

PROJECT NO. 25516

**LOAD PROFILING AND LOAD
RESEARCH RULEMAKING**

§
§
§

**PUBLIC UTILITY COMMISSION
OF TEXAS**

**ORDER ADOPTING §25.131, LOAD PROFILING AND LOAD RESEARCH, AS
APPROVED AT THE MARCH 5, 2003 OPEN MEETING.**

The Public Utility Commission of Texas (commission) adopts new §25.131, relating to Load Profiling and Load Research, with changes to the proposed text as published in the October 25, 2002 *Texas Register* (27 TexReg 9914). The rule defines the entity responsible for load research to support the load profiling activities of the Electric Reliability Council of Texas (ERCOT), provides access to the data gathered from load profiling research, and provides for establishment of a procedure to provide a method of recovery of research costs associated with obtaining a new profile. This new section was adopted under Project Number 25516.

This rule is necessary to facilitate retail competition in the ERCOT area. Since a large number of customers' wholesale obligations are settled based on load profiles, it is imperative that the profiles be as accurate as possible. This rulemaking will allow ERCOT to get data it needs to validate and update its load profiles. More accurate profiles will enhance the retail market by providing for more accurate settlement.

A public hearing on the proposed section was held at commission offices on December 16, 2002, at 10:00 a.m. Representatives from American Electric Power Companies (AEP), CenterPoint Energy (CenterPoint), City Public Service of San Antonio (San Antonio), Competitive Retail Market Companies (representing Automated Utilities, EC Power, Fowler Energy, Retail Energy

Aggregators of Texas, Texas Energy Association Cooperative, Utility Choice Electric, and Viterra Energy Services) (CRMC), ERCOT, Good Company and Associates (Good Company), and Oncor Electric Delivery Company (Oncor) attended the hearing and provided comments. To the extent that these comments differed from the submitted written comments, such comments are summarized herein.

The commission received comments on the proposed new section from AEP, CenterPoint, CRMC, Energy Data Source, Entergy Solutions, Ltd. (Entergy Solutions), ERCOT, Good Company, Green Mountain Energy Company (Green Mountain), Reliant Resources, Inc. (RRI), San Antonio, and TXU Energy/Oncor (TXU Companies).

The commission posed two questions for comment in addition to taking comment on proposed rule language.

1. *Proposed §25.131(e)(3) calls for ERCOT to develop a process for assessing a fee to users of a new profile that is developed by a sponsor other than ERCOT. Rather than this process, when a person petitions ERCOT to establish a new profile and incurs costs for research and development of the new profile, should the new profile become the property of this sponsor?*

AEP and Entergy Solutions stated that they believe that the entity that pays for the profile should own it. AEP commented that the entity that pays for the profile should be permitted to charge a market-based price for its use, as innovative market participants should have an opportunity to

receive a return on their investment. AEP proposed that ERCOT develop the procedures for cost recovery through the Profiling Working Group (PWG). The TXU Companies agreed with AEP that ERCOT in conjunction with market participants should develop the procedures for cost recovery.

Entergy Solutions commented that when a market participant bears the costs of developing and implementing a new profile, that entity should become the owner of the new profile and should be compensated when other market participants use it. Entergy Solutions offered the example that if a second market participant desired to use the new profile, then, at a minimum, that market participant should pay a pro-rata share of the owner's cost. If other market participants subsequently desired to use the profile, then at a minimum, they should pay the pro-rata share and the second market participant should receive a refund of the amount it paid over its new pro-rata share. Entergy Solutions commented that, in the alternative, the owner of the profile should have the option of charging a market-based fee for use of the profile. In reply, TXU Companies commented that the Entergy Solutions' proposal has the potential to be complex and difficult to administer. TXU Companies noted that the concepts can be appropriately considered within the established ERCOT stakeholder process, as contemplated in the proposed rule.

