

CHAPTER 25. SUBSTANTIVE RULES APPLICABLE TO ELECTRIC SERVICE PROVIDERS.

Subchapter H. ELECTRICAL PLANNING.

DIVISION 1: RENEWABLE ENERGY RESOURCES AND USE OF NATURAL GAS

§25.174. Competitive Renewable Energy Zones.

- (a) **Competitive Renewable Energy Zone Transmission Projects.** In considering an application for a certificate of convenience and necessity (CCN) or CCN amendment for the addition of a second 345-kilovolt (kV) circuit on the Alibates-AJ Swope-Windmill-Ogallala-Tule Canyon transmission line, the commission is not required to consider the factors under Public Utility Regulatory Act (PURA) §37.056(c)(1) and (2).
- (b) **Designation of Competitive Renewable Energy Zones.** The designation of Competitive Renewable Energy Zones (CREZs) pursuant to PURA §39.904(g) shall be made through one or more contested-case proceedings initiated by commission staff, for which the commission shall establish a procedural schedule. The commission shall consider the need for proceedings to determine CREZs in 2007.
- (1) Commission staff shall initiate a contested case proceeding upon receiving the information required by paragraph (2) of this subsection. Any interested entity that participates in the contested case may nominate a region for CREZ designation. An entity may submit any evidence it deems appropriate in support of its nomination, but it shall include information prescribed in paragraph (2)(A) - (C) of this subsection.
- (2) By December 1, 2006, the Electric Reliability Council of Texas (ERCOT) shall provide to the commission a study of the wind energy production potential statewide, and of the transmission constraints that are most likely to limit the deliverability of electricity from wind energy resources. ERCOT shall consult with other regional transmission organizations, independent organizations, independent system operators, or utilities in its analysis of regions of Texas outside the ERCOT power region. At a minimum, the study submitted by ERCOT shall include:
- (A) a map and geographic descriptions of regions that can reasonably accommodate at least 1,000 megawatts (MW) of new wind-powered generation resources;
- (B) an estimate of the maximum generating capacity in MW that each zone can reasonably accommodate and an estimate of the zone's annual production potential;
- (C) a description of the improvements necessary to provide transmission service to the region, a preliminary estimate of the cost, and identification of the transmission service provider (TSP) or TSPs whose existing transmission facilities would be directly affected;
- (D) an analysis of any potential combinations of zones that, in ERCOT's estimation, would result in significantly greater efficiency if developed together; and
- (E) the amount of generating capacity already in service in the zone, the amount not in service but for which interconnection agreements (IAs) have been executed, and the amount under study for.
- (3) The Texas Department of Parks and Wildlife may provide an analysis of wildlife habitat that may be affected by renewable energy development in any candidate zone, and may submit recommendations for mitigating harmful impacts on wildlife and habitat.
- (4) In determining whether to designate an area as a CREZ and the number of CREZs to designate, the commission shall consider:
- (A) whether renewable energy resources and suitable land areas are sufficient to develop generating capacity from renewable energy technologies;
- (B) the level of financial commitment by generators; and
- (C) any other factors considered appropriate by the commission as provided by PURA, including, but not limited to, the estimated cost of constructing transmission capacity necessary to deliver to electric customers the electric output from renewable energy resources in the candidate zone, and the estimated benefits of renewable energy produced in the candidate zone.

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- (5) The commission shall issue a final order within six months of the initiation by commission staff of a CREZ proceeding, unless it finds good cause to extend the deadline. For each new CREZ it orders, the commission shall specify:
 - (A) the geographic extent of the CREZ;
 - (B) major transmission improvements necessary to deliver to customers the energy generated by renewable resources in the CREZ, in a manner that is most beneficial and cost-effective to the customers, including new and upgraded lines identified by voltage level and a general description of where any new lines will interconnect to the existing grid;
 - (C) an estimate of the maximum generating capacity that the commission expects the transmission ordered for the CREZ to accommodate; and
 - (D) any other requirement considered appropriate by the commission as provided by PURA.
 - (6) The commission may direct a utility outside of ERCOT to file a plan for the development of a CREZ in or adjacent to its service area. The plan shall include the maximum generating capacity that each potential CREZ can reasonably accommodate; identify the transmission improvements needed to provide service to each CREZ; and include the cost of the improvements and a timetable for complying with all applicable federal transmission tariff requirements.
- (c) **Level of financial commitment by generators for designating a CREZ.**
- (1) A renewable energy developer's existing renewable energy resources, and pending or signed IAs for planned renewable energy resources, leasing agreements with landowners in a proposed CREZ, and letters of credit representing dollars per MW of proposed renewable generation resources, posted with ERCOT, that the developer intends to install and the area of interest are examples of financial commitment by developers to a CREZ. The commission may also consider projects for which a TSP, ERCOT, or another independent system operator is conducting an interconnection study; and any other factors for which parties have provided evidence as indications of financial commitment.
 - (2) A non-utility entity's commitment to build and own transmission facilities dedicated to delivering the output of renewable energy resources in a proposed CREZ to the transmission system of a TSP in Texas or a deposit or payment to secure or fund the construction of such transmission facilities by an electric utility or a transmission utility to deliver the output of a renewable generation project in Texas is an indication of the entity's financial commitment to a CREZ.
- (d) **Plan to develop transmission capacity.**
- (1) After the issuance of a final order in accordance with subsection (b)(5) of this section, entities interested in constructing the transmission improvements shall submit expressions of interest to the commission. The commission shall select the entity or entities responsible for constructing the transmission improvements, establish a schedule by which the improvements shall be completed, and specify any additional reporting requirements or other measures deemed appropriate by the commission to ensure that entities complete the ordered improvements in a timely manner.
 - (2) The commission shall develop a plan to construct transmission capacity necessary to deliver to electric customers, in a manner that is most beneficial and cost-effective to the customers, the electric output from renewable energy technologies in the CREZ.

