

PROJECT NO. 39797

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**RULEMAKING TO IMPLEMENT § PUBLIC UTILITY COMMISSION
SB 365 & SB 981 RELATING TO §
DISTRIBUTED GENERATION § OF TEXAS**

**PROPOSAL FOR PUBLICATION OF AMENDMENTS TO §25.211 AND §25.217
AS APPROVED AT THE DECEMBER 8, 2011 OPEN MEETING**

The Public Utility Commission of Texas (commission) proposes amendments to §25.211, relating to Interconnection of On-Site Distributed Generation (DG), and §25.217, relating to Distributed Renewable Generation. The proposed amendments update these rules; streamline the registration of on-site distributed generation; address the interconnection of a distributed natural gas generation facility; and amend the definition of distributed renewable generation owner (DRGO) to include retail electric customers that contract with third parties, consistent with Senate Bills 365 and 981 of the 82nd Legislature, Regular Session in 2011 (SB 365 and SB 981). Project Number 39797 is assigned to this proceeding.

Katie Rich, Senior Infrastructure Policy Analyst, Infrastructure and Reliability Division, has determined that for each year of the first five-year period the proposed amendments are in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the amendments.

Ms. Rich has determined that for each year of the first five years the proposed amendments are in effect the public benefit anticipated as a result of enforcing the amendments will be reducing the filing requirements of on-site distributed generation owners and changing the commission's

rules to reflect statutory changes resulting from SB 365 and SB 981. There will be no adverse economic effect on small businesses or micro-businesses as a result of enforcing these amendments. Therefore, no regulatory flexibility analysis is required. There are no economic costs to persons required to comply with the amendments.

Ms. Rich has also determined that for each year of the first five years the proposed amendments are in effect there should be no effect on a local economy, and therefore no local employment impact statement is required under Administrative Procedure Act (APA), Texas Government Code §2001.022.

The commission staff will conduct a public hearing on this rulemaking, if requested pursuant to the Administrative Procedure Act, Texas Government Code §2001.029, at the commission's offices located in the William B. Travis Building, 1701 North Congress Avenue, Austin, Texas 78701. The request for a public hearing must be received within 20 days after publication.

Initial comments on the proposed amendments may be submitted to the Filing Clerk, Public Utility Commission of Texas, 1701 North Congress Avenue, P.O. Box 13326, Austin, Texas 78711-3326, within 30 days after the date of publication. Sixteen copies of comments to the proposed amendment are required to be filed pursuant to §22.71(c) of this title. Reply comments may be submitted within 45 days after the date of publication. Comments should be organized in a manner consistent with the organization of the proposed rules. The commission invites specific comments regarding the costs associated with, and benefits that will be gained by, implementation of the proposed amendments. The commission will consider the costs and

benefits in deciding whether to adopt these amendments. All comments should refer to Project Number 39797.

The amendments are proposed under the Public Utility Regulatory Act, Texas Utilities Code Annotated §14.002 (West 2011) (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 §31.002(4-a), which defines distributed natural gas generation facility; §31.002(20), which defines transmission service to include construction or enlargement of facilities and transmission over distribution facilities; §§35.001-35.007, which give the commission authority over the provision of wholesale transmission service by an electric utility, including an electric cooperative; §35.036, which addresses a distributed natural gas generation facility's interconnection to, and use of, the transmission and distribution facilities of an electric utility or electric cooperative; §39.101(b)(3), which entitles a customer to have access to on-site distributed generation; §39.203(b), which requires an electric utility or an electric cooperative that has not opted for customer choice to provide wholesale transmission service at distribution voltage when necessary to serve a wholesale customer; §39.351, which requires that a power generation company be registered with the commission; and §39.916, which addresses distributed renewable generation.

Cross Reference to Statutes: Public Utility Regulatory Act §§14.002, 31.002(20), 35.001-35.007, 35.036, 39.101(b)(3), 39.203(b), 39.351, and 39.916.

§25.211. Interconnection of On-Site Distributed Generation (DG).

- (a) **Application.** Unless the context ~~clearly~~ indicates otherwise, ~~in~~ this section and §25.212 of this title (relating to Technical Requirements for Interconnection and Parallel Operation of On-Site Distributed Generation) apply to an electric utility for all purposes and to an electric cooperative only with respect a distributed natural gas generation facility~~the term "electric utility" applies to all electric utilities as defined in the Public Utility Regulatory Act (PURA) §31.002 that own and operate a distribution system in Texas. This section shall not apply to an electric utility subject to PURA §39.102(e) until the expiration of the utility's rate freeze period.~~
- (b) **Purpose.** The purpose of this section ~~includes stating~~~~is to clearly state~~ the terms and conditions that govern the interconnection and parallel operation of both on-site distributed generation in order to implement Public Utility Regulatory Act (PURA) §39.101(b)(3)~~and a natural gas distributed generation facility in order to implement PURA §35.036~~~~which entitles all Texas electric customers to access to on-site distributed generation, to provide cost savings and reliability benefits to customers, to establish technical requirements that will promote the safe and reliable parallel operation of on-site distributed generation resources, to enhance both the reliability of electric service and economic efficiency in the production and consumption of electricity, and to promote the use of distributed resources in order to provide electric system benefits during periods of capacity constraints.~~ Sales of power by on-site distributed generation and natural gas distributed generation~~a distributed generator~~ in the intrastate wholesale market are subject to the provisions of this title relating to open-access comparable