CRMC did not support setting market-based rates to employ fundamental market instruments used in the settlement of accounts in the ERCOT market. CRMC argued that the designation of some profiles as "new" and costly to use and others as grandfathered and "free" to use, when in fact, they are all merely descriptors of a market segment used for settlement at ERCOT, works against the principles of innovation in a competitive marketplace. TXU Companies responded

that the current market rules do not indicate that all new profiles will be costly to use. In fact, they argue, once the profile is approved by ERCOT, it is available for all retail electric providers (REPs) to use, and the cost of implementing and maintaining the new profile is the responsibility of ERCOT.

TXU Companies argued that ERCOT is in the best position to establish and implement a fair and equitable process for assessing a fee to users of a non-ERCOT-sponsored profile. Additionally, they stated that ERCOT is the best entity to develop the procedures for the use of such a profile by other participants in the market, as the rule presently provides. Finally, TXU Companies commented that ERCOT, through a cooperative effort with the transmission and distribution utilities (TDUs) and REPs, can develop a fee process and asserted that, with modifications, the current rule language can accommodate this cooperative effort.

ERCOT argued that it does not believe ERCOT is the appropriate entity to assess or determine the process to collect fees for a new profile. ERCOT stated that in addition to the difficulty in determining the amount of such fees and estimating the cost of third-party services, ERCOT would be required to obtain commission approval for any such fee. ERCOT also stated that it does not have money in its current budget for these activities. ERCOT suggested that TDUs or their designated agents are in the best position to perform the load-sampling services and recover costs.

ERCOT stated that load research in support of a new load profile request is the responsibility of the requesting entity. ERCOT explained that if the requesting entity desires cost reimbursement

for load research needed to support the request for a new load profile, the requesting entity should work with ERCOT for sample design and TDUs to perform the necessary load research sample metering. ERCOT argued that the requesting entity should initially pay to the TDUs the costs that the TDUs incur to support the load research sample metering activities needed to evaluate the proposed profile. At the conclusion of the evaluation process, ERCOT staff would make a recommendation to the ERCOT PWG regarding implementation of the new profile group as outlined in the Load Profiling Guides. If the PWG decides to implement the new profile, ERCOT proposed that the load research costs incurred in the development of the profile would be refunded by the TDUs to the sponsoring entity and absorbed into the TDUs rate base, as is the case for ERCOT-directed load profiles. The profile would then be made available to any REP, as appropriate, across the market. Under this assignment of responsibilities, the transition from evaluation to implementation of a profile would be seamless. In addition, ERCOT concluded that all market participants would benefit from the implementation of the new profile as a result of the settlement improvements derived from improved profile accuracies.

The commission agrees with AEP and the TXU Companies that ERCOT in conjunction with its working groups should develop the procedure for the reimbursement of costs. Rather than attempt to impose a solution on the market, the commission prefers to allow the ERCOT stakeholders an opportunity to develop a process for compensation or reimbursement to those who have spent money on developing the initial research for a new profile. The commission believes its original proposed rule language provides this flexibility. If the parties are unable to establish a process by the date provided in the rule, the commission may open a proceeding to develop the process. In determining the process, market participants are urged to consider fair

compensation to the initial requestor as well as efficient functioning of the market and the availability of the new profiles to be used by others.

2. *In these circumstances, should the sponsor of a new profile be allowed to charge a market-based fee for its use?*

CRMC did not support setting market-based rates for the use of fundamental market instruments that are employed in the settlement of accounts in the ERCOT market. CRMC reiterated, to designate some profiles as "new" and costly to use and others as grandfathered and "free" to use, when in fact they are all merely descriptors of a market segment used for settlement at ERCOT would work against the principles of innovation in a competitive marketplace. TXU Companies responded that the current market rules do not indicate that all new profiles will be costly to use. In fact, once the profile is approved by ERCOT it is available for all REPs to use, and the cost of implementing and maintaining the new profile is the responsibility of ERCOT. TXU Companies asserted that ERCOT in conjunction with market participants is in the best position to assess the costs and to equitably manage usage rights associated with such profiles.

AEP and Entergy Solutions commented that the entity who pays for the new profile should financially own it. AEP argued that the fee should be market based and that the process should be worked out through the PWG.