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- (3) In developing the transmission capacity plan, the commission may consider:
 - (A) the estimated cost of constructing transmission capacity necessary to deliver to electric customers the electric output from renewable energy resources in the candidate zone;
 - (B) the estimated cost of additional ancillary services; and
 - (C) any other factors considered appropriate by the commission as provided by PURA.

- (e) **Certificates of convenience and necessity.**
 - (1) Not later than three years after a commission final order designating a CREZ, each TSP selected to build and own transmission facilities for that CREZ shall file all required CREZ CCN applications. The commission may grant an extension to this deadline for good cause. The commission may establish a filing schedule for the CCN applications.
 - (2) A CCN application for a transmission project intended to serve a CREZ, except an application filed pursuant to paragraph (1) of this subsection or subsection (a) of this section, shall address all the criteria in PURA §37.056, including the criteria in PURA §37.056(c)(1) and (2).
 - (3) In determining whether financial commitment for a CREZ is sufficient under PURA §39.904(g)(3) to grant CCNs for transmission facilities for the CREZ, the commission shall consider the following evidence of financial commitment by renewable generators:
 - (A) capacity represented by installed generation located in one or more of the counties that lie in whole or in part within the CREZ;
 - (B) capacity represented by generation projects under construction that are located in one or more of the counties that lie in whole or in part within the CREZ and that will be operational within six months of the final order in a financial commitment proceeding. Evidence that the project will be operational within six months may include documentation showing that a construction contractor has been hired, that preliminary site work has begun, that the project financing has closed, or similar indicators of the status of the project;
 - (C) capacity represented by planned generation projects that are located in one or more of the counties that lie in whole or in part within the CREZ and that have a signed IA with a TSP that has been defined in subsection (a)(2)(E) of this section designated to build and own transmission facilities for that CREZ; and
 - (D) capacity represented by collateral posted by generators for the CREZ that complies with paragraph (7) of this subsection.
 - (4) Financial commitment for a CREZ is sufficient under PURA §39.904(g)(3) to grant CCNs for transmission facilities for the CREZ if the sum of the renewable generating capacity under any combination of paragraph (3)(A), (B), (C), and (D) of this subsection is at least 50% of the designated generating capacity for the CREZ. Fifty percent of the designated generating capacity for the Panhandle A CREZ approved by the commission in Docket Number 33672 shall be considered to be 1,595.5 MW. Fifty percent of the designated generating capacity for the Panhandle B CREZ approved by the commission in Docket Number 33672 shall be considered to be 1,196.5 MW.
 - (5) Installed renewable generation, renewable generation projects under construction, and planned renewable generation projects with signed IAs in the McCamey, Central, and Central West CREZs approved by the commission in Docket Number 33672 satisfy the financial commitment test set forth in paragraph (4) of this subsection for those CREZs and therefore financial commitment by renewable generators for those CREZs is sufficient under PURA §39.904(g)(3) to grant CCNs for transmission facilities for those CREZs. This finding of sufficient financial commitment shall be recognized in the CCN proceedings for transmission facilities for those CREZs and shall not be addressed further in those proceedings.