transmission service for electric utilities in the Electric Reliability Council of Texas (ERCOT).

- (c) **Definitions.** The following words and terms when used in this section and §25.212 of this title shall have the following meanings, unless the context ~~clearly~~ indicates otherwise:

(1) (No change).

~~(2) **Banking** -- A method of accounting for energy produced by a customer for export into the distribution system. The host control area accepts energy from the customer to meet its own energy needs during a five- to 30-day period, credits this energy to the customer's account, and subsequently produces and, in the five- to 30-day period immediately following acceptance of the energy, disburses the energy accrued under the customer's account to the receiving control area specified by the customer. Disbursement of the accrued energy shall follow a pre-arranged schedule mutually acceptable to the host control area, the receiving control area, and the DG customer. Such schedule shall attempt to keep the host control area neutral with respect to the market value of the energy transferred on behalf of the exporting customer.~~

~~(2)~~⁽³⁾ **Company** -- An electric utility operating a distribution system.

~~(3)~~⁽⁴⁾ **Customer** -- Any entity interconnected to the company's utility system for the purpose of receiving or exporting electric power from or to the company's utility system.

~~(4) **Distributed natural gas generation facility** -- A facility installed on the customer's side of the meter that uses natural gas to generate not more than 2,000 kilowatts of electricity.~~

(5) - (15) (No change.)

(16) **Tariff for interconnection and parallel operation of distributed generation** --

The commission-approved tariff for interconnection and parallel operation of distributed generation including the application for interconnection and parallel operation of ~~distributed generation~~^{DG} and pre-interconnection study fee schedule.

(17) **Unit** -- A power generator.

(18) **Utility system** -- A company's distribution system below 60 kV to which the generation equipment is interconnected.

(d) **Terms of Service.**

~~(1) **Banking.** A company operating in ERCOT shall make banking services available to any customer upon the customer's request. This obligation continues until the ERCOT Independent System Operator begins operating ERCOT as a single control area.~~

~~(1)~~⁽²⁾ **Distribution line charge.** No distribution line charge shall be assessed to a customer for exporting energy to the utility system.

~~(2)~~⁽³⁾ **Interconnection operations and maintenance costs.** No charge for operation and maintenance of a utility system's facilities shall be assessed against a customer for exporting energy to the utility system.

~~(4) **Scheduling fees.** A one-time scheduling fee for each banking period may be assessed for the disbursement of banked energy. No other scheduling fees may be assessed against an exporting DG customer.~~

~~(3)~~**(5) Transmission charges.** No transmission charges shall be assessed to a customer for exporting energy. For purposes of this paragraph, the term transmission charges means transmission access and line charges, transformation charges, and transmission line loss charges.

~~(4)~~**(6) Contract reformation.** All interconnection contracts shall be conformed to meet the requirements of this section within 60 days of adoption.

~~(5)~~**(7) Tariffs.** No later than 30 days after the effective date of this section as amended, each electric utility shall file a tariff or tariffs for interconnection and parallel operation of distributed generation, ~~including tariffs for banking and scheduling fees,~~ in conformance with the provisions of this section. This provision does not require a utility that filed an interconnection study fee tariff prior to the effective date of this rule as amended to refile such tariff. The utility may file a new tariff or a modification of an existing tariff. Such tariffs shall ensure that back-up, supplemental, and maintenance power is available to all customers and customer classes that desire such service, ~~if the electric utility sells electricity until January 1, 2002.~~ Any modifications of existing tariffs or offerings of new tariffs relating to this subsection shall be consistent with the commission-approved form.

Concurrent with the tariff filing in this section, each utility shall submit:

- (A) a schedule detailing the charges of interconnection studies and all supporting cost data for the charges;

- (B) a standard application for interconnection and parallel operation of distributed generation; and
- (C) the interconnection agreement approved by the commission.

(e) (No change.)