The commission determines that charging a market-based fee for use of the load profile could negatively affect competition. The commission agrees, however, that if a market participant has

paid for the initial research of a load profile, others should not be afforded free use. Allowing free use of a profile that a market participant has paid to develop would deter participants from making investments in profile development. However, as decided in question one, the commission believes that market participants are in the best position to design a process for cost-based reimbursement. Therefore, the commission does not alter the rule in favor of market-based rates.

Comments on proposed §25.131

Subsection (b), Applicability

RRI suggested language to specify that the rule would not require REPs to perform load research as a mandatory service for customers that desire a new load profile. TXU Companies asserted that such language is unnecessary because there is no express or implied requirement in the proposed rule that would obligate a REP to perform load research at the request of a customer. TXU Companies stated that the proposed language would create greater confusion rather than clarify the existing language.

The commission does not intend to impose a requirement upon REPs to perform load research. The obligation to perform load research falls on ERCOT and the TDUs, not the REPs. However, the commission agrees with TXU Companies that this is evident from the rule, and it is not necessary to add the proposed language to this section of the rule.

Green Mountain suggested that metering designed to measure the impact of a specific demand response or energy efficiency program not be considered load research and should not be affected by this rulemaking in order to provide market participants greater flexibility to work with ERCOT on metering and monitoring approaches that make the most sense for specific programs. TXU Companies agreed that letting the market determine the load profiling details associated with demand response programs allows for the proper input from all affected parties. Good Company supported Green Mountain's suggestion but encouraged the commission to evaluate an alternative approach to reducing and financing the costs of Direct Load Control (DLC) programs through advanced metering. Good Company proposed that TDUs be allowed to recover portions of the costs of managing profiling samples from the market as a whole rather than recovering all costs through direct billing of the operating entity. Energy Data Source stated its support for third-party agents providing sampling for DLC programs, as they believe third-party agents would be more efficient and could provide better quality results at a lower cost. AEP pointed out that one of the purposes of this rulemaking is to define the entity responsible for load research to support the load profiling activities of ERCOT, and in order to settle customers under a demand response program, ERCOT must have an applicable load profile so that metered energy use can be properly allocated across all settlement intervals.

CenterPoint disagreed that demand response or energy efficiency programs should be exempted from the requirements of a rule that is intended to establish the standards for the market. CenterPoint stated that ERCOT should be the party responsible for market settlement, including oversight of sample design and sample point selection, as well as management oversight of the entity performing the services for any activities regarding load research for market settlement.

The commission agrees with AEP and CenterPoint that in order to settle customers under a direct load control program or energy efficiency program, the customers in the program must have an applicable load profile like all other customers so that metered energy use can be properly allocated across all settlement intervals. However, the commission has not set standards for obtaining a new profile in this proceeding. The standards have been established in the Load Profiling Guides (LPGs). This affords Green Mountain and others hoping to establish a new non-universally applicable profile to work with ERCOT on metering approaches or other monitoring techniques that make the most sense for non-universally applicable load profiles. While the commission is concerned with demand response and energy efficiency programs, as well as advanced metering, apart from their impact on load profiling and settlement, those issues are being addressed in other projects and working groups within ERCOT. Therefore, the commission declines to address these issues as well as the suggestions made by Good Company and Energy Data Source in this rulemaking.

Subsection (c), Load Research Responsibility

CenterPoint commented that there may be limited opportunities to effectively use common sample points for both settlement and class delivery groups. ERCOT proposed language to clarify that ERCOT would be responsible for the load research sample design and sample point selection for ERCOT-directed load research samples.

The commission agrees that ERCOT shall be responsible for selecting the load research sample design and sample points and adds ERCOT's proposed language to the rule. However, the commission is concerned that sample points be chosen efficiently and that costs of data collection be minimized. To the extent possible, the TDUs and ERCOT need to coordinate research samples to minimize the sample points needed.

