

# ***PUBLIC UTILITY COMMISSION OF TEXAS***

## **OPEN MEETING AGENDA THURSDAY, OCTOBER 25, 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, 3, 6, 13, 14, 16, 22, 23

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

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### **COMMUNICATIONS**

1. Docket No. 40235; SOAH Docket No. 473-13-0391 - Complaint of Harris County Hospital District Against Southwestern Bell Telephone Company d/b/a AT&T Texas. (Preliminary Order) Larry Barnes
2. 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
3. Docket No. 40646 - Petition of Verizon Southwest to Deregulate Certain Markets. (Final Order) Irene Montelongo
4. Project No. 40373 - Report on the Scope of Competition in Telecommunications Markets of Texas. (Discussion and possible action) Meena Thomas and Marshall Adair
5. Discussion and possible action regarding implementation of state and federal legislation affecting telecommunications markets, current and projected rulemaking projects, and Commission priorities.

### **ELECTRIC**

6. Docket No. 40409; SOAH Docket No. 473-13-0392 - Complaint of Kimbercrest Platinum Properties, LLC Against First Choice Power Special Purpose, LP and LPT, LLC d/b/a LPT SP, LLC. (Preliminary Order) Laura Kennedy
7. Docket No. 39973; SOAH Docket No. 473-12-5297 - Application of El Paso Electric Company to Amend its Certificate of Convenience and Necessity for Five Solar Power Generation Projects. (Final Order) Heidi Jackson
8. Docket No. 40193; SOAH Docket No. 473-12-6271 - Application of Southwestern Public Service Company to Amend a Certificate of Convenience and Necessity for a Proposed 115-kV Transmission Line within Lamb, Castro and Hale Counties. (Final Order) Katherine Lengieza-Gross

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9. Docket No. 39509; SOAH Docket No. 473-11-8674 - Application of AEP Texas Commercial & Industrial Retail Limited Partnership for Amendment to a Retail Electric Provider Certification. (Motion for Rehearing) Mark Hovenkamp
10. Docket No. 39896; SOAH Docket No. 473-12-2979 - Application of Entergy Texas, Inc. for Authority to Change Rates, Reconcile Fuel Costs, and Obtain Deferred Accounting Treatment. (Motion for Rehearing) Laura Kennedy
11. Docket No. 40346; SOAH Docket No. 473-12-6206 - Application of Entergy Texas, Inc. for Approval to Transfer Operational Control of its Transmission Assets to the Miso RTO. (Discussion and possible action) John Kramer and Laura Kennedy
12. Docket No. 40118 - Complaint Contesting Notice of Alleged Violation and Proposed Sanction of the Texas Reliability Entity, Inc. (Discussion and possible action) Mark Hovenkamp and Laura Kennedy
13. Docket No. 40542 - Application of Entergy Texas, Inc. for Authority to Implement New RPCEA Rate. (Final Order) Andrew Kang
14. Docket No. 40628 - Application of NRG Energy, Inc. Pursuant to Section 39.158 of the Public Utility Regulatory Act. (Final Order) Irene Montelongo
15. Project No. 40268 - P.U.C. Rulemaking to Amend P.U.C. SUBST. R. § 25.505, Relating to Resource Adequacy in the Electric Reliability Council of Texas (ERCOT) Power Region. (Proposal for Adoption) Jason Haas and Diana Leese
16. Project No. 40740 - Petition for the Sierra Club et al. to Amend § 25.173 to Increase the Renewable Portfolio Standard for Non-Wind Resources to 3,000 MW by 2025 and to Ensure Effective Implementation of the Standard. (Discussion and possible action) Joseph Younger
17. Project No. 40372 - Report on the Scope of Competition in Electric Markets in Texas. (Discussion and possible action) Diana Leese and Shawnee Claiborn-Pinto
18. Project No. 40000 - Commission Proceeding to Ensure Resource Adequacy in Texas. (Discussion and possible action) Diana Leese and Jason Haas
19. Project No. 37344 - Information Related to the Entergy Regional State Committee. (Discussion and possible action)
20. 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.

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21. Discussion and possible action regarding implementation of state and federal legislation, affecting electricity markets, current and projected rulemaking projects, and Commission priorities.

