

**PROJECT NO. 21081**

**IN THE MATTER OF GENERATING § PUBLIC UTILITY COMMISSION  
CAPACITY REPORTS § OF TEXAS**

**PROTECTIVE ORDER**

In the submission of Generating Capacity Reports pursuant to P.U.C. SUBST. R. 25.91, it is anticipated that the submitting party may designate certain documents or portions thereof as confidential and exempt from public disclosure under the Public Information Act, TEX. GOV'T CODE ANN. Chapter 552 (Vernon 1994 & Supp. 2000). Therefore, a Protective Order covering such reports should be entered to facilitate timely submission of information in the reports. This Protective Order shall control the production of information in Generating Capacity Reports until such time as this Protective Order is modified by subsequent agreement or by order of the Commission or a court of competent jurisdiction, or by a decision or opinion of the Office of Attorney General of Texas.

1. Definition The term "Protected Materials" refers to information that is exempt from public disclosure under the Public Information Act, TEX. GOV'T CODE ANN. Chapter 552 (Vernon 1994 & Supp. 2000). "Protected Materials" shall not include documents or information which at the time of, or prior to, disclosure to the Commission, is or was public knowledge or which becomes public knowledge other than through disclosure in violation of this Protective Order.
2. Designation of Protected Materials. Upon producing or filing a Generating Capacity Report and any attachments, including, but not limited to, records stored or encoded on a computer disk or other similar electronic storage medium, the reporting party may designate portions of it as confidential pursuant to this Protective Order by typing or stamping on its face without obscuring its legibility "CONFIDENTIAL PURSUANT TO PROTECTIVE ORDER CONCERNING

- GENERATING CAPACITY REPORTS” or words to this effect and consecutively Bates Stamping each page. Protected Materials include not only the documents so designated, but also the substance of the information contained in the documents.
3. Procedures for Designation of Protected Materials. On or before the date the Protected Materials are provided to the Commission, the reporting party shall file with the Commission a written statement indicating: (1) specific identification of those portions of the Generating Capacity Report and attachments that reporting party asserts as confidential; (2) any and all exemptions to the Public Information Act, TEX. GOV'T CODE ANN., Chapter 552, claimed to be applicable to the alleged Confidential Information; (3) the reasons supporting the reporting party's claim that the responsive information is exempt from public disclosure under the Public Information Act and subject to treatment as protected materials; and (4) that counsel for the reporting party has reviewed the information sufficiently to state in good faith that the information is exempt from public disclosure under the Public Information Act and merits the Protected Materials designation.
  4. The reporting party shall file two copies of the Protected Materials, under seal, with the Commission's filing clerk. The Protected Materials will be maintained at the Commission in compliance with Procedural Rule 22.71(d).
  5. Persons Permitted Access to Protected Materials. The Commission agrees to keep Protected Materials provided by the reporting party confidential and agrees not to disclose the Protected Materials to anyone outside the Commission, and to only those Commission employees and/or Commission appointed officials who require its review to accomplish the Commission's goals under the Public Utility Regulatory Act (PURA) in obtaining the Protected Materials. Notwithstanding this restriction on the use of Protected Materials provided by the reporting party, the Commission may use the Protected Materials provided by the reporting party

in aggregate form without identification of the reporting party, which may be provided to the public.

6. Public Information Requests. In the event of a request under the Public Information Act for any information designated as confidential pursuant to paragraph two, after notifying the reporting party, an authorized representative of the Commission shall furnish a copy of the requested information to the Attorney General together with a copy of this Protective Order and the reporting party's written statement required by paragraph three. Notification to the reporting party may be provided simultaneously with the delivery of the requested information to the Attorney General. The provisions of the paragraph do not apply if the Attorney General has already issued a decision concerning the confidential status of the information requested in response to another public information request.
  
7. Required Certification. Each person who inspects the Protected Materials shall, before such inspection, agree in writing to the following certification set forth in the attachment to this Protective Order:

I certify my understanding that the Protected Materials are provided to me pursuant to the terms and restrictions of the Protective Order in Project No. 21081, and that I have been given a copy of it and have read the Protective Order and agree to be bound by it. I understand that the contents of the Protected Materials, any notes, memoranda, or any other form of information regarding or derived from the Protected Materials shall not be disclosed to anyone other than in accordance with the Protective Order. I acknowledge that the obligations imposed by this certification are pursuant to such Protective Order. Provided, however, if the Protected Materials are obtained from independent public sources, the understanding stated herein shall not apply.

**SIGNED AT AUSTIN, TEXAS as of the \_\_\_\_\_ day of \_\_\_\_\_ 2001.**

**PUBLIC UTILITY COMMISSION OF TEXAS**

\_\_\_\_\_  
**PAT WOOD, III, CHAIRMAN**

\_\_\_\_\_  
**JUDY WALSH, COMMISSIONER**

\_\_\_\_\_  
**BRETT A. PERLMAN, COMMISSIONER**

**Protective Order Certification**

I certify my understanding that the Protected Materials are provided to me pursuant to the terms and restrictions of the Protective Order concerning Generating Capacity Reports, and that I have been given a copy of it and have read the Protective Order and agree to be bound by it. I understand that the contents of the Protected Materials, any notes, memoranda, or any other form of information regarding or derived from the Protected Materials shall not be disclosed to anyone other than in accordance with the Protective Order. I acknowledge that the obligations imposed by this certification are pursuant to such Protective Order. Provided, however, if the Protected Materials are obtained from independent public sources, the understanding stated herein shall not apply.

\_\_\_\_\_

Representing: \_\_\_\_\_

Title: \_\_\_\_\_