RRI proposed that a third party be selected to perform the load research through a competitive bidding process with costs recovered through the ERCOT administrative fee. Energy Data Source agreed that involving the TDU in installation of such metering would significantly increase overall costs. Under RRI's proposal, the third party chosen may include a TDU's competitive affiliate.

CRMC commented that, as a general principle, ERCOT sponsored load research for establishing load profiles should not be performed by individual stakeholder companies and questioned the right of TDUs to collect information. Additionally, CRMC stated that incumbent utilities have cash-flow ties to affiliate or successor-in-interest REPs and generators; thus, to have incumbent utilities perform basic research for the market when such research potentially enables new competitors to take customers away from the affiliated REPs poses a conflict. TXU Companies commented that CRMC's comments display a disregard for the commission's code of conduct and demonstrate a lack of understanding of the operation of the ERCOT market. The TXU Companies stated that implementing CRMC's recommendations to avoid groundless assertions of conflicts of interest could result in the potential loss of significant economies of scale. They also stated that TDUs are performing load research today in ERCOT, as well as in California and

the PJM Interconnection. The TXU Companies concluded that CRMC has failed to provide evidence of how ERCOT would compensate third-party providers, how third-party providers would provide more cost effective load profile research than TDUs, how third-party providers would produce greater efficiencies, and how using third parties that are presumably performing the work for some specific market participant does not create a conflict of interest for which the commission has no regulatory recourse.

CRMC urged the commission to consider whether a third-party load-research effort that would fulfill many market needs could be initially undertaken in conjunction with a pilot project that includes competitive metering. TXU Companies stated that there is no basis to delay this project and combine the load profiling and load research rulemaking with the vast issues associated with competitive metering.

AEP disagreed with parties who recommended that third parties conduct load research. AEP did not agree that a third party could provide these services at a lower cost. AEP stated that the proposed rule provides economies of scale by allowing ERCOT to "piggy back" on existing TDU load research activities. According to AEP, the marginal cost to support ERCOT profiles is primarily the cost of the additional meters required by ERCOT, with the TDU providing meter installation, data retrieval, and data validation, editing, and estimation using existing resources. AEP argued that a third party may not have those structures in place, and would have to implement them at a higher cost.

Since a large percentage of customers are settled based on the ERCOT profiles, the commission is concerned with the accuracy of the current profiles. The commission staff has stressed the importance of updating and validating the profiles to ERCOT for well over a year. However, updating the profiles has not received priority status in the ERCOT prioritization process; therefore, the commission has conducted this rulemaking. In order to have third parties conduct load research, an RFP process would have to be put in place and would require ERCOT funding, which could take a year or longer. In addition, ERCOT systems would need to be updated to receive data from entities other than the TDUs. The commission believes that this process would take too long, would be inefficient, and would be more costly to develop. Furthermore, it is not clear how third parties could gain access through customer premises, other than through the use of TDU's easement rights. Therefore, the commission declines to implement this suggestion. The commission believes that CRMC's concerns are mitigated by the commission's code of conduct and the fact that all certified REPs will have access to the data generated by the load research. The commission agrees with TXU Companies that third parties performing load research could present a concern to the market, especially if entities who had a financial interest in the results of the profile sample data (such as REPs) were chosen as the third-party provider.

CRMC suggested a pilot program for third-party providers combined with a competitive metering pilot project. The commission is currently working with interested parties to consider a pilot project for competitive metering. A pilot project to combine competitive metering and this project would probably delay the initial load profiling and load research efforts. The commission agrees with TXU Companies that there is no basis to delay this project or to

combine it with the multitude of difficult issues surrounding competitive metering. Therefore, the commission declines to make any rule change based on these suggestions.

CenterPoint expressed concern that parties have lost sight of the potential for inappropriate gaming that may occur if REPs, aggregators, or other entities with market interests are allowed to develop samples and select sample points for market settlement profiles. Therefore, CenterPoint stated that ERCOT should be the independent provider for these services. The TXU Companies agreed that CRMC's comments fail to understand the intent of the rule and the operation of the ERCOT market; furthermore, they stated that a market participant requesting a new load profile will be responsible for sample design, sample selection, data validation, data aggregation, data analysis, and any model development as part of its request for approval of such profile.

