

PUBLIC UTILITY COMMISSION OF TEXAS

OPEN MEETING AGENDA THURSDAY, DECEMBER 13, 2012, 9:30 A.M. Commissioners' Hearing Room 7th Floor, William B. Travis Building

The following items will be taken up first without discussion: 1, 2, 3, 4, 6, 10, 11, 14, 16, 19, 20, 22, 23

Project No. 40019 - Open Meeting Agenda items without an associated control number.

COMMUNICATIONS

1. Docket No. 40114; SOAH Docket No. 473-13-0920 - Complaint of City of Houston Against Southwestern Bell Telephone LP, d/b/a AT&T Texas. (Preliminary Order) Heidi Jackson
2. Docket No. 40115; SOAH Docket No. 473-13-0921 - Complaint of City of Houston Against Southwestern Bell Telephone LP, d/b/a AT&T Texas. (Preliminary Order) Heidi Jackson
3. Docket No. 40755; SOAH Docket No. 473-13-1047 - Application of Hill Country Telephone Cooperative, Inc. to Recover Funds from the Texas Universal Service Fund Pursuant to P.U.C. SUBST. R. § 26.406. (Preliminary Order) Larry Barnes
4. Docket No. 36633; SOAH Docket No. 473-09-5470 - Petition of CPS Energy for Enforcement Against AT&T Texas and Time Warner Cable Regarding Pole Attachments. (Final Order) Katherine Lengieza-Gross
5. Docket No. 40032 - Petition of Eastex Telephone Cooperative, Inc. et al. for Compulsory Arbitration with Halo Wireless, Inc. Under the Federal Telecommunications Act Relating to Interconnection Rates, Terms and Conditions. (Discussion and possible action) Katherine Lengieza-Gross
6. Docket No. 40942 - Notice of Violation and Settlement Agreement Relating to Verizon Southwest's Violation of P.U.C. SUBST. R. § 26.54, Concerning Service Objectives and Performance Benchmarks. (Final Order) Irene Montelongo
7. Project No. 40373 - Report on the Scope of Competition in Telecommunications Markets of Texas. (Discussion and possible action) Meena Thomas and Marshall Adair
8. Project No. 40951 - 2012 Texas No Call Report. (Discussion and possible action) Mike Renfro
9. Discussion and possible action regarding implementation of state and federal legislation affecting telecommunications markets, current and projected rulemaking projects, and Commission priorities.

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ELECTRIC

10. Docket No. 40824; SOAH Docket No. 473-13-1173 - Application of Southwestern Public Service Company for Authority to Change Rates and to Reconcile Fuel and Purchased Power Costs for the Period of January 1, 2010 Through June 30, 2012. (Preliminary Order) Heidi Jackson
11. Docket No. 40627; SOAH Docket No. 473-13-0935 - Petition of Homeowners United for Rate Fairness to Review Austin Rate Ordinance No. 20120607-055. (Supplemental Preliminary Order) Laura Kennedy
12. Docket No. 39588; SOAH Docket No. 473-12-1917 - Complaint of Michael Milson Against Entergy Texas, Inc. (Final Order) John Kramer
13. Docket No. 40127; SOAH Docket No. 473-12-4732 - Notice of Violation by Energy Curtailment Specialists, Inc. of P.U.C. SUBST. R. § 25.503(f)(2) and ERCOT Protocols § 8.1.3.1(6)(a) and 8.1.3.1(6)(f) Related to Oversight of Wholesale Market Participants. (Final Order) John Kramer
14. Docket No. 40301; SOAH Docket No. 473-13-0043 - Application of El Paso Electric Company to Amend a Certificate of Convenience and Necessity for Generating Units Montana 1 and 2 at the Montana Site in El Paso County. (Final Order) Heidi Jackson
15. Docket No. 40537; SOAH Docket No. 473-13-0135 - Application of Sharyland Utilities, LP to Amend a Certificate of Convenience and Necessity for the Proposed Gardendale to Grady 138-kV Transmission Line in Martin and Midland Counties. (Final Order) Mark Hovenkamp
16. Docket No. 40797; SOAH Docket No. 473-13-0324 - Application of Southwestern Public Service Company for Authority to Implement a Net Refund for Overcollected Fuel Costs. (Final Order) Lisa Carter
17. Docket No. 40020; SOAH Docket No. 473-12-4133 - Application of Lone Star Transmission, LLC for Authority to Establish Interim and Final Rates. (Motion for Rehearing) Larry Barnes and Lisa Carter
18. Tariff Control No. 40742 - Compliance Tariff Pursuant to Final Order in Docket No. 39896 (Application of Entergy Texas, Inc. for Authority to Change Rates, Reconcile Fuel Costs, and Obtain Deferred Accounting Treatment). (Appeal Notice of Commission Staff) Laura Kennedy
19. Docket No. 40736 - Application of Southwestern Public Service Company to Adjust System-Wide Standards Pursuant to P.U.C. SUBST. R. 25.52. (Final Order) Irene Montelongo