(f) **Incremental demand charges.** During the term of an interconnection agreement a utility may require that a customer disconnect its distributed generation unit and/or take it off-line as a result of utility system conditions described in subsection (e)(3) and (4) of this section. Incremental demand charges arising from disconnecting the distributed generator as directed by company during such periods shall not be assessed by company to the customer. ~~After January 1, 2002, the distribution utility shall not be responsible for the provision of generation services or their related charges.~~

(g) **Pre-interconnection studies for non-network interconnection of distributed generation.** A utility may conduct a service study, coordination study or utility system impact study prior to interconnection of a distributed generation facility. In instances where such studies are deemed necessary, the scope of such studies shall be based on the characteristics of the particular distributed generation facility to be interconnected and the utility's system at the specific proposed location. By agreement between the utility and its customer, studies related to interconnection of ~~on-site distributed generation~~ DG on the customer's ~~premises~~ premise may be conducted by a qualified third party.

(1) - (2) (No change.)

(h) - (m) (No change.)

- (n) **Reporting requirements.** Each electric utility shall maintain records concerning applications received for interconnection and parallel operation of distributed generation. Such records will include the name of the applicant, the business address of the applicant, and the location of the proposed facility by county, the capacity rating of the facility in kilowatts, whether the facility is a renewable energy resource as defined in §25.173 of this title (relating to Goal for Renewable Energy), the date each application is received, documents generated in the course of processing each application, correspondence regarding each application, and the final disposition of each application. By March 30 of each year, every electric utility shall file with the commission a distributed generation interconnection report for the preceding calendar year that identifies each distributed generation facility interconnected with the utility's distribution system. The report shall list the new distributed generation facilities interconnected with the system since the previous year' report, any change in ownership or the cessation of operations of any distributed generation~~distributed generation facilities no longer interconnected with the utility's system~~ since the previous report, the capacity of each facility and whether it is a renewable energy resource, and the feeder or other point on the company's utility system where the facility is connected. The annual report shall also identify all applications for interconnection received during the previous one-year period, and the disposition of such applications.

(o) **Registration Requirements.** The annual report outlined in subsection (n) of this section constitutes registration of the distributed generation facilities covered by the report. A power generation company is not required to directly register an on-site distributed generation facility with the commission.

~~(e) **Interconnection disputes.** Complaints relating to interconnection disputes under this section shall be handled in an expeditious manner pursuant to §22.242 (relating to Complaints). In instances where informal dispute resolution is sought, complaints shall be presented to the Electric Division. The Electric Division shall attempt to informally resolve complaints within 20 business days of the date of receipt of the complaint. Unresolved complaints shall be presented to the commission at the next available open meeting.~~

(p) **Interconnection of distributed natural gas generation.** Subject to the provisions of PURA §35.036(e) and (f), at the request of the owner or operator of a distributed natural gas generation facility an electric utility or electric cooperative shall allow the owner or operator to interconnect with and use transmission and distribution facilities to transmit electricity to another entity. An electric cooperative is not required to transmit electricity to a retail point of delivery in the certificated service area of the electric cooperative if the electric cooperative has not adopted customer choice.

§25.217. Distributed Renewable Generation.

- (a) (No change.)
- (b) **Definitions.** The following terms when used in this section have the following meanings, unless the context indicates otherwise:
- (1) (No change).
 - (2) **Distributed renewable generation owner (DRGO)** -- A person who owns DRG; a retail electric customer on whose side of the meter DRG is installed and operated, regardless of whether the customer takes ownership of the distributed renewable generation; or a person who by contract is assigned ownership rights to energy produced from DRG located at the premises of the customer on the customer's side of the meter.
 - (3) - (6) (No change).
- (c) - (f) (No change).
- (g) **Transition provision.** Electric utilities and REPs shall make reasonable efforts to inform existing and potential DRGOs and ISD-SG Owners of their rights and obligations pursuant to this chapter, and shall change existing metering and purchase arrangements to conform to this section ~~by June 30, 2009~~. However, a metering or purchase arrangement that is required by a contract that exists on the effective date of this section shall be changed to conform to this section effective the date the contract expires. The expiration date of such a contract may be extended by the DRGO or ISD-SG Owner if the existing terms of the contract give the DRGO or ISD-SG Owner the unilateral

right to extend the expiration date. Notwithstanding the foregoing provisions of this subsection, a roll-back meter must be replaced no later than the date customer choice is offered in the area in which the roll-back meter is located.

(h) (No change).

(i) Exemptions. Neither a retail electric customer that uses distributed renewable generation nor the owner of the distributed renewable generation that the retail electric customer uses is an electric utility, power generation company, or retail electric provider for the purposes of this chapter and is not required to register with or be certified by the commission if at the time distributed renewable generation is installed, the estimated annual amount of electricity to be produced by the distributed renewable generation is less than or equal to the retail electric customer's estimated annual electricity consumption.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

**ISSUED IN AUSTIN, TEXAS ON THE 9th DAY OF DECEMBER 2011 BY THE
PUBLIC UTILITY COMMISSION OF TEXAS
ADRIANA A. GONZALES**