The commission agrees with CenterPoint that ERCOT should be the only entity to choose sample points for market settlement profiles. To allow any other entity to choose samples provides clear gaming opportunities and should be disallowed. However, this issue has already been decided and is published in the Profiling Operating Guides at ERCOT. The current process requires that ERCOT first determine from the information submitted by the requestor that a new profile should be developed. ERCOT then chooses the samples from which these profiles will be monitored and validated on a going-forward basis. The sample is unknown to any market participant other than the TDU (who is required to read and install the meters). Therefore, the commission does not believe that the established process affords inappropriate gaming

opportunities. To the extent the process changes, the commission may open a new rulemaking to address these concerns.

Subsection (c)(2)

Entergy Solutions proposed that data from recorders with remote interrogation be collected on a weekly basis at a minimum, so that information can be used more quickly. AEP stated that ERCOT's system is designed to utilize profiles derived from models and initial load research efforts will be used to validate and possibly calibrate the model results; therefore, there are no benefits gained from providing data more often than monthly.

The commission agrees that the information gathered from this process is to be used to validate and possibly calibrate the load profiles. The commission does not see a need to require that information be collected within a specific timeframe. Rather, the commission determines that ERCOT is in the best position to determine when it needs information and the rule should allow ERCOT to determine within reason when the data should be collected. The commission declines to make changes to the rule based on Entergy Solutions' suggestion.

AEP commented that it is unclear from the proposal what input the TDUs would have in the development of data collection requirements. AEP stated that as long as the TDU meets the ERCOT requirements for data transmission and accuracy, the method of collection should be determined by the TDUs. This would allow the TDUs to perform data collection activities in the most efficient manner under their existing operating procedures. TXU Companies agreed and

proposed language to ensure that ERCOT does not make unreasonable requests of TDUs with respect to the manner of load profile research data collection and the means and frequency of transmittal of information to ERCOT.

The commission agrees with AEP and TXU that TDUs should not be subject to unreasonable requests by ERCOT but it concludes that it is not necessary to adopt an explicit requirement that the data-collection requirements be reasonable. To the extent that a TDU wishes to challenge ERCOT's directives, the commission has adopted a new procedural rule, §22.251 of this title, (relating to Review of Electric Reliability Council of Texas (ERCOT) Conduct) that prescribes the procedures for an appeal of an ERCOT action.

Subsection (c)(3)

AEP supported the ability of the TDU to recover costs but urged that the rule should specify the methodology for cost recovery. In addition, AEP stated that the word "may" could create instances in which the TDU may not be allowed to recover reasonable and prudent costs from the performance of ERCOT-directed load profiling.

The commission declines to accept AEP's suggestion to require a utility to recover its costs. Nevertheless, under the rule a utility may recover costs that are determined in the course of a rate case to be prudently and reasonably incurred.

Subsection (d), Availability of load research data

ERCOT proposed a clarification that ERCOT would make available load profile research data collected under its direction for accepted load profiles. TXU Companies commented that, as currently drafted, this section could be read to apply to the non-ERCOT sponsored load profile research data.

The commission agrees with ERCOT's clarification and makes changes to the rule accordingly. This should also address TXU's concern.

Subsection (d)(1)

San Antonio stated that many small municipally-owned utilities (MOUs) and electric cooperatives (coops) may not have the resources necessary to meet the load research requirements. They proposed considering a multi-tiered approach similar to the code of conduct for the sharing of load research data since they believed that smaller MOUs and coops should have access to ERCOT load research and profiling data. TXU Companies stated that San Antonio's comments do not include a discussion as to why smaller MOUs and coops should be entitled to ERCOT load profile research data, if they are providing data to ERCOT that is not of industry standard quality. TXU Companies concurred with San Antonio and urged the commission to provide smaller MOUs and coops with access to all of ERCOT's load profile research data—even if the data does not conform with the industry standard practices—as long as the commission makes clear in the rule that a smaller MOU or coop shall not distribute, sell, or share load profiled research data with any other entity.

