
Harris County Auditor's Office



Memorandum

To: Lina Hidalgo, County Judge
Rodney Ellis, Commissioner Precinct 1
Adrian Garcia, Commissioner Precinct 2
Steve Radack, Commissioner Precinct 3

R. Jack Cagle, Commissioner Precinct 4
DeWight Dopslauf, Purchasing Agent
Vince Ryan, County Attorney

From: Mike Post, Harris County Auditor *MP*
Errika Perkins, Chief Assistant County Auditor - Audit Division *EP*

CC: Joe Madden, County Judge's Office
Brandon Dudley, Precinct 1
Mike Lykes, Precinct 2
Conrad Joe, Precinct 3

Cheryl Guenther, Precinct 4
Robert Soard, County Attorney's Office
Leslie Wilks Garcia, First Assistant County Auditor

RE: P3 Public Power Pool Contract Renewal Evaluation

Date: November 17, 2020

The Audit Division is providing you with the results of the Public Power Pool (P3) consulting engagement, as requested by Commissioners Court on September 15, 2020. The objectives of the engagement were to:

1. Research and document the history of Harris County's contractual relationship with the P3 organization.
2. Determine whether the current and proposed P3 agreements are in compliance with laws applicable to County procurement.

Overview

P3 is a non-profit political subdivision corporation created by local governments in Texas. P3's stated purpose is to aggregate energy usage to procure electrical power contracts at the lowest cost for its members. Harris County has been a member of P3 since its inception in 2000.

Observations

Objective #1: Research and document the history of Harris County’s contractual relationship with the P3 organization.

Texas Conference of Urban Counties

The Texas Conference of Urban Counties (CUC) was formed in 1975 by the six most populous counties in Texas: Harris, Dallas, Bexar, Tarrant, El Paso, and Travis. The purpose was to provide a forum for urban county commissioners court members to discuss county government issues in urban Texas and to forge a united front with state officials on urban issues.

The CUC is currently governed by the following board members:

Position	Board Member
Chairman	Brazoria County Judge
Chairman-Elect	Vacant
Immediate-Past Chairman	Wise County Commissioner
Vice-Chair, Member Services	Midland County Commissioner
Vice-Chair, Finance	Dallas County Commissioner
Vice-Chair, Policy	Cameron County Judge
Vice-Chair, Administration	Harris County Judge
Vice-Chair, Education	Fort Bend County Commissioner
Vice-Chair, TechShare	Tarrant County Judge
Director	Jefferson County Commissioner
Director	El Paso County Commissioner

On September 12, 2000, in response to the Texas legislature’s deregulation of the energy market, Harris County Commissioners Court along with other member organizations approved the articles of incorporation and bylaws for the CUC Electricity Aggregation Project, Inc., doing business as P3.

P3 Public Power Pool

P3 is a non-profit organization designed to save taxpayer money by aggregating power usage to procure the best power contract and electricity rates at the lowest cost. Any city, town, county, or district in the State of Texas could become an active member of P3 by proper action of its governing body and paying the current member service fees. Today there are approximately 100 members; 35 of which are counties that represent approximately 79% of the population of the state of Texas.

The P3 bylaws require that each member be notified before the competitive procurement for the aggregated group. If a member decides to pursue power supply contracts on its own rather than through P3, the member’s governing body is required to provide a resolution withdrawing from P3. Per the P3 bylaws, if written notice of withdrawal is not provided to P3 stating that the member is withdrawing from the corporation and that the corporation is not to aggregate electricity purchasing for any of the member’s electricity accounts, then the member will be required to automatically continue its membership through the 2020 procurement cycle and contract period.

P3 is currently governed by the following members of the Board of Directors:

