

PUBLIC UTILITY COMMISSION OF TEXAS

OPEN MEETING AGENDA FRIDAY, NOVEMBER 16, 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, 6, 7, 9, 11, 12, 15, 16, 18, 19, 20, 21, 22, 23, 24, 26, 27, 28, 29, 30, 34, 41

The following items will not be taken up: 4, 36

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

COMMUNICATIONS

1. Docket No. 40092; SOAH Docket No. 473-13-0845 - Complaint of City of Houston Against Southwestern Bell Telephone Company LP, DBA AT&T Texas. (Preliminary Order) John Kramer
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. (Discussion and possible action) Katherine Lengieza-Gross
3. Docket No. 38199; SOAH Docket No. 473-10-5000 - Complaint of Harris County Hospital District Against Southwestern Bell Telephone, LP d/b/a AT&T Texas. (Final Order) John Kramer
4. Docket No. 40631; SOAH Docket No. 473-13-0219 - Petition of AT&T Texas to Determine Whether Certain Markets with Populations Less Than 100,000 Should Remain Regulated. (Final Order) Katherine Lengieza Gross
5. Project 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. (Arbitration Award) Katherine Lengieza-Gross
6. Project No. 39938 - Rulemaking to Consider Amending SUBST. R. 26.404, Relating to the Small and Rural Incumbent Local Exchange Company (ILEC) Universal Service Plan. (Proposal for Adoption) Joseph Younger and Mark Bryant
7. Project No. 40561 - Rulemaking to Amend SUBST. R. 26.418, Relating to Designation of Common Carriers as Eligible Telecommunications Carriers to Receive Federal Universal Service Funds. (Proposal for Adoption) Brennan Foley and Liz Kayser
8. Project No. 40373 - Report on the Scope of Competition in Telecommunications Markets of Texas. (Discussion and possible action) Meena Thomas and Marshall Adair

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9. Project No. 40562 - Commission Approval to Opt-Out of FCC National Database. (Discussion and possible action) Jay Stone
10. Discussion and possible action regarding implementation of state and federal legislation affecting telecommunications markets, current and projected rulemaking projects, and Commission priorities.

ELECTRIC

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. (Discussion and possible action, including Preliminary Order) Laura Kennedy
12. Docket No. 40633; SOAH Docket No. 473-13-0861 - Complaint of Kevin Ellis Against Reliant Energy Retail Services, LLC and CenterPoint Energy Houston Electric, LLC (Preliminary Order) Lisa Carter
13. 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
14. 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
15. Docket No. 40450; SOAH Docket No. 473-12-7376 - Petition of AEP Texas North Company for Administrative Approval of Transmission Cost Recovery Factor Update. (Final Order) Heidi Jackson
16. Docket No. 40454; SOAH Docket No. 473-12-7377 - Petition of Texas-New Mexico Power Company for Administrative Approval of Transmission Cost Recovery Factor Update. (Final Order) Heidi Jackson
17. Docket No. 40547; SOAH Docket No. 473-12-7938 - Petition of El Paso Electric Company for Authority to Revise Military Base Discount Recovery Factor Tariff Pursuant to PURA § 36.354. (Final Order) Katherine Lengieza-Gross
18. 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
19. Docket No. 40449 - Petition of AEP Texas Central Company for Administrative Approval of Transmission Cost Recovery Factor. (Final Order) Irene Montelongo

