.com

James H. Barkley  
Baker Botts L.L.P.  
910 Louisiana Street  
Houston, Texas 77002  
(713) 229-1234  
(713) 229-1522 (fax)  
jim.barkley@bakerbotts.com

The telephone number and address of Iberdrola's authorized business representative is as follows:

Kevin Lynch  
Director of Policy and Regulation  
Iberdrola Renewables, Inc.  
1125 Northwest Couch, Suite 700  
Portland, Oregon 97209  
(503) 796-7108  
(503) 796-6907 (fax)  
kevin.lynch@iberdrolausa.com

Iberdrola requests that all information and documents in this proceeding be served on each of the persons above at their respective addresses or fax numbers.

### **IV. JURISDICTION**

The Commission has jurisdiction over this Appeal and Complaint pursuant to PURA §§ 14.001, 39.001, 39.151, P.U.C. SUBST. R. 25.362, and P.U.C. PROC. R. 22.251. The

Commission's Procedural Rules provide that any entity affected by ERCOT's promulgation and enforcement of procedures may file a complaint with the Commission so long as the affected entity has used Section 21 of the ERCOT Protocols relating to Alternative Dispute Resolution ("ADR"), Section 20 of the ERCOT Protocols relating to Process for Protocol Revision, or other Applicable ERCOT Procedures.<sup>19</sup> "Applicable ERCOT Procedures" refers to Sections 20 and 21 of the ERCOT Protocols and "other applicable sections of the ERCOT protocols that are available to challenge or modify ERCOT conduct, including participation in the ERCOT protocol revision process."<sup>20</sup> By participating in the protocol revision process, Iberdrola has satisfied the requirements in P.U.C. PROC. R. 22.251(c).<sup>21</sup> This Appeal and Complaint is timely filed and is properly before the Commission.

Given the Commission's ruling in Docket No. 36482, and in response to statements by the Commissioners, Iberdrola requests, to the extent necessary, a good cause waiver from ERCOT's ADR requirements. Iberdrola further requests that the Commission waive its authority under P.U.C. PROC. R. 22.251(c)(3) to require informal dispute resolution, which is unlikely to be fruitful in this case.<sup>22</sup> While Iberdrola is currently involved in discussions with the Commission's Oversight & Enforcement Division and the Texas Regional Entity ("TRE") regarding a mitigation plan, those negotiations are focused on developing a plan to bring Iberdrola quickly into compliance should PRR 830 go forward.<sup>23</sup> Since November 13, 2008, when ERCOT issued its Interpretation of the ERCOT Protocols relating to reactive power, Iberdrola and other wind developers have used various sections of the ERCOT Protocols to seek an amendment to or

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<sup>19</sup> P.U.C. PROC. R. 22.251(b)-(c).

<sup>20</sup> P.U.C. PROC. R. 22.251(c).

<sup>21</sup> See PRR830-08 Iberdrola Renewables Comments 100709 (Exhibit N at 39-47 of 491).

<sup>22</sup> See P.U.C. PROC. R. 22.251(c)(3).

<sup>23</sup> See Incident Report filed by ERCOT at Texas Regional Entity (Oct. 14, 2009) (Exhibit E).

revision of the Protocols at various committee levels within ERCOT, including the Protocol Revisions Subcommittee, Reliability and Operations Subcommittee, Technical Advisory Committee, and ERCOT Board.<sup>24</sup> As the Commission is aware, the issue was also brought before the Commission on appeal in Docket No. 36482.<sup>25</sup> The dispute over reactive power has been exhausted at ERCOT and remains insoluble. Iberdrola, therefore, requests the opportunity to present this issue to the Commission.

## V. RESPONDENTS

The only entity against whom Iberdrola seeks relief is ERCOT. The telephone number and address of ERCOT's General Counsel is listed below:

Michael G. Grable  
Vice President, General Counsel, and Corporate Secretary  
Electric Reliability Council of Texas  
7620 Metro Center Drive  
Austin, Texas 78744  
(512) 225-7076  
(512) 225-7079 (fax)  
mgrable@ercot.com

## VI. ISSUES TO BE ADDRESSED

1. Whether PRR 830 violates PURA § 39.001(c) because it discriminates against wind generators.
2. Whether PRR 830 violates PURA § 39.001(d) because it is neither practical nor limited so as to impose the least impact on competition.
3. Whether PRR 830 violates PURA § 35.004(e) because it requires wind generators to provide reactive power on terms that are unreasonably discriminatory and anticompetitive.
4. Whether PRR 830 violates PURA § 39.904(l) because it requires wind generators to address more than their own effects on system reliability.

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<sup>24</sup> See ERCOT Record for PRR 830 Approval Process (Exhibit N).

<sup>25</sup> See *Appeal of Competitive Wind Generators Regarding the Electric Reliability Council of Texas' Interpretation of the Reactive Power Protocols*, Docket No. 36482, Appeal of the ERCOT Legal's Interpretation of the Reactive Power Protocols (Dec. 12, 2009).

5. Whether PRR 830's retroactive application of its reactive power requirements to existing Wind-powered Generation Resources ("WGRs") is unsound as a matter of regulatory policy.
6. Whether ERCOT's approval of PRR 830 was arbitrary and capricious.
7. Whether PRR 830 is a significant change of ERCOT's reactive power capability requirements.
8. Whether ERCOT's approval of PRR 830 was supported by substantial evidence of a need for changes to ERCOT's reactive power capability requirements.
9. Whether PRR 830 will harm wind generators.
10. Whether the ERCOT Protocols have previously required and should continue to require, absent a demonstrated need to do otherwise, the triangular, proportional reactive power requirement.