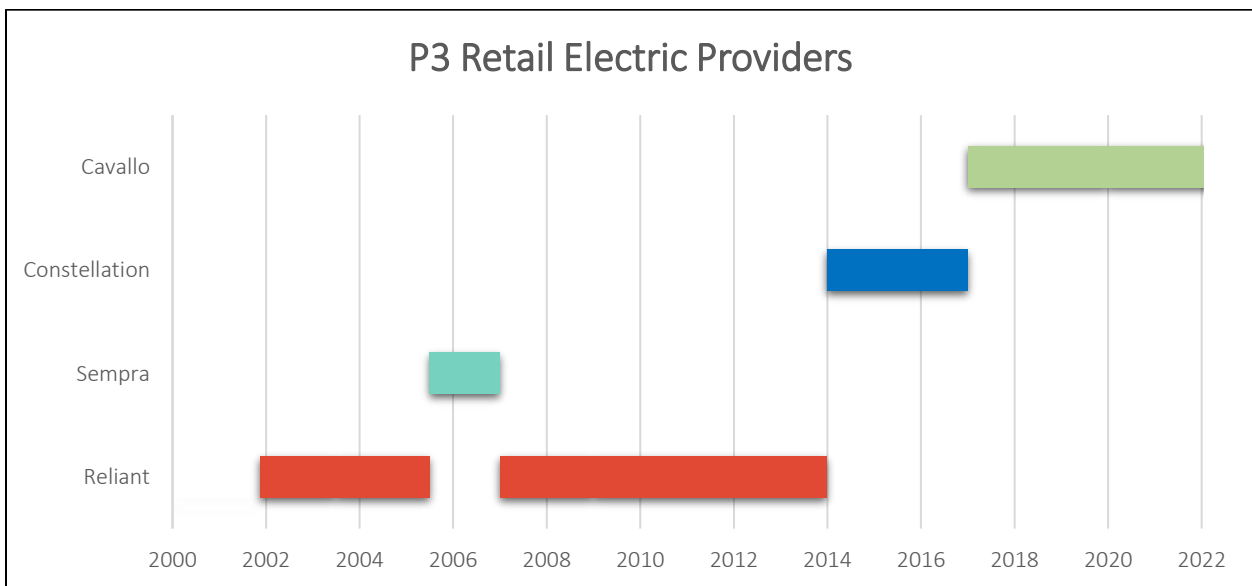
Position	Board Member
Chairman	Tarrant County Judge
Vice-Chair	Dallas County Judge
Treasurer	Rockwall County Commissioner
Member	Harris County Commissioner, Pct. 2
Member	Ector County Appraisal District Chief Appraiser & Executive Director (non-CUC member)

Harris County’s current and future electrical requirements are discussed on an ongoing basis by the P3 Technical Committee, which consists of P3 representatives, and representatives from members, including Harris County.

Since its inception, P3 has contracted primarily with four electricity vendors on behalf of Harris County:

- Reliant Energy Solutions, LLC
- Sempra Energy Solutions, LLC
- Constellation NewEnergy, Inc.
- Cavallo Energy Texas, LLC

See timeline below:



As of June 15, 2020, the current average supplier ceiling rate for “conventional energy” (i.e. fossil fuels such as coal, natural gas, and oil) is \$0.0334/kWh with an expected rate of \$0.0325/kWh for the years 2020-2022. Harris County’s annual energy usage and cost is shown in the chart below. It should be noted that P3 Management provided this data.

Harris County’s Annual Energy Usage and Cost					
Calendar Year	Kilowatt hour (kWh)	Supplier Cost	P3 Aggregation Fee *	TDSP **	Total Cost
2002	229,917,361	\$9,668,453.64	\$60,290.19	\$2,892,003.04	\$12,620,746.87
2003	222,029,750	\$11,206,738.29	\$67,165.87	\$2,786,150.95	\$14,060,055.11
2004	224,641,322	\$14,152,788.29	\$82,372.27	\$3,008,101.83	\$17,243,262.39
2005	231,105,976	\$15,575,386.00	\$94,820.00	\$4,178,781.48	\$19,848,987.48
2006	241,408,975	\$16,222,146.27	\$104,703.67	\$5,591,117.33	\$21,917,967.27
2007	254,697,361	\$21,569,535.05	\$134,102.25	\$6,368,433.57	\$28,072,070.87
2008	248,562,009	\$20,975,762.90	\$130,881.06	\$6,291,124.22	\$27,397,768.18
2009	254,241,608	\$18,106,777.05	\$119,891.24	\$6,870,564.07	\$25,097,232.36
2010	254,861,912	\$17,690,146.78	\$119,016.15	\$7,104,884.52	\$24,914,047.45
2011	256,769,039	\$17,127,450.28	\$122,490.46	\$8,391,395.25	\$25,641,335.99
2012	251,994,054	\$16,699,761.60	\$119,904.18	\$8,280,276.78	\$25,099,942.56
2013	251,333,718	\$16,378,892.28	\$118,274.02	\$8,261,527.76	\$24,758,694.06
2014	244,173,443	\$11,621,339.73	\$144,794.85	\$7,818,426.49	\$19,584,561.07
2015	243,998,778	\$11,980,671.41	\$144,691.28	\$7,880,465.71	\$20,005,828.40
2016	248,023,546	\$12,176,078.95	\$147,077.96	\$8,210,571.39	\$20,533,728.30
2017	247,738,881	\$9,986,262.10	\$146,909.16	\$7,114,316.49	\$17,247,487.75
2018	242,181,991	\$10,123,689.18	\$143,613.92	\$7,455,948.55	\$17,723,251.65
2019	238,209,148	\$10,210,173.16	\$141,258.02	\$6,796,622.91	\$17,148,054.09
*** 2020	228,958,477	\$7,283,672.03	\$135,772.38	\$6,769,435.49	\$14,188,879.90

* Per discussion with P3, the Aggregation fee calculation method was changed from 0.48% of Total Cost (less Aggregation Fee) to \$0.593/kWh from 2014 onward.