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- (6) Commission staff shall initiate a single proceeding for the commission to determine whether there is sufficient financial commitment under PURA §39.904(g)(3) by renewable generators for the Panhandle A and Panhandle B CREZs approved by the commission in Docket Number 33672 to grant CCNs for transmission facilities for those CREZs. If the commission determines that there is sufficient financial commitment for one of those CREZs, that finding shall be recognized in the CCN proceedings for transmission facilities for that CREZ, as identified in the commission's order in the proceeding initiated pursuant to this paragraph, and shall not be addressed further in the CCN proceedings. If the commission determines that the Panhandle A or Panhandle B CREZ does not satisfy the financial commitment test in paragraph (4) of this subsection, the commission may:
- (A) consider other evidence of financial commitment that the commission finds relevant under PURA §39.904(g)(3);
 - (B) find that the financial commitment requirement for that CREZ has been met if the commission determines that significant financial commitment exists in that CREZ and that the CREZ is sufficiently interrelated with a CREZ that has satisfied the financial commitment test;
 - (C) delay the filing of CREZ CCN applications for that CREZ until the commission conducts a subsequent proceeding in which it finds sufficient financial commitment for that CREZ in accordance with the financial commitment provisions of this subsection; or
 - (D) take other appropriate action.
- (7) A renewable generator that elects to post collateral pursuant to paragraph (3)(D) of this subsection shall comply with the following requirements:
- (A) The renewable generator shall provide a letter of intent to post collateral in a proceeding conducted pursuant to paragraph (6) of this subsection. The renewable generator shall then post the collateral no later than 30 days after the commission issues an interim order finding sufficient financial commitment by renewable generators for the CREZ. If the renewable generators post sufficient collateral, the commission may enter a final order with findings that reflect the adequacy of the financial commitment for the CREZ. If the renewable generators do not post sufficient collateral, the commission may enter a final order with findings that reflect the inadequacy of the financial commitments for the CREZ.
 - (B) A renewable generator shall post collateral equal to \$15,350 per MW of its planned project capacity, or \$10,000 per MW if the capacity is supported by leasing agreements with landowners that convey a right or option for a period of at least 20 years to develop and operate a renewable energy project based on a conversion factor of 60 acres per MW for a wind energy project.
 - (C) A renewable generator planning to build a project in a CREZ shall post collateral with the TSP with which it will interconnect in the CREZ or, if the TSP with which it will interconnect has not been determined, with any TSP that has been designated to build and own transmission facilities for that CREZ.
 - (D) A renewable generator may post collateral by providing a cash deposit, letter of credit, or guaranty agreement from an entity with an investment-grade credit rating. A TSP shall require a renewable generator that posts a guaranty agreement to provide another form of collateral if the guarantor loses its investment-grade credit rating or declares bankruptcy. If the renewable generator does not provide another form of collateral, the commission may take appropriate action including seeking administrative penalties.
- (8) A TSP that receives collateral from a renewable generator pursuant to paragraph (7) of this subsection shall handle that collateral in accordance with the following provisions.

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- (A) If a renewable generator signs an IA with the TSP and posts any collateral required by the TSP to secure the construction of collection facilities, the TSP shall return to the generator all collateral received from that generator.
 - (B) If a renewable generator does not sign an IA with the TSP and post any collateral required by the TSP to secure the construction of collection facilities within 90 days after the TSP notifies it that the transmission system is capable of accommodating the renewable generator's renewable energy facility, the TSP shall retain the collateral received from the generator as an offset to the cost of the transmission facilities the TSP constructs for the CREZ and shall take all reasonable measures to execute any non-cash collateral.
- (9) In a CREZ CCN application, a TSP may propose modifications to the transmission facilities described in a CREZ order if such improvements would reduce the cost of transmission or increase the amount of generating capacity that transmission improvements for the CREZ can accommodate. The commission may direct ERCOT to review modifications proposed by the TSP.
- (10) Findings in Docket Numbers 33672, 35665, and 36146 and the commission's finding in paragraph (5) of this subsection establish that the level of financial commitment is sufficient under PURA §39.904(g)(3) to grant CCNs for transmission facilities designated as a Default Project in ordering paragraph 1 of the Order in Docket Number 36146 and for transmission facilities designated as a Priority Project in finding of fact 136 in the Order on Rehearing in Docket Number 33672. This finding of sufficient financial commitment shall be recognized in all pending and future CCN proceedings for Default and Priority Projects and shall not be addressed further in those proceedings.
- (f) **Excess development in a CREZ.** If the aggregate level of renewable energy capacity for which transmission service is requested for a CREZ exceeds the maximum level of renewable capacity specified in the CREZ order, and if the commission determines that the security constrained economic dispatch mechanism used in the power region to establish a priority in the dispatch of CREZ resources is insufficient to resolve the congestion caused by excess development, the commission may initiate a proceeding and may consider limiting interconnection to and/or establishing dispatch priorities regarding the transmission system in the CREZ, and identifying the developers whose projects may interconnect to the transmission system in the CREZ under special protection schemes.