## VII. STATEMENT OF FACTS

Iberdrola seeks Commission clarification on reactive power requirements for wind generation resources in ERCOT. The ERCOT Protocols at issue in this proceeding include Protocol § 6.5.7.1 (Installed Reactive Power Capability Requirement for Generation Resources Required to Provide VSS) and Protocol § 6.7.6 (Deployment of Voltage Support Service), both of which ERCOT adopted in 2004, and which were substantially revised as a result of PRR 830.

The new requirements imposed by PRR 830 apply to all wind generation resources that (i) commenced operation on or after February 17, 2004, and (ii) have signed a Standard Generation Interconnection Agreement ("SGIA") on or before December 1, 2009.<sup>26</sup> PRR 830 requires Iberdrola and other wind generators to provide the same amount of reactive power—the rectangle—at all energy output levels whether or not the wind blows and regardless of wind speeds.<sup>27</sup> PRR 830, which ERCOT Staff authored, also deleted key substantive elements of the then-existing reactive power capability standard language and included new compliance

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<sup>26</sup> ERCOT Protocol § 6.5.7.1(2) (as amended by PRR 830).

<sup>27</sup> *Id.* § 6.5.7.1(1) (as amended by PRR 830).

deadlines.<sup>28</sup> No study (reliability, economic, or technical) was performed by ERCOT in connection with the adoption of PRR 830.<sup>29</sup>

The reactive power protocols that existed prior to approval of PRR 830 established that reactive power was to be provided in the triangle configuration. Protocol § 6.5.7.1(1) identified a generation resource's Unit Reactive Limit ("URL") and only identified the reactive power requirement at the URL without specifying the level of reactive power that must be maintained at any other operating level.<sup>30</sup> Protocol § 6.7.6(5) required that reactive power at the URL must be available "at the generating unit's continuous rated active power output," while requiring that at lower power levels "reactive power up to the unit's operating capability be available."<sup>31</sup> Section 6.7.6(5)'s different reactive power standard for different active power output levels was confirmed by its statement that "[i]n no event shall the Reactive Power available be less than the required installed reactive capability *multiplied by the ratio* of the lower active power output to the generating unit's continuous rated active power output."<sup>32</sup> The graphical depiction of this ratio calculation is triangular in shape.

The requirement in Protocol § 6.7.6(5)—which clearly describes the requirement of a *triangular* reactive power control capability—was incorporated into the interconnection studies conducted by the responsible transmission service providers ("TSPs") for Iberdrola's wind

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<sup>28</sup> See 830PRR-41 Board Action Report 111709 (Exhibit N at 416-427 of 491).

<sup>29</sup> See ERCOT Board Meeting Tr. at 120:12-16 (Exhibit M at 10 of 108) ("TAC and the other stakeholder groups heard and . . . the votes suggest rejected arguments that studies should be performed to determine whether compliance with the requirements are needed for reliability.")

<sup>30</sup> See ERCOT Protocol § 6.5.7.1(1) as of March 2004 through the passage of PRR 830 (Exhibit F at 4 of 20 (March 2004, as initially appearing in the Protocols), 10 of 20 (October 2008, as in effect immediately prior to ERCOT's Nov. 13, 2008 Interpretation), and 16-17 of 20 (November 2009, as in effect at the time of the ERCOT Board's Nov. 17, 2009 approval of PRR 830)).

<sup>31</sup> ERCOT Protocol § 6.7.6(5) as in effect between March 2004 through the passage of PRR 830 (Exhibit F at 7 of 20 (March 2004, as initially appearing in the Protocols), 13 of 20 (October 2008, as in effect immediately prior to ERCOT's Nov. 13, 2008 Interpretation), and 20 of 20 (November 2009, as in effect at the time of the ERCOT Board's Nov. 17, 2009 approval of PRR 830)).

<sup>32</sup> *Id.*

facilities. The full interconnection study performed by AEP for Iberdrola's Peñascal facility is attached as Exhibit B (the "Peñascal Interconnection Study")<sup>33</sup>. The Steady State Study Report prepared by TXU Electric Delivery for Iberdrola's Barton Chapel facility (owned at that time by Gamesa Energía Southwest Company) is attached as Exhibit C (the "Barton Chapel Interconnection Study").<sup>34</sup> The Peñascal Interconnection Study states that "it is assumed for the purposes of this study that the [Peñascal] wind farm is in full compliance with the stated ERCOT Voltage and Reactive Requirements when they go into service."<sup>35</sup> Those ERCOT Voltage and Reactive Requirements were attached as Appendix 5 to the Peñascal Interconnection Study and include the same language found in Protocol § 6.7.6(5), requiring *triangular*—not rectangular—reactive power control capability.<sup>36</sup> Similarly, the Barton Chapel Interconnection Study concludes that the "proposed generation did not cause any significant voltage problems, but it should be able to regulate to voltage specified by ERCOT (0.95 lead/0.95 lag) when online."<sup>37</sup> The phrase "0.95 lead/0.95 lag" describe the power factor. The power factor can only remain constant at 0.95 where there is proportional, *triangular* reactive power control capability. Under the rectangular model, the power factor will decrease as generation output decreases.