** Per discussion with P3, the Transportation Distribution Service Provider (TDSP) charges are locked by the Public Utility Commission and are non-negotiable. The TDSP provider for Harris County is CenterPoint Energy.

*** Calendar Year 2020 data is for a partial year, as it is still in progress.

Current Proposed Agreement

The current Harris County electric power supply contract expires on December 31, 2022. Although the current contract has more than two years remaining, P3 has provided a new proposal to Harris County and its members, as they believe that the market presents an opportunity to lock in historically low conventional energy prices beyond 2022. The new proposal provides an option to purchase “renewable” power for any P3 members that are interested in purchasing a 100% renewable product. Per the proposed agreement, P3 will issue a request for proposal to obtain electric prices from every Retail Electric Provider that is registered with the Public Utility Commission of Texas. The proposed agreement term begins in 2023 and extends through a period not to exceed 10 years.

On October 20, 2020, the Harris County Commissioners Court agreed to formally opt out of the current proposed P3 agreement. Commissioners Court agreed to form a working group to determine the next steps on an energy procurement strategy and hire an expert to structure that discussion. The working group will consist of representatives from the following County departments: Commissioners 1 through 4, County Judge, Budget Management, Purchasing, and the County Auditor.

Renewable Energy

Renewable energy is electricity produced from the sun, wind, moving water, organic plant and waste material (eligible biomass), and the earth's heat (geothermal). It provides environmental benefits, and it includes resources that rely on fuel sources that regenerate over short periods of time and do not diminish.

Governmental and non-governmental entities can support renewable energy through the purchase of Renewable Energy Certificates/credits (RECs). Per the United States Environmental Protection Agency, “buyers generally want to make a claim to publically state or disclose that they are buying or using renewable energy.” RECs are market-based legal instruments that act as an accounting or tracking mechanism for renewable energy that is stored on the power grid. Since electricity generated from renewable energy sources is indistinguishable from electricity generated from any other energy source, some form of tracking is required. RECs can be purchased from Retail Electric Providers that create or purchase renewable energy.

In an effort to support renewable energy, Harris County authorized P3 to purchase 251,042 RECs per year for the three-year period of January 1, 2020 through December 31, 2022. Per P3 management, the RECs were purchased based upon Harris County’s annual estimated electricity consumption of 251,042 megawatts. The RECs require a premium from Harris County of \$238,490 per year.

Objective #2: Determine whether the current and proposed P3 agreements are in compliance with laws applicable to County procurement.

Provided by the Harris County Attorney’s Office

The procurement of current and proposed P3 agreements is in accordance with the County’s authority to procure electricity through forming a political subdivision corporation in accordance with Section 304.001 of the Texas Local Government Code.

Section 304.001 of the Texas Local Government Code (LGC) permits political subdivisions (i.e., counties, cities, townships, and similar government entities) to join with one another in an effort to form a political subdivision corporation that acts as an agent to negotiate the purchase of electricity for each of its members. Each member must approve the bylaws and articles of incorporation. The political subdivision corporation is statutorily permitted to negotiate on behalf of its members for the purchase of electricity and to take any action necessary to purchase electricity; and may recover its expenses through dues or through an aggregation fee.

Pursuant to Section 304.001 of the LGC, Dallas, Harris, Jefferson, and Tarrant Counties formed the Texas CUC Aggregation Project, Inc. (“Corporation”). The Harris County Commissioners Court adopted the bylaws for the Corporation on or about September 12, 2000. Article III of the bylaws provide that adoption of the bylaws by the governing body allows the Corporation to negotiate and execute contracts for energy procurement on behalf of the members. As discussed above, this is specifically permitted by Section 304.001 of the LGC. Article VIII of the Corporation’s bylaws provide that the Corporation shall utilize a formal procedure of inviting and evaluating bids or proposals from as many providers as reasonably possible unless a procurement would not be subject to competitive bids if conducted by a county. The Corporation has represented to Harris County that it has competitively procured electricity as an agent of Harris County as permitted by the LGC and by the County’s adoption of the Corporation’s bylaws.

Recommendation

Commissioners Court should consider expanding the role of the Facilities and Property Maintenance department to manage electric power supply contracts.