The commission has determined that making data available to REPs benefits the competitive market. In those instances in which MOUs and coops share with ERCOT data that is of value to the competitive marketplace, the rule provides that they may also have the benefit of access to the data collected. The parameters of this rule allow TDUs to recover their costs of load research through TDU rates, which results in distributing the costs of the research to customers eligible for competition. These customers should not have to pay all of the costs for data that is also provided to MOUs and coops for free. MOUs and coops that have research that is beneficial to the competitive market may gain access to the data by following the guidelines for submitting that data to ERCOT in accordance with the proposed rule; therefore, the commission makes no change to the rule.

Subsection (d)(2)

Entergy Solutions proposed that, in the event ERCOT concludes that there is a significant risk that release of customer level data for a sample may lead to the disclosure of the customer's identity, then the requesting party should have the opportunity to challenge ERCOT's decision. Entergy Solutions commented that a process should be set out in the rule or in ERCOT's Load Profiling Guide that provides a requesting party the opportunity to demonstrate that the release of customer level load data from the sample will not disclose the identity of a particular sampled customer.

The commission believes that the release of customer level data where the customer's identity is not disclosed can be helpful to the market. The commission has provided for this information to be released to certified REPs unless ERCOT concludes that there is significant risk that the release may lead to disclosure of the customer's identity. Any party that does not agree with ERCOT's determination may challenge that determination using the procedures in §22.251 of this title (relating to Review of Electric Reliability Council of Texas (ERCOT) Conduct). Therefore the commission makes no change to the rule to accommodate the suggestion of Entergy Solutions. The commission does make changes to (d)(2) to accommodate ERCOT's concern discussed under subsection (d), and to clarify that there may also be other factors that could cause a customer's identity to be compromised, which could affect ERCOT's assessment of whether the release of information poses a significant risk of identifying a customer.

CRMC questioned why the raw data should not be made available to anyone wishing to utilize it for their own load research purposes, as long as that raw data cannot be used to identify individual customers. TXU Companies stated that REPs are the entities currently paying for load profile research to the TDUs through the ERCOT administrative fee and wires charges. While CRMC suggests that other market entities might be willing to partially fund such efforts, no mechanism is currently in place and CRMC did not propose one. TXU Companies pointed out that in order to ensure the statistical validity of each load research data point, it is important that the customer not be aware of their status as a sample point, as it could affect the customer's usage characteristics, and bias the sample. Therefore, providing customers (and any other market participant) with the interval data would potentially affect the customer's usage characteristics and bias the sample. TXU Companies concluded that this project and the rule

were not intended to address the widespread availability of data but to provide a mechanism whereby ERCOT may accomplish its load profiling requirements in a cost effective and statistically accurate manner.

The commission does not believe that data paid for by customers and REPs should be released indiscriminately to the market. The commission determines that at this time REPs should be given access to the data in order to develop competitive offerings and enhance competition; therefore, the commission declines to make any changes to the rule at CRMC's request. The commission does make changes to this section to address the concerns of ERCOT discussed in subsection (d).

Subsection (e), New load profiles and fee for use of load profiles

AEP stated that throughout subsection (e), intermittent reference is made to the entity that "sponsored" the profile segment change. For clarity, AEP recommended that the term "sponsored" be changed to "initially requested."

The commission agrees that this proposed change adds clarity and amends the rule in accordance with AEP's suggestion.

RRI commented that it does not support the development of load profiles based on existing characteristics that could further segment any customer class for which there is a regulatorily administered price or product. TXU Companies stated that the ERCOT Protocols require

ERCOT to give at least 150 days notice to all market participants prior to market implementation of any change in a load profiling methodology, existing profiles or when any additional load profiles are developed. TXU Companies suggested that 150 days is adequate notice for the entity offering a regulatorily based product to plan; thus, the language proposed by RRI is not necessary.

The commission agrees with the TXU Companies that if new profiles are developed, the ERCOT Protocols require 150 days notice before the notice goes into effect. The commission agrees that this should be enough notice for the price-to-beat REP to prepare.