PRR 830 made substantial revisions to § 6.5.7.1(1), including the deletion of its reference to the URL, and deleted § 6.7.6(5) in its entirety.<sup>38</sup> PRR 830 now requires that the reactive power requirements "shall be available at all MW output levels at or above 10 percent

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<sup>33</sup> Interconnection Study for New Generation in Kenedy County, Report for Generation 006INR0022 ("Peñascal Interconnection Study") (Dec. 4, 2007) (Exhibit B).

<sup>34</sup> Interconnection Study – Stead State Study Report, Generation Interconnection Request 06INR0021 ("Barton Chapel Interconnection Study") (July 27, 2005) (Exhibit C).

<sup>35</sup> Peñascal Interconnection Study at 4 (Exhibit B at 7 of 71).

<sup>36</sup> *Id.* at 64 (Exhibit B at 67 of 71).

<sup>37</sup> Barton Chapel Interconnection Study at 3 (Exhibit C at 4 of 6).

<sup>38</sup> See 830PRR-41 Board Action Report 111709 (Exhibit N at 416-427 of 491).

(10%) of the WGR's nameplate capacity."<sup>39</sup> In addition to changing the Protocols themselves, on July 24, 2009, ERCOT revised its Resource Asset Registration Guide ("RARF Guide") to remove a triangular depiction of the "Reactive Capability Curve" that had appeared in early drafts of the RARF Guide as well as the first official version released on April 8, 2008.<sup>40</sup>

The events that precipitated approval of PRR 830 began in 2008 when ERCOT issued, as a result of a market participant inquiry, an official interpretation of the reactive power capability requirements relating to wind generation resources.<sup>41</sup> ERCOT's November 13, 2008 Interpretation articulated the rectangle requirement for the first time.<sup>42</sup> On December 13, 2008, a coalition of wind developers appealed ERCOT's Interpretation to the Commission, arguing that ERCOT Protocols required, and the wind developers have been operating since 2004 with the understanding that, increasing amounts of reactive power are required only *proportional* to a unit's generation level, or the "triangle."<sup>43</sup> On June 1, 2009, ERCOT issued a Market Notice withdrawing its interpretation for failure to consult with PUCT Staff prior to issuance of the interpretation.<sup>44</sup> Nevertheless, ERCOT almost immediately began issuing non-compliance letters to owners of wind generation assets not meeting the rectangle requirement.<sup>45</sup> The appeal initiated

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<sup>39</sup> *Id.* at 9, § 6.5.7.1(1) (Exhibit N at 424 of 491).

<sup>40</sup> *See, e.g.*, "Resource Asset Registration Guide" v.0.08 (Dec. 13, 2007) at Figure 11-1; v.4.00 (Apr. 8, 2008) at § 8.4.

<sup>41</sup> "Protocol Interpretation Request on Reactive Power Capability Requirements," M-D111308-01 Legal (Nov. 13, 2008) ("Interpretation") (Exhibit N at 241-43 of 491).

<sup>42</sup> *Id.*

<sup>43</sup> *Appeal of Competitive Wind Generators Regarding the Electric Reliability Council of Texas' Interpretation of the Reactive Power Protocols*, Docket No. 36482, Appeal of the ERCOT Legal's Interpretation of the Reactive Power Protocols (Dec. 12, 2009). The "Competitive Wind Generators" included E.ON Climate & Renewables North America Inc., Horizon Wind Energy, LLC, Invenergy Wind North America, LLC, Edison Mission Energy, and AES Wind Generation, Inc.

<sup>44</sup> *Id.*, Electric Reliability Council of Texas, Inc.'s (ERCOT) Motion to Dismiss Competitive Wind Generators' Appeal at 1 (June 2, 2009).

<sup>45</sup> *See* Letter from Kent Saathoff, Vice President, System Planning and Operations at ERCOT, to Brett Hunsucker, Authorized Representative for Barton Chapel Wind, LLC (June 5, 2009) (Exhibit D).

by wind developers was ultimately denied on December 8, 2009, for failure to follow ERCOT ADR procedures pursuant to P.U.C. PROC. R. 22.251(c).<sup>46</sup>

Before the Commission issued a final written order in Docket No. 36482, and while several ERCOT ADR proceedings related to the November 13, 2008. Interpretation were ongoing, ERCOT filed PRR 830.<sup>47</sup> On September 30, 2009, NextEra Energy Resources responded by filing PRR 835.<sup>48</sup> PRR 835 offered a compromise by proposing revisions to the reactive power protocols that provided a means for ensuring system reliability without unnecessarily burdening existing and future WGRs with the cost of installing supplemental reactive capability in locations where it would have little or no value.<sup>49</sup> ERCOT rejected PRR 835 on October 22, 2009.<sup>50</sup> PRR 830, authored by ERCOT Staff, was approved on November 17, 2009 by the ERCOT Board.<sup>51</sup> Despite efforts made by wind developers to use Applicable ERCOT Procedures, including Sections 20 and 21 of the ERCOT Protocols, and despite participation by wind developers in the ERCOT protocol revision process, the issue of reactive power is not resolved and is now before the Commission for the second time.

The cost of compliance with PRR 830, for Iberdrola as well as for other wind generators, is substantial. Iberdrola anticipates that it will cost between \$5 to \$10 million to retrofit its Barton Chapel and Peñascal facilities. Iberdrola's cost does not include the additional cost to consumers when affected low-cost wind facilities must go offline to perform the retrofits, leaving consumers to rely on more expensive generation sources.