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20. Docket No. 40738 - Application of Southwestern Electric Power Company to Adjust System-Wide Standards Pursuant to P.U.C. SUBST. R. 25.52. (Final Order) Irene Montelongo
21. Docket No. 40949 - Agreed Notice of Violation and Settlement Agreement Relating to Constellation Energy Commodities Group, Inc.'s Violation of PURA § 39.151(j), P.U.C. SUBST. R. 25.503(f)(2), and ERCOT Protocol 4.4.5(2), Relating to Improper Submission of Congestion Revenue Rights in the Day Ahead Market for Settlement in Real Time. (Final Order) Irene Montelongo
22. Project No. 38257 - Vegetation Management. (Proposal for Adoption) Brennan Foley and Jennifer Hubbs
23. Project No. 39040 - Project to Revise Earnings Monitoring Report Forms for Electric Utilities. (Proposal for Adoption) Darryl Tietjen and Ruth Stark
24. Project No. 40190 - P.U.C. Proceeding to Evaluate the Feasibility of Instituting a Smart Meter Opt-Out Program. (Discussion and possible action) Christine Wright
25. Project No. 40000 - Commission Proceeding to Ensure Resource Adequacy in Texas. (Discussion and possible action) Diana Leese and Jason Haas
26. Project No. 40372 - Report on the Scope of Competition in Electric Markets in Texas. (Discussion and possible action) Diana Leese and Shawnee Claiborn-Pinto
27. Project No. 37344 - Information Related to the Entergy Regional State Committee. (Discussion and possible action)
28. Discussion and possible action on electric reliability; electric market development; ERCOT oversight; transmission planning, construction, and cost recovery in areas outside of ERCOT; SPP Regional State Committee and electric reliability standards and organizations arising under federal law.
29. Discussion and possible action regarding implementation of state and federal legislation, affecting electricity markets, current and projected rulemaking projects, and Commission priorities.

GENERAL

30. Project No. 40872 - 2012 Summary of Customer Complaints and Enforcement Activities. (Discussion and possible action) Mike Renfro and Mick Long
31. Discussion and possible action related to proposed amendment by the Environmental Protection Agency (EPA-HQ-OAR-2009-0234; EPA-HQ-OAR-2011-0044).

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32. Discussion and possible action regarding agency review by Sunset Advisory Commission, operating budget, strategic plan, appropriations request, project assignments, correspondence, staff reports, agency administrative issues, fiscal matters and personnel policy.
33. Discussion and possible action regarding customer service issues, including but not limited to correspondence and complaint issues.
34. Infrastructure Reliability, Emergency Management, and Homeland Security matters. (Discussion and possible action) David Featherston
35. Adjournment for closed session to consider:
 - a. litigation matters, pursuant to Tex. Gov't Code § 551.071(a)(1), regarding pending or contemplated litigation, including but not limited to:

Texas District Courts

Cities of Beaumont, Conroe, Groves, Nederland, Pine Forest, Port Neches, Rose City, and Silsbee v. PUC, Cause No. D-1-GV-08-000003, Travis County District Court. (Appeals of Docket No. 32710)

Cities of Dickinson *et al.* v. PUC, D-1-GN-07-000116, Travis County District Court (Appeal of Docket No. 31994)

Environmental Defense v. TCEQ (White Stallion), D-1-GN-11-000011

Environmental Defense & Texas Clean Air Cities Coal v. TCEQ (Las Brisas), D-1-GN-11-001364