Subsection (e)(3)

The TXU Companies suggested that subsection (e)(3) be modified to relieve TDUs of the burden of determining whether a requesting REP or other party has taken the appropriate steps for assigning a customer to a non-ERCOT sponsored profile. ERCOT stated that it does not currently have the system functionality to automatically verify that only appropriate REPs are using a new profile. ERCOT's comments reinforced the TXU Companies' position that TDUs should not be responsible for determining whether a customer should be assigned to a particular non-ERCOT sponsored profile. TXU Companies questioned that if ERCOT is unable to verify whether a particular REP is authorized to utilize a given profile, how will TDUs be able to determine whether customer assignment to a non-ERCOT sponsored profile is appropriate? TXU Companies stated that the proposed rule should appropriately place the burden on REPs or

other persons for properly requesting assignment of customers to a non-ERCOT sponsored profile.

The commission agrees that REPs should not be improperly requesting profile assignments. The process for dealing with new profile costs has not been fully laid out in this rule, so it is uncertain at this time where TDUs will obtain the information needed for profile assignments. At this time it is the TDU who is responsible for assigning profile IDs; therefore, the TDU should have the ultimate responsibility for ensuring the assignment is proper. The stakeholder process at ERCOT should address and design the process in a way that the TDU has access to the information necessary to verify the assignment. The commission makes no changes to the rule at this time.

TXU Companies also requested altering subsection (e)(3) to state that within six months of the effective date of this section, ERCOT, through the stakeholder process, shall establish and implement a process to collect a fee from any REP who seeks to assign customers to a non-ERCOT sponsored profile.

While the commission envisions that ERCOT will solicit input from its working groups, the commission determines that "through the stakeholder process" is not a clear or properly defined term. The commission declines to make changes to the rule accordingly.

All comments, including any not specifically referenced herein, were fully considered by the commission. In adopting this section, the commission makes other minor modifications for the purpose of clarifying its intent.

This section is adopted under the Public Utility Regulatory Act, Texas Utilities Code Annotated §14.002 (Vernon 1998, Supplement 2003) (PURA) which provides the commission with the authority to make and enforce rules reasonably required in the exercise of its powers and jurisdiction; and specifically PURA §39.101(a)(1), which provides that customers are entitled to safe, reliable, and reasonably priced electricity; PURA §39.101(a)(6), which provides that customers are entitled to accurate metering and billing; PURA §39.101(e), which authorizes the commission to adopt and enforce such rules as may be necessary or appropriate to carry out the provisions of PURA §39.101(a); and PURA §39.151(d), which requires that an independent organization certified by the commission for a power region establish and enforce procedures, consistent with the commission's rules, relating to accounting for the production and delivery of electricity among generators and all other market participants.

Cross Reference to Statutes: Public Utility Regulatory Act §§14.002, 39.101, and 39.151.

§25.131. Load Profiling and Load Research.

- (a) **Purpose.** This section allocates responsibilities for obtaining load research information necessary to support the load profiling activities of the Electric Reliability Council of Texas (ERCOT), provides for access to that load profile research data by retail electric providers (REPs), and provides a method for recovery of costs by a person who successfully requests a new load profile.
- (b) **Applicability.** This section applies to ERCOT, each transmission and distribution utility (TDU) that has a service territory within ERCOT, and each REP certified by the commission. For the purposes of this section, the term person may include a municipally owned utility or electric cooperative.
- (c) **Load research responsibility.** Each TDU shall perform load research to support ERCOT's load profiling activities, as directed by ERCOT.
- (1) ERCOT shall be responsible for load research sample design and sample point selection for ERCOT-directed load profiling and load research samples. ERCOT shall coordinate with each TDU to optimize load research programs of both ERCOT and the TDU. The same samples shall be used to support both the TDU's load research activities and ERCOT's load profile research needs whenever reasonably possible. Each TDU shall coordinate with ERCOT to synchronize its load research cycles and sample replacement with those of ERCOT.