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<sup>46</sup> *Appeal of Competitive Wind Generators*, Docket No. 36482, Order (Dec. 8, 2009).

<sup>47</sup> *See* 830PRR-01 Reactive Power Capability Requirement 090809 (Exhibit N at 5 of 491).

<sup>48</sup> *See* 830PRR-30 NextEra Energy Resources Appeal Supporting Documents 1 (Exhibit N at 197-205 of 491).

<sup>49</sup> *See id.* at 1.

<sup>50</sup> *See id.* PRS Roll Call Vote 102209.

<sup>51</sup> *See* 830PRR-41 Board Action Report 111709 (Exhibit N at 416 of 491).

## VIII. ARGUMENT

### A. **The Commission should suspend implementation of and reverse approval of PRR 830 because ERCOT exceeded its statutory authority in approving PRR 830.**

The Commission's, and by extension ERCOT's, statutory authority to impose reactive power capability requirements on renewable energy generators is limited by three important provisions of PURA: § 39.001, § 35.004(e), and § 39.904(l). PURA § 39.001 and § 35.004(e) address broad policy concerns, while PURA § 39.904(l) specifically addresses the reactive power capabilities of renewable generators. PRR 830 violates all three.

#### 1. **PRR 830 violates PURA § 39.001 and § 35.004(e) because it discriminates against wind generators and is neither practical nor limited so as to impose the least impact on competition.**

The Texas competitive market is a model for the rest of the country. In restructuring the electric industry at the turn of the century, the Legislature took great care to enunciate and protect the competitive principles on which our market depends. PURA § 39.001(c) prohibits discrimination against any market participant or group of market participants.

(c) Regulatory authorities, excluding the governing body of a municipally owned electric utility that has opted for customer choice or the body vested with power to manage and operate a municipally owned electric utility that has not opted for customer choice, may not make rules or issue orders regulating competitive electric services, prices, or competitors or restricting or conditioning competition except as authorized in this title and *may not discriminate against any participant or type of participant during the transition to a competitive market and in the competitive market.*<sup>52</sup>

Similarly, PURA § 39.001(d) requires that regulatory authorities—including ERCOT—“shall adopt rules and issue orders that are both practical and limited so as to impose the least impact on

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<sup>52</sup> PURA § 39.001(c) (emphasis added).

competition.”<sup>53</sup> PURA § 35.004(e) contains a broad prohibition against discrimination in the context of transmission service and ancillary services.

(e) The Commission shall ensure that ancillary services necessary to facilitate the transmission of electric energy are available at reasonable prices with terms and conditions that are not unreasonably preferential, prejudicial, discriminatory, predatory, or anticompetitive. In this subsection, “ancillary services” means services necessary to facilitate the transmission of electric energy including load following, standby power, backup power, *reactive power*, and any other services as the commission may determine by rule . . . .<sup>54</sup>

PRR 830 contravenes all of these legislative mandates.

PRR 830 discriminates against wind generators in two important ways. First, PRR 830 ignores the unique operating characteristics of wind generation facilities. Opponents of wind generation will no doubt argue that wind generators seek special treatment in the form of an *exemption* from requirements applicable to others. On the contrary, wind generators seek the *same* recognition of their particular operating characteristics that is afforded to other generators. ERCOT’s rules and operational practices already recognize the unique operating characteristics of nuclear, hydroelectric, and cogeneration facilities. Pursuant to ERCOT Protocol § 4.4.15 (QSE Resource Plans), “ERCOT shall request Qualifying Facilities (QFs), hydro units and/or nuclear to operate below their [Low Operating Limits] only after other Resource Dispatch options have been exhausted.”<sup>55</sup> Under ERCOT Protocol § 6.7.1.2(6) and (15), hydroelectric and nuclear units receive special treatment in the procedures for deploying balancing energy when congestion occurs.<sup>56</sup> “ERCOT shall not automatically redeploy nuclear and hydroelectric units using the ERCOT Systems that analyze and resolve transmission Congestion. ERCOT shall only redeploy

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<sup>53</sup> *Id.* § 39.001(d).

<sup>54</sup> *Id.* § 35.004(e) (emphasis added).

<sup>55</sup> ERCOT Protocol § 4.4.15.

<sup>56</sup> ERCOT Protocol §§ 6.7.1.2(6), (15).

nuclear and hydroelectric units manually through the use of a verbal Dispatch Instruction if there is no reasonably practicable Resource solution to Congestion available.”<sup>57</sup>

The Federal Energy Regulatory Commission (“FERC”) has reached this same conclusion.

One of these differences is that for wind plants, reactive power capability is a significant added cost, while it is not a significant additional cost for traditional generators. Given these technical differences, *treating wind plants differently with regard to reactive power requirements is not unduly discriminatory or preferential.*<sup>58</sup>

By failing to afford wind generators the same consideration of their unique operating conditions afforded other forms of generation, PRR 830 discriminates against a particular type of participant in the competitive market in direct contravention to PURA § 39.001 and § 35.004(e).

Second, PRR 830 is neither practical nor limited so as to minimize its effects on competition. There is no study to indicate that imposing new requirements on only wind generation is the most practical or least disruptive means of addressing the alleged (and also undocumented) reactive power problem.<sup>59</sup> ERCOT has made no attempt to determine whether similar reactive power requirements should be imposed on currently grandfathered generators who built their facilities prior to 2004.<sup>60</sup> ERCOT has acknowledged that as much as *10 to 20 gigawatts* of conventional generation is on the system today and not being required to meet the reactive power requirements that are now being imposed retroactively on wind generators.<sup>61</sup> This despite

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<sup>57</sup> ERCOT Protocols 6.7.1.2(15).