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20. Docket No. 40451 - Petition of Oncor Electric Delivery Company for Administrative Approval of Transmission Cost Recovery Factor Update Pursuant to SUBST. R. § 25.193. (Final Order) Irene Montelongo
21. Docket No. 40452 - Petition of CenterPoint Energy Houston Electric, LLC for Transmission Cost Recovery Factor Update Pursuant to P.U.C. SUBST. R. § 25.193(b). (Final Order) Irene Montelongo
22. Docket No. 40596 - Joint Application of Taylor Electric Cooperative, Inc. and Golden Spread Electric Cooperative, Inc. to Transfer Certificate Rights. (Final Order) Irene Montelongo
23. Docket No. 40668 - Petition of AEP Texas Central Company, AEP Texas North Company, CenterPoint Energy Houston Electric, LLC, El Paso Electric Company, Entergy Texas, Inc., Southwestern Electric Power Company, Sharyland Utilities, LP., and Texas-New Mexico Power Company to Add Deemed Savings Values for HVAC and Lighting Control Measures. (Final Order) Irene Montelongo
24. Docket No. 40669 - Petition of AEP Texas Central Company, AEP Texas North Company, CenterPoint Energy Houston Electric, LLC, El Paso Electric Company, Entergy Texas, Inc., Southwestern Electric Power Company, Sharyland Utilities, LP., and Texas-New Mexico Power Company to Add Deemed Savings Values for Refrigeration and Food Service Measures. (Final Order) Irene Montelongo
25. Docket No. 40798 - Application of Lone Star Transmission, LLC for Interim Update of its Transmission Rates. (Final Order) Irene Montelongo
26. Docket No. 40819 - Agreed Notice of Violation and Settlement Agreement Relating to Infinite Electric, LLC's Violation of PURA §§ 17.004 and 39.101 and P.U.C. SUBST. R. § 25.474, 25.475, 25.477, 25.479, 25.481, and 25.485, Concerning Customer Protection Rules for Retail Electric Service. (Final Order) Irene Montelongo
27. Docket No. 40820 - Agreed Notice of Violation and Settlement Agreement Relating to Entrust Energy, Inc.'s Violation of PURA §§ 17.004 and 39.101 and P.U.C. SUBST. R. § 25.474 and 25.475, Concerning Customer Protection Rules for Retail Electric Service. (Final Order) Irene Montelongo
28. Docket No. 40830 - Agreed Notice of Violation and Settlement Agreement Relating to AEP Texas North Company's Violation of PURA § 38.005 and P.U.C. SUBST. R. 25.52, Concerning Reliability and Continuity of Service. (Final Order) Irene Montelongo
29. Docket No. 40831 - Agreed Notice of Violation and Settlement Agreement Relating to AEP Texas Central Company's Violation of PURA § 38.005 and P.U.C. SUBST. R. 25.52, Concerning Reliability and Continuity of Service. (Final Order) Irene Montelongo

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30. Docket No. 40857 - Agreed Notice of Violation and Settlement Agreement Relating to Southwestern Electric Power Company's Violation of PURA § 38.005 and P.U.C. SUBST. R. 25.52, Concerning Reliability and Continuity of Service. (Final Order) Irene Montelongo
31. Project No. 39246 - Rulemaking Proceeding Concerning Recovery of Purchased Power Capacity Costs, Including Amendment of SUBST. R. 25.238. (Proposal for Publication) Davida Dwyer and Bill Abbott
32. Project No. 40862 - Rulemaking Proceeding to Amend P.U.C. SUBST. R. 25.362, Relating to Electric Reliability Council of Texas (ERCOT) Governance. (Proposal for Publication) Joseph Younger and Rebecca Reed
33. Project No. 38257 - Rulemaking Relating to Vegetation Management. (Proposal for Adoption) Jennifer Hubbs and Brennan Foley
34. Project No. 39926 - Rulemaking Proceeding to Amend P.U.C. SUBST. R. 25.483 to Review Reconnection of Service. (Proposal for Adoption) Maria Faconti and Therese Harris
35. Project No. 40372 - Report on the Scope of Competition in Electric Markets in Texas. (Discussion and possible action) Diana Leese and Shawnee Claiborn-Pinto
36. 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
37. Project No. 40000 - Commission Proceeding to Ensure Resource Adequacy in Texas. (Discussion and possible action) Diana Leese and Jason Haas
38. Project No. 37344 - Information Related to the Entergy Regional State Committee. (Discussion and possible action)
39. 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.
40. Discussion and possible action regarding implementation of state and federal legislation, affecting electricity markets, current and projected rulemaking projects, and Commission priorities.

GENERAL

41. Project No. 40891 - Request for Proposal for a Consultant to Implement an Evaluation, Measurement, and Verification Program (EM&V). (Delegation of Authority to Make an

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Award, Negotiate Pricing and Performance Requirements and Execution of Contract)
Brian Lloyd

42. 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.
43. Discussion and possible action regarding customer service issues, including but not limited to correspondence and complaint issues.
44. Infrastructure Reliability, Emergency Management, and Homeland Security matters. (Discussion and possible action) David Featherston
45. 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)

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, 126th District (Appeal of Docket No. 35269)

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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, 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 Utility Commission v. State Telephone Texas Corporation, No. D-1-GN10-001980, in the 201st 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 162nd District Court of Dallas County, Texas

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 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)

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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

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.

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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

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.

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- 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.