PROJECT NO. 41326

RULEMAKING TO AMEND SUBSTANTIVE RULE 25.213, RELATING TO METERING FOR DISTRIBUTED RENEWABLE GENERATION	**§ § § § §**	**PUBLIC UTILITY COMMISSION OF TEXAS**

ORDER ADOPTING AMENDMENTS TO §25.213
AS APPROVED AT THE FEBRUARY 21, 2014 OPEN MEETING

The Public Utility Commission of Texas (commission) adopts amendments to §25.213, relating to Metering for Distributed Renewable Generation and Certain Qualifying Facilities, with changes to the proposed text as published in the September 27, 2013 issue of the *Texas Register* (38 TexReg 6459). The amendments modify §25.213 by conforming it to Public Utility Regulatory Act (PURA) §39.554 and the definition of distributed renewable generation owner in §25.217 of this title. The amendments also provide for net metering for an electric utility subject to PURA Chapter 39, Subchapter L. These amendments are adopted under Project Number 41326.

The commission received comments on the proposed amendments from Mr. Robert Moss, a distributed renewable generation owner (DRGO), El Paso Electric Company (EPE), and the Texas Industrial Energy Consumers (TIEC).

General Comments

EPE supported all of the proposed changes to the rule as consistent with PURA §39.554.

TIEC proposed that to be consistent with the statute, the commission add a new provision to proposed §25.213(c) that is virtually identical to the language in PURA §39.554(h) in order to ensure that any unrecovered costs resulting from the distributed renewable generation (DRG) metering are not shifted to other customers in other classes. They stated that the Legislature included this language in Senate Bill (SB) 1910 to protect against cost-shifting from participating to non-participating customer classes. TIEC contended that the possibility of cost-shifting arises because a meter that spins in both directions can "erase" customer consumption from periods of high demand on the system when higher-cost generation may have been used to serve the customer's load. They argued that if the customer's DRG facility provides energy to the utility's system during low-demand/low-cost periods, the utility will incur unrecovered costs unless the rates of some other customers are increased. Further, TIEC asserted, some consumption-based rates are set to recover fixed costs, such as distribution system costs, which cannot be "erased" by the output of a DRG facility. Finally, TIEC claimed that DRG installations require that the utility make incremental metering and infrastructure investments that TIEC maintained should be borne by the customers with the installations. TIEC stated that PURA §39.554(h) provides that these cost-shifting issues be isolated to within the customer classes that include DRGOs. TIEC recommended that its paraphrasing of the statutory language be explicitly included in the rule.

EPE commented that it does not object to TIEC's proposed addition. However, it stated that the statutory language is sufficient and does not need to be repeated in the rule.

Commission response

The commission must comply with PURA §39.554(h) regardless of whether its requirements are included in a rule. In addition, PURA §39.554(h) addresses only base

rate and fuel cost recovery proceedings, whereas this rule addresses metering. The commission therefore declines to adopt TIEC's proposed language because it is unnecessary and does not fall within the scope of the rule.

Subsection (c)

Mr. Moss suggested that the word "customer" be replaced with the words "distributed renewable generation owner." Mr. Moss argued that only by doing so will the commission meet the legislative requirement to provide DRGOs in an area subject to Subchapter L the additional metering option described in PURA §39.554(e).

EPE responded that the word "customer" is preferable because the company conducts business with customers as it interconnects DRG. EPE stated that the word "customer" is consistent with the intent of the Legislature reflected in PURA §39.554(f)(1), which provides that DRG production would first offset the "owner's consumption." The company observed that it is only the customer who consumes electricity, and thus an offset cannot happen unless "owner" is read as "customer." EPE argued that its reading of the statute flows through to PURA §39.554(g) which provides "[a] credit balance of not more than $50 on the owner's monthly bill may be carried forward onto the owner's next monthly bill." EPE added that if the Legislature had envisioned a utility dealing directly with a third-party owner, PURA would have provided for a different treatment of the credit, such as direct payment to the DRGO.

Commission response

The commission declines to change "customer" to "distributed renewable generation owner," as proposed by Mr. Moss. Use of "customer" is more clear because PURA §39.554(a)(2) provides that, "distributed generation owner" "means an owner of distributed renewable generation that is a retail electric customer."

Subsection (c)(4)

Mr. Moss recommended modifications to the language in this subsection relating to the use of "measured net production" and "measured net consumption". EPE did not agree, and responded that the language in the proposed rule is appropriate. The company observed that the original language mirrors the existing language in §25.242(h)(3), which also addresses production from qualifying facilities. In addition, EPE argued that the phrases "measured net production" and "measured net consumption" accurately describe those situations.

Commission response

The commission agrees with EPE that the language does not need to be modified. The commission declines to adopt the modifications proposed by Mr. Moss because the use of the phrases, "measured net production" and "measured net consumption" accurately reflect the existing language in commission rules and in the statute. The commission declines to adopt the modifications recommended by Mr. Moss.

Subsection (c)(5)

Mr. Moss recommended that language be added regarding the reporting requirement in PURA §39.554(g): "The utility shall take reasonable steps to inform the owner of the amount of surplus electricity purchased from the owner in kilowatt hours during the owner's most recent billing cycle." Mr. Moss also recommended a reference to "surplus electricity purchased," rather than "non-firm energy." EPE responded that this recommendation is unnecessary, and the use of the phrase "non-firm energy" is a more complete description of the electricity purchases than the statutory phrase "surplus electricity" because the electricity purchases will be treated as non-firm energy. EPE argued that the customer bill credit satisfies the reporting requirement because it provides information to the customer through the normal course of business.

Commission response

The commission agrees with EPE that the use of the phrase "non-firm energy" is a more complete description of electricity purchases, and therefore the commission declines to change this phrase. The commission agrees with Mr. Moss that the proposed rule does not adequately address the reporting requirement. The commission has added language requiring that the utility include in the bill the amount of non-firm energy purchased in kilowatt hours.

All comments, including any not specifically referenced herein, were fully considered by the commission.

These amendments are adopted under the Public Utility Regulatory Act, Texas Utilities Code Annotated §14.002 (West 2007 and Supp. 2013) (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, §14.001, which provides the commission with the general power to regulate and supervise the business of each public utility within its jurisdiction and to do anything specifically designated or implied by PURA that is necessary and convenient to the exercise of that power and jurisdiction; §32.101, which requires an electric utility to file its tariff with each regulatory authority; §36.003, which requires that each rate be just and reasonable and not unreasonably preferential, prejudicial, or discriminatory; §38.001, which requires an electric utility to furnish service, instrumentalities, and facilities that are safe, adequate, efficient, and reasonable; §39.101(b)(3), which requires the commission to ensure that customers have access