<sup>58</sup> *Interconnection for Wind Energy*, Order No. 661, FERC Stats. & Regs. ¶31,186 (2005) at ¶ 45, order on reh’g, Order No 661-A, FERC Stats. & Regs. ¶ 31,198 (2005) at ¶ 45 (Exhibit G at 29 of 58, ¶ 45) (Exhibit G) (emphasis added).

<sup>59</sup> *Id.*

<sup>60</sup> ERCOT Board Meeting Tr. at 120:12-16 (Exhibit M at 10 of 108) (“TAC and the other stakeholder groups heard and . . . the votes suggest rejected arguments that studies should be performed to determine whether compliance with the requirements are needed for reliability.”).

<sup>61</sup> *Id.* at 139:1-3 (Exhibit M at 26 of 108).

the fact that reactive power capability is less practical and more expensive for wind generators than for conventional generators.<sup>62</sup> ERCOT has to date offered no evidence that PRR 830 is the most practical or limited way of addressing any perceived issues on the ERCOT system. What evidence *does* exist in the record demonstrates the exact opposite. PRR 830 is both discriminatory and anticompetitive in violation of PURA § 39.001(c), § 39.001(d), and § 35.004(e).

**2. PRR 830 violates PURA § 39.904(l) because it requires wind generators to address more than their own effects on system reliability.**

In addition to laying out broad-style policy guidelines by which ERCOT must operate (see Section VIII.A.1, above), the Legislature has directly addressed—and limited—ERCOT’s authority to impose reactive power control requirements on wind generators.

The commission may adopt rules requiring renewable power facilities to have reactive power control capabilities or any other feasible technology designed to reduce *the facilities’ effects* on system reliability.<sup>63</sup>

PURA § 39.904(l) does not allow ERCOT to require wind generators to have reactive power control capability to address system reliability *generally*. Instead, PURA § 39.904(l) limits ERCOT’s authority to requiring only that level of reactive power control capability necessary to address a wind facility’s *own* effects on system reliability. As a matter of law, wind generators cannot be required to provide reactive power capability to address reliability problems not of their own making. PRR 830 is unsupported by *any* study or other evidence indicating either (a) that the facilities of the 38 wind generators affected by PRR 830<sup>64</sup> are actually creating effects on system reliability or (b) that the requirements of PRR 830 are designed to address those effects. Indeed, wind generation facilities with the “triangular” reactive power capability *are* designed to address

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<sup>62</sup> See Order No. 661-A at 28 (Exhibit G at 29 of 58).

<sup>63</sup> PURA § 39.904(l) (emphasis added).

<sup>64</sup> ERCOT Board Meeting Tr. at 136:12-18 (Exhibit M at 24 of 108).

their own effects.<sup>65</sup> As their generation output increases, thus increasing their effects on system reliability, their ability to provide reactive power also increases. This is represented by the triangular shape of representative graphs. PRR 830, by requiring full reactive power capabilities from wind generators without regard to a wind generator's actual effects on system reliability, violates the limitation imposed by PURA § 39.904(1).

**B. The Commission should suspend implementation of and reverse approval of PRR 830 because ERCOT's approval of PRR 830 was arbitrary and capricious and unsupported by substantial evidence.**

Even if ERCOT had not stepped outside the statutory boundaries protecting competition, and even if ERCOT had not exceeded the statutory limits on its ability to impose reactive power control capabilities on renewable generators, the *manner* in which PRR 830 was adopted justifies its rejection by the Commission. Generally, Texas courts will reverse Commission decisions that are arbitrary and capricious, not supported by substantial evidence, and in excess of the Commission's statutory authority.<sup>66</sup> Under the substantial evidence rule, Texas courts will uphold Commission decisions only if a reasonable basis exists in the record for the decision.<sup>67</sup> Furthermore, an agency acts in an arbitrary and capricious manner when it "considers only relevant factors, yet reaches an unreasonable result."<sup>68</sup>

These standards apply not only to the Commission, but to ERCOT as well. P.U.C. PROC. R. 22.251(1), for example, provides that the Commission will reverse a factual determination supporting ERCOT's conduct if it is "not supported by substantial evidence or is

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<sup>65</sup> *Id.* at 153:25-154:9 (Exhibit M at 39 of 108).

<sup>66</sup> See *AEP Texas Central Co. v. Pub. Util. Comm'n of Tex.*, 286 S.W.3d 450, 468 (Tex. App.—Corpus Christi 2008) (citing *State v. Pub. Util. Comm'n of Tex.*, 246 S.W.3d 324, 332 (Tex. App.—Austin 2008) (“‘[I]f the decision is not reasonably supported by substantial evidence, in violation of a constitutional or statutory provision, in excess of the [Commission’s] statutory authority, made through unlawful procedure, affected by other error of law, arbitrary or capricious, or characterized by an abuse of discretion,’ we will reverse the Commission’s Final Order.”)

<sup>67</sup> *Id.* at 473.

<sup>68</sup> *Id.* (citing *City of El Paso v. Pub. Util. Comm'n of Tex.*, 883 S.W.2d 179, 184 (Tex. 1994)).

arbitrary and capricious.” Here, ERCOT has made a significant change in its Protocol requirements that will have a far-reaching effect on market participants. It has done so without supporting studies or evidence. In doing so, ERCOT has acted arbitrarily and capriciously and without substantial evidence to support its action, and has therefore failed to follow required standards of reasoned decision-making.