- (2) ERCOT, in consultation with TDUs, shall specify the manner of data collection for ERCOT load profile research samples and the means and frequency of transmission of such information to ERCOT. Each TDU shall adhere to the specifications for data collection and transmission specified by ERCOT.
 - (3) A TDU may recover its reasonable and necessary costs incurred in performing load profile research as required by this section.
 - (4) This section shall not be interpreted to require a TDU to redeploy any existing samples that were deployed less than five years before the effective date of this section, although this section shall also not be interpreted as addressing the appropriateness of continued deployment of existing TDU samples apart from an ERCOT request to do so. Notwithstanding the foregoing, the TDU shall deploy additional samples as requested by ERCOT in order to support ERCOT's load profiling activities.
- (d) **Availability of load research data.** ERCOT shall make load profile research data collected under its direction for accepted load profiles available to all certified REPs.
- (1) Notwithstanding the foregoing, a municipally-owned utility or electric cooperative that conducts load research activities shall have access to load research data maintained by ERCOT only if it shares statistically valid load research data from its own service territory with ERCOT in accordance with the provisions of subparagraphs (A)-(C) of this paragraph.
 - (A) A municipally-owned electric utility or electric cooperative may submit load research data only if it is obtained in a manner consistent with the

Association of Edison Illuminating Companies (AEIC) load research standards and provided in the form and manner specified by ERCOT pursuant to subsection (c)(2) of this section.

- (B) The municipally-owned electric utility or electric cooperative shall provide to ERCOT information concerning its load research sample design and any other relevant information required by ERCOT.
 - (C) ERCOT shall determine whether the load research data submitted by a municipally owned utility or electric cooperative is statistically valid sample data compiled in a manner consistent with the AEIC Load Profiling Guidelines.
- (2) ERCOT shall make available customer level data collected under its direction for accepted load profiles for all customers as provided in this subsection, unless ERCOT concludes that, due to the size, usage characteristics, or location of a sample, or other factors, there is a significant risk that release of customer level data for a sample would lead to the disclosure of the identity of the customer being sampled. ERCOT shall make available, as provided in this subsection, all other load profile research data on an aggregated basis, unless ERCOT determines that there is significant risk that disclosure of such aggregated data would lead to the disclosure of the identity of one or more sampled customers. In no event shall the location, name, account number, zip code, or electric service identifier (ESI-ID) of an individual customer in a load profile research sample be made available. The following information shall be made available for load profile research data provided on either an individualized or aggregated basis:

- (A) customer class;
 - (B) TDU service area;
 - (C) weather zone; and
 - (D) interval usage, or average interval usage for aggregated data.
- (3) ERCOT may not assess a charge to access the data specified in paragraph (2) of this subsection.
- (e) **New load profiles and fee for use of load profiles.** ERCOT may establish new load profiles at the request of a REP or another person.
- (1) A request for a new or modified load profile must include the requested information detailed in ERCOT's Load Profiling Guide.
 - (2) Any costs associated with developing the supporting data and documentation that is necessary for ERCOT's evaluation of the proposed profile change shall be the responsibility of the person initially requesting the profile change.
 - (3) Within six months of the effective date of this section, ERCOT shall establish and implement a process to collect a fee from any REP who seeks to assign customers to a non-ERCOT sponsored profile. The process shall include a method for other REPs who use the profile to compensate the original requester of the new profile and for ERCOT to notify TDUs which REPs are authorized to use the new profile. A TDU shall not, without authorization, assign a customer to a profile for which a REP or another person has paid the costs of developing the new profile.

This agency hereby certifies that the rule, as adopted, has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority. It is therefore ordered by the Public Utility Commission of Texas that §25.131, relating to Load Profiling and Load Research, is hereby adopted with changes to the text as proposed.

ISSUED IN AUSTIN, TEXAS ON THE _____ DAY OF _____ 2003.

PUBLIC UTILITY COMMISSION OF TEXAS

Rebecca Klein, Chairman

Brett A. Perlman, Commissioner

Julie Caruthers Parsley, Commissioner