Exelon Wind, LLC v. PUC, Cause No. D-1-GN-10-004130, Travis County District Court (Docket No. 37361)

JD Wind 1, LLC, JD Wind 2, LLC, et al. v. PUC, Cause No. D-1-GV-08-001459, Travis County District Court (Docket No. 34442)

Kathryn Runnells et al. v. TCEQ, Travis County District Court, D-1-GN-12-002111 (White Stallion)

Pioneer Natural Resources USA, Inc. v. Public Util. Comm'n, No. D-1-GN-06-003805, 200th Judicial District, Travis County District Court; Pioneer Natural Resources USA, Inc. v. Public Util. Comm'n, No. D-1-GN-06-003209, 126th Judicial District, Travis County District Court. (Appeal of Docket No. 31422)

Power Resource Group, Inc. v. Public Utility Commission, No. GN5-02139, Travis County District Court. (Appeal of Docket No. 30172)

Public Utilities Board of the City of Brownsville v. PUC, Travis County District Court, D-1-GV-08-001459. (Appeal of Docket No. 34410)

Sierra Club v. TCEQ, Travis County District Court, D-1-GN-11-000036, (White Stallion)

Southwestern Bell Telephone, L.P. v. Current Communications of Texas, L.P., No. 06-11388 in the 162nd District Court of Dallas County, Texas

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Southwestern Electric Power Company. v. PUC, 07-10-00108-CV, 7th Court of Appeals (Appeal of Docket No. 33891)

Texas Cable & Telecommunications Association v. Public Util. Comm'n, No. D-1-GN6-001900, Travis County District Court. (SB 5)

Texas Appeals Courts

CenterPoint Energy Houston Electric, LLC v. Public Utility Commission, 03-11-00065-CV, in the Third Court of Appeal (Appeals of Docket No. 36952)

City of Dallas v. Public Utility Commission, 03-11-00635-CV, in the Third Court of Appeals (Appeal of Docket No. 38630)

Oncor Electric Delivery Company, LLC v. Public Utility Commission, 03-11-00233-CV, in the Third Court of Appeals (Appeal of Docket No. 36530)

State of Texas Agencies and Institutions of Higher Learning v. Public Utility Commission, -03-11-00072-CV in the Third Court of Appeals (Appeal of Docket No. 35717)

Wilks Ranch v. Public Utility Commission, 03-12-00164-CV, in the Third Court of Appeals (Appeal of Docket No. 38230)

Texas Supreme Court

Constellation Energy v. PUC, No. 11-0904, in the Texas Supreme Court (Appeal of Docket No. 33500)

Federal Courts

Entergy Texas, Inc. v. Barry T. Smitherman, Donna L. Nelson, and Kenneth W. Anderson, Case No. A-09-CA-0183-LY, United States District Court for the Western District of Texas (Appeal of Docket No. 35269)

JD Wind 1, LLC, JD Wind 2, LLC, JD Wind 3, LLC, JD Wind 4, LLC, JD Wind 5, LLC and JD Wind 6, LLC, et al. v. PUC, Cause No. A09CA917SS, Federal District Court (Docket No. 34442).

Occidental Permian Ltd. v. Federal Energy Regulatory Commission, Cause No. 10-1381, DC Circuit Court of Appeals.

Texas Cable & Telecommunications Association v. Perry, et al., No. A-05-CV-721-LY, Western District of Texas No. A-05-CV-721; No. 10-51113, Fifth Circuit Court of Appeals; U.S. Supreme Court, No. 06-51514

Texas Commercial Energy, L.L.C., Case No. 03-20366-C-11, U.S. Bankruptcy Court, Southern District of Texas

White Stallion Energy Center, LLC v. U.S. Environmental Protection Agency, Case No. 12-1100

White Stallion Energy Center, LLC v. U.S. Environmental Protection Agency, Case No. 12-1272

EPA

EPA-HQ-OAR-2009-0491 – Revisions to Federal Implementation Plans to Reduce Interstate Transport of Fine Particulate Matter and Ozone

FCC

In the Matter of ASAP Paging for Preemption of PUC Concerning Retail Rating of Local Calls to CMRS Carriers, FCC DA-04-92; WC 04-6 (Docket No. 25673)

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In the Matter of Petition of Alenco Communications, Inc., Big Bend Telephone Company, Dell Telephone Cooperative, Inc., Riviera Telephone Company, Valley Telephone Cooperative, Inc., Texas Statewide Telephone Cooperative, Inc., and Texas Telephone Association for a Declaratory Ruling and for Preemption, CC Docket No. 96-45, Federal Communications Commission

In the Matter of Review of Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers, CC Docket No. 01-338, Federal Communications Commission

In the Matter of Sprint Spectrum, L.P. Petition for Declaratory Ruling that the Kansas Corporation Commission's October 2, 2006 Order in Docket 06-GMIT-446-GIT, WC Docket Nos. 03-109, 07-138, Federal Communications Commission

FERC

FERC Docket No. ER07-682-002, Entergy Services, Inc.

FERC Docket No. ER07-683, Entergy Services, Inc.

FERC Docket No. ER07-956-000, Entergy Services, Inc.

FERC Docket No. ER09-636-000, Entergy Services, Inc.

FERC Docket No. ER09-833-000, Entergy Services, Inc.

FERC Docket No. ER09-1224, Entergy Services, Inc.

FERC Docket No. ER10-2748, Entergy Services, Inc.

FERC Docket No. ER11-1923, Entergy Services, Inc.

FERC Docket No. ER12-1384; ER12-1385; ER12-1386; ER12-1387; ER12-1388; ER12-1390, Entergy Services, Inc. (Powered System Agreement to Include Cancellation Costs of Little Gypsy Gas Plant)

FERC Docket No. ER12-2682, Midwest Independent Transmission System Operator, Inc.

FERC Docket No. ER12-2683, Entergy Services, Inc.

FERC Docket No. ER12-2693, Entergy Services, Inc.

FERC ER 13-432, Entergy Services, Inc. (Proceeding to Amend Entergy System Agreement Regarding Exiting of Entergy Arkansas and Move to MISO)

FERC Docket No. EL09-77-000, JD Wind 1, LLC, JD Wind 2, LLC, JD Wind 3, LLC, JD Wind 4, LLC, JD Wind 5, LLC, JD Wind 6, LLC

FERC Docket No. EL11-62-000, Petition for Creation of a Joint Federal-State Board to Study Electric Reliability

FERC Docket No. EL00-66-013 and EL95-33-009, Louisiana Public Service Commission and the City Council of New Orleans

FERC Docket No. EL01-88, Louisiana Public Service Commission v. Entergy Services, Inc.

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FERC Docket No. EL11-34-000, Petition for Declaratory Order and Request for Shortened Notice Period and for Expedited Treatment of the Midwest Independent Transmission System Operator, Inc.

FERC Docket No. EL12-35-000, Midwest Independent Transmission System Operator, et al.

FERC Docket No. EL12-80-000, Exelon Wind 1, LLC et al., Petition for Enforcement and Declaratory Order Pursuant to Section 210(h) of the Public Utility Regulatory Policies Act of 1978

FERC Docket No. EL12-107-000, EC12-145-000, ER12-2681-000, ITC Holdings Corporation Energy Corporation Midwest Independent Transmission System Operator, Inc.

FERC Docket No. EL13-17-000, Blue Summit Wind, LLC

- b. Consultation with its attorneys, pursuant to Tex. Gov't Code § 551.071(a)(2).
- c. Personnel matters, pursuant to Tex. Gov't Code § 551.074; discussion and decision regarding personnel matters including but not limited to the Executive Director, the Deputy Executive Director, and the Division Directors.
- d. Security matters pursuant to Tex. Gov't Code § 551.076; including matters under Project No. 24729 and other matters related to deployment, use or implementation of security personnel or devices.

Reconvene for discussion and decisions on matters considered in closed session.

Persons planning to attend this meeting who have disabilities requiring auxiliary aids or services should notify the Commission as far in advance as possible so that appropriate arrangements can be made. Requests can be made by mail, telephone or in person to the Commission's Office of Customer Protection, 1701 N. Congress Ave., Austin, Texas 78701, phone number (512) 936-7150 or (512) 936-7136 for the teletypewriter for the deaf.