**1. PRR 830 is a significant change of ERCOT’s reactive power capability requirements.**

Although the introductory comments to PRR 830 say it is a “clarification” of the reactive power Protocols, even a cursory review shows that PRR 830 goes far beyond clarification. Significant and facially obvious changes have been made to the language of Protocol § 6.5.7.1 and § 6.7.6.<sup>69</sup> The changes go well beyond mere textual clarification; they represent a broad transformation of the reactive power capability requirements for generation resources interconnected with the ERCOT transmission grid.

The changes to the text of Protocol § 6.5.7.1 and § 6.7.6 cannot reasonably be called a mere clarification. PRR 830 changed the definition of terms,<sup>70</sup> struck entire existing paragraphs,<sup>71</sup> inserted entirely new paragraphs,<sup>72</sup> and created new compliance deadlines.<sup>73</sup> In many respects, one could even argue that PRR 830 is *less clear* on certain issues than the Protocol language it sought to clarify. For example, § 6.5.7.1(7)’s allowance for generators to pay TSPs to install reactive capability equipment previously contained precise language approved by the ERCOT Board in PRR 493 to ensure consumers did not bear unwarranted costs through

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<sup>69</sup> See 830PRR-01 Reactive Power Capability Requirement 090809 at 1 (Exhibit N at 5 of 491).

<sup>70</sup> See, e.g., 830PRR-01 Reactive Power Capability Requirement 090809 at 4 (changing the definition of “Wind-powered Generation Resource” in Protocol § 2.1) (Exhibit N at 8 of 491).

<sup>71</sup> See, e.g., *id.* at 7, § 6.7.6(5) (Exhibit N at 11 of 491).

<sup>72</sup> See, e.g., *id.* at 5, § 6.5.7.1(2) (Exhibit N at 9 of 491).

<sup>73</sup> *Id.*

transmission rates.<sup>74</sup> PRR 830, by contrast, has replaced that specificity with vague language allowing generators and TSPs to “enter into an agreement.”<sup>75</sup> However, PRR 830’s dramatic break from prior ERCOT conduct is nowhere more noticeable than in its requirement that WGRs provide reactive power in the rectangle configuration as opposed to the triangle configuration.

Until ERCOT adopted PRR 830 on November 17, 2009, Protocol § 6.5.7.1(1) indicated that “Unit Reactive Limit” refers to the amount of reactive power produced when a resource is operating at its full rated capability, and § 6.7.6(5) indicated that the reactive power capability varies with the resource’s actual power production.<sup>76</sup> PRR 830, however, deleted the reference to “URL” in Protocol § 6.5.7.1(1), and also deleted all of Protocol § 6.7.6(5).<sup>77</sup> Indeed, Protocol § 6.7.6(5) contained the language that unambiguously described and authorized the triangular reactive power capability curve. That section required that reactive power at the URL be available “at the generating unit’s continuous rated active power output.”<sup>78</sup> For lower levels of power output, however, it required that “Reactive Power *up to the unit’s operating capability* must be available.”<sup>79</sup> The fact that the existing Protocol specified a different reactive power standard for lower operating levels forecloses the possibility of rectangular interpretation which necessarily requires that *the same* standard be applied to all levels of operation.

This different reactive power standard for lower levels of operation was, until recently, graphically depicted as a triangular configuration in ERCOT’s RARF Guide. Until at least July 24, 2009, Section 7.4 of the RARF Guide contained an illustration of the “Reactive

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<sup>74</sup> See PRR 493 Board Action 072604 at 4, § 6.5.7.1(7); PRS Recommendation 072604 at 2.

<sup>75</sup> See 830PRR-01 Reactive Power Capability Requirement 090809 at 6, § 6.5.7.1(7) (Exhibit N at 10 of 491).

<sup>76</sup> See ERCOT Protocol § 6.5.7.1(1) and § 6.7.6(5), *supra* notes 30 and 31.

<sup>77</sup> See 830PRR-01 Reactive Power Capability Requirement 090809 at 4-7 (redline of prior language) (Exhibit N at 8-11 of 491).

<sup>78</sup> Exhibit F includes (a) the version of Protocol 6.7.6(5) originally passed in March 2004, (b) the October 2008 version in effect when ERCOT issued its November 13, 2008 Interpretation, and (c) the November 2009 version in effect until ERCOT passage of PRR 830. All three versions contain the referenced language.

<sup>79</sup> *Id.*

Capability Curve,” which showed the reactive power capability of a sample unit at varying levels of MW capacity.<sup>80</sup> That illustration included two lines designated “Minimum Reactive Required” that showed the requirement in a triangle configuration.<sup>81</sup> It did not include horizontal top and bottom lines that would have been necessary to depict a rectangular requirement. The fact that ERCOT felt compelled, on July 24, 2009, to revise the RARF Guide to remove its own triangular “Minimum Reactive Required” illustration is further evidence that ERCOT has substantially changed—not clarified—the reactive power requirements.<sup>82</sup>

One need look no further than the presentations made at the ERCOT Board’s November 17, 2009 meeting to see that PRR 830 represents a sea change in the industry’s understanding of what the Protocols require. There, the TAC advocate asserted that PRR 830 clarified, not changed, the existing requirements.<sup>83</sup> He also stated that the pre-PRR 830 requirements “were clearly understood” and “have been by most of the members of ERCOT for many, many years.”<sup>84</sup> That assertion, however, is contradicted by an ERCOT representative’s later statement that of the 70 wind generators ERCOT contacted, only 16 actually met the rectangular requirement.<sup>85</sup> That more than three quarters of generators were operating outside the rectangular requirement<sup>86</sup> is evidence that the vast majority of wind developers did not read the Protocols to require the rectangle.