**GENERAL**

22. Project No. 38533 - P.U.C. Review of the ERCOT Budget. (Discussion and possible action) Thomas Gleeson and Tom Hunter
23. Project No. 40337 - Rule Review of Chapter 22, Procedural Rules, Pursuant to Texas Government Code § 2001.039. (Proposal for Re-Adoption) of Ch. 22) Davida Dwyer
24. Project No. 40670 - Request for Proposal for a Consultant to Act as the Independent Market Monitor for the ERCOT Region. (Delegation of Authority to Make an Award, Negotiate Pricing and Performance Requirements and Execution of Contract) Brian Lloyd
25. 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.
26. Discussion and possible action regarding customer service issues, including but not limited to correspondence and complaint issues.
27. Infrastructure Reliability, Emergency Management, and Homeland Security matters. (Discussion and possible action) David Featherston
28. 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**

AEP Texas Central Company v. PUC, D-1-GN-07-001153, Travis County District Court; Steering Committee of Cities v. PUC, D-1-GN-07-001144, Travis County District Court. (Appeal of Docket No. 32758)

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 Corpus Christi, et al. v. Public Utility Commission, No. D-1-GV-06-000973, 201st Judicial District, Travis County District Court. (Appeal of Docket No. 31433)

Cities of Corpus, et al. v. PUC, D-1-GN-08001522, Travis County District Court. (Appeal of Docket No. 33309)

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

City of Bryan v. PUC, D-1-GV-08-002325, Travis County District Court (Appeal of Docket No. 35011)

City of Garland v. PUC, D-1-GV-09-001199 (Consolidated), Travis County District Court (Appeal of Docket No. 35665)

City of Kerrville, Kerrville Public Utility Board, and City of Junction vs. PUC, D-1-GV-11-000324, Travis County District Court (Appeal of Docket No. 38354)

City Public Service Board of San Antonio v. Public Util. Comm'n, Cause No. GNO-002343, Travis County District Court. (Appeal of Docket No. 22055)

Entergy Texas, Inc. v. PUCT, Cause No. D-1-GN-09-000816, Travis County District Court, 126<sup>th</sup> District (Appeal of Docket No. 35269)

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 (White Stallion), D-1-GN-12-002111

Mobberley Road & 285 Partners, Ltd., BVJV Wataugua, L.P., and Duck Point Partners, Ltd. v. PUC, D-1-GN-08-000982, Travis County District Court (Appeal of Docket No. 32871)

Nucor Steel v. PUC, Oncor Electric Delivery Co. and Texas Energy Future Holdings Limited Partnership, Travis County District Court, D-1-GN-08-002467. (Appeal of Docket No. 34077)

Pioneer Natural Resources USA, Inc. v. Public Util. Comm'n, No. D-1-GN-06-003805, 200<sup>th</sup> Judicial District, Travis County District Court; Pioneer Natural Resources USA, Inc. v. Public Util. Comm'n, No. D-1-GN-06-003209, 126<sup>th</sup> 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 Utility Commission v. State Telephone Texas Corporation, No. D-1-GN10-001980, in the 201<sup>st</sup> District Court of Travis County, Texas (Enforcement of Docket No. 36991 Order)

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 (White Stallion), D-1-GN-11-000036

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

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Southwestern Electric Power Company. v. PUC, 07-10-00108-CV, 7<sup>th</sup> 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 New Mexico Power Company v. PUC, D-1-GN-09-000071, Travis County District Court. (Appeal of Docket No. 35038)

**Texas Appeals Courts**

City of El Paso and El Paso Electric Company v. Public Util. Comm'n. 03-08-00577, in the Third Court of Appeals. (Appeals of Docket No. 26194)

**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)

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

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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. TX11-2-000, Application of the City of College Station, Texas for an Order Directing a Physical Interconnection of Facilities and Transmission Services for Emergency Purposes only Under 210, 211 and 212 of the FPA and Request for Expedited Action in TX11-2.

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.

FERC Docket No. ER12-2390, Entergy Services, Inc.

FERC Proceeding to Amend Entergy System Agreement

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.

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. EL11-61-000, Southern Cross Transmission, LLC

FERC Docket No. TX11-1-000, Joint Application of Southern Cross Transmission, LLC and Pattern Power Marketing, LLC

FERC Docket No. ER10-1069, Southwest Power Pool, Inc.

FERC Docket No. EL10-22-000, Tres Amigas, LLC

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FERC Docket No. EL10-396-000, Tres Amigas, LLC

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 Entergy Corporation Midwest Independent Transmission System Operator, Inc.

- 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.*