Indeed, the notion that the reactive power Protocols have always required the rectangle lacks support. Here, ERCOT’s actions speak louder than its words. For five years,

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<sup>80</sup> See, e.g., Exhibit N at 273-275 of 491.

<sup>81</sup> *Id.* at 274 of 491.

<sup>82</sup> See “Resource Asset Registration Guide” v.4.08 (July 24, 2009) at 2 (stating that ERCOT “Updated Section 7.4”) and at 33-34 (still referring to the “Reactive Capability curve,” though the curve no longer appears).

<sup>83</sup> ERCOT Board Meeting Tr. at 119:9 (Exhibit M at 9 of 108).

<sup>84</sup> *Id.* at 119:17-20 (Exhibit M at 9 of 108).

<sup>85</sup> *Id.* at 136:12-18 (Exhibit M at 24 of 108).

<sup>86</sup> *Id.* at 136:12-18 (noting that “29 met the triangle requirement”) (Exhibit M at 24-108).

ERCOT has accepted without objection RARFs, interconnection studies, interconnection agreements, and other formal documents from numerous WGRs indicating that their reactive capability increased with the increase in their power generation. In response to that argument, ERCOT has presented three rather unconvincing justifications for its failure to take any action despite alleged non-compliance with the reactive power protocols.

First, ERCOT claims the RARFs it received never raised red flags because RARFs “weren’t established for checking protocol compliance” but rather “to get accurate data on what is out there in real life so [ERCOT] can appropriately model it.”<sup>87</sup> ERCOT’s attempt to distance itself from compliance issues raised by the RARFs fails because it is clear that the “real life” reactive power capabilities of wind generators were never used for modeling purposes. For example, it is difficult to reconcile ERCOT’s admission that the modeling for the CREZ transmission study is based on the rectangle<sup>88</sup> with its claim that the purpose of all the “triangular” RARFs ERCOT was receiving was to “appropriately model” the transmission system.

Second, with regard to the interconnection process through which WGRs have repeatedly communicated their reactive power capability, ERCOT defends its inaction by stating that “[g]enerator interconnection agreements are between the generator and the transmission provider,” and “ERCOT is not a party to those agreements.”<sup>89</sup> This response, however, only highlights the lack of evidence showing that the TSPs—who were conducting full interconnection studies before signing interconnection agreements—ever raised any compliance issues with ERCOT with respect to the WGRs having triangular reactive power capabilities.

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<sup>87</sup> *Id.* at 136:1-4 (Exhibit M at 23 of 108).

<sup>88</sup> *Id.* at 148:21-22 (Exhibit M at 34 of 108) (“The current CREZ reactive study is assuming the rectangle.”).

<sup>89</sup> *Id.* at 140:2-7 (Exhibit M at 27 of 108).

Third, in response to a question from the ERCOT Board as to why there was a “four year period before this became an issue,” ERCOT responded that “frankly, it didn’t come to our attention.”<sup>90</sup> This statement undermines the argument that the Protocols have always required the rectangle, for it requires one to assume that for years ERCOT was in possession of information showing widespread non-compliance with a requirement that it now argues is essential to system reliability, but that such non-compliance never came to its attention. ERCOT asserted that non-compliance issues usually come to its attention in response to some “incident.”<sup>91</sup> In this case, however, there is no credible evidence of an “incident” caused by and requiring changes to WGR reactive power capabilities.

Rather than claim that virtually an entire segment of the generation market was knowingly non-compliant with the Protocols for five years, or that ERCOT was never made aware of a compliance problem despite the unambiguous data it received to the contrary, the more reasonable approach is simply to recognize PRR 830 for what it is: a significant re-defining of the way that both WGRs and ERCOT interpreted the Protocols.

**2. The change required by PRR 830 will have a dramatic impact on Iberdrola and other wind generators.**

The cost of compliance with PRR 830 is substantial. Maintaining a rectangle requirement is a significant additional and unanticipated cost for Iberdrola and other wind developers. To supply the reactive power requirement imposed by PRR 830, Iberdrola must undertake retrofits at both its Barton Chapel and Peñascal facilities. Although Iberdrola continues to refine its estimates, initial engineering studies suggest that the cost of compliance will be \$5 million to \$10 million for the two facilities. Because so many wind generators built and operated

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<sup>90</sup> *Id.* at 137:23-24 (Exhibit M at 25 of 108).

<sup>91</sup> *Id.* at 137:14-20 (Exhibit M at 25 of 108).

their facilities with the understanding that ERCOT required triangular reactive power capabilities, the total cost to comply with PRR 830 could be hundreds of millions of dollars. That cost does not include the additional cost to consumers when affected low-cost wind facilities must go offline to perform the necessary retrofits and consumers must rely on more expensive forms of generation. While there is not one study to justify implementation of PRR 830, the new requirements imposed by PRR 830 will certainly have a dramatic effect on Iberdrola and other wind generators.

**3. Despite its far-reaching, anticompetitive effects, PRR 830 is unsupported by any evidence of a need for this change.**

The TAC advocate at the ERCOT Board meeting approving PRR 830 noted that TAC, in fact, “rejected arguments that studies should be performed to determine whether compliance with the requirements are needed for reliability.”<sup>92</sup> The lack of some data, a study, report, or other analysis to support the significant capital infusion required to meet the PRR 830 requirements is troubling and brings into question the value of the new requirements. Although ERCOT is “about to embark on a significant study of the reactive requirements associated with the many billions of dollars associated with the CREZ investment,”<sup>93</sup> the ERCOT Board hastily approved PRR 830 without the benefit of that study or any other study to marry the new reactive power requirements with actual system reliability needs. Iberdrola is further unaware of any recent incident on the ERCOT grid that would justify requiring wind developers to provide the additional reactive power capability ERCOT now claims is necessary for reliable operation of the grid. Without some evidence that the PRR 830 requirements are needed for system reliability, the

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<sup>92</sup> *Id.* at 120:12-16 (Exhibit M at 10 of 108).

<sup>93</sup> *Id.* at 121:22-25 (Exhibit M at 11 of 108).

reactive power requirements imposed by PRR 830 do not and cannot justify the enormous costs associated with compliance.

### **IX. MOTION FOR SUSPENSION**

P.U.C. PROC. R. 22.251(i) provides that the Commission may, upon demonstration of good cause, issue an order “on such terms as may be reasonable to preserve the rights and protect the interests of the parties during the processing of the complaint[.]”<sup>94</sup> Good cause exists to grant Iberdrola’s request for suspension of implementation and enforcement of PRR 830.

Iberdrola cannot currently provide rectangular reactive power as required by PRR 830. Under the new Protocol, Iberdrola will have until December 31, 2010, to bring existing equipment into compliance with the new Protocol.<sup>95</sup> Without a suspension, Iberdrola must begin very quickly to dedicate technical and financial resources to meet the December 31st deadline even while the Company’s Appeal and Complaint is pending. Compliance with PRR 830 will require the Company to retrofit its existing facilities to incorporate new equipment and operating systems consistent with the new Protocol. The Company’s current estimates suggest that the task will be extensive and the cost to comply with PRR 830 will be significant. Such costs will not be recoverable if the Commission grants Iberdrola’s request and PRR 830 is reversed.

ERCOT has for many years permitted the interconnection of generation units, including wind generation assets, that did not have the reactive power capabilities to comply with the new requirements of PRR 830. Although ERCOT represents that the new reactive power capability requirements are needed for system reliability, no study exists to support ERCOT’s position that reliability is actually at issue or that PRR 830 is an appropriate solution. Suspension

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<sup>94</sup> P.U.C. PROC. R. 22.251(i).

<sup>95</sup> ERCOT Protocol § 6.5.7.1(2) (as amended by PRR 830).

of PRR 830 will not cause undue harm to any participant, because ERCOT has not shown that PRR 830 is needed to ensure system reliability.

In this Appeal and Complaint, Iberdrola has established that there is no reliability issue to justify the reactive power capability requirements imposed by PRR 830 and no cost justification to impose such requirements on primarily wind generation resources. Considering the hundreds of millions of dollars it will cost developers to bring wind generation units into compliance with PRR 830 and the lack of justification for PRR 830, there is certainly a likelihood that Iberdrola will succeed on the merits. For the reasons set forth above, Iberdrola requests that the Commission expeditiously consider and grant this motion and suspend implementation and enforcement of PRR 830.

#### **X. MOTION TO EXCEED PAGE LIMIT**

Iberdrola requests permission from the Commission to exceed the page limit requirement in P.U.C. PROC. R. 22.72(f). The presiding officer is authorized to grant such requests and shall consider such factors as (i) which party has the burden of proof and (ii) the extent of opposition to a party's position that would need to be addressed in the document.<sup>96</sup> As the party with the burden of proof in this case, Iberdrola requests a waiver from P.U.C. PROC. R. 22.72(f) so that pertinent documents including the ERCOT record approving PRR 830, the conduct complained of in this Appeal and Complaint, may be fully presented to the Commission for review.

#### **XI. CONCLUSION**

Iberdrola requests that the Commission expeditiously reverse approval of PRR 830 and find that the reactive power capability requirements imposed by PRR 830 are not needed as a

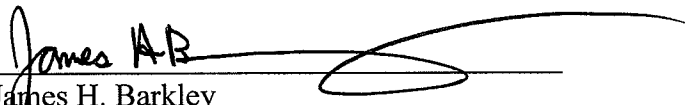
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<sup>96</sup> P.U.C. PROC. R. 22.72(f).

matter of policy and that, to the extent needed, no study exists to support the unusual demands made of wind developers to meet the new requirements. Iberdrola further requests that the Commission order ERCOT to reinstate the old Protocols with the understanding that, as written, the Protocols require a minimum reactive capability that is proportional to a generator's real power output. If the Commission determines that PRR 830 is needed for reliability purposes, the Commission should find, pursuant to P.U.C. SUBST. R. 25.503(f)(2)(C), that the requirements imposed by PRR 830 do not apply retroactively to Iberdrola's wind facilities in Texas. Iberdrola further requests all other relief, legal and equitable, to which it is justly entitled.

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing document was served on ERCOT's General Counsel and the Office of Public Utility Counsel by hand-delivery on this 22nd day of December, 2009. In addition, a copy was furnished electronically to ERCOT's General Counsel, Michael G. Grable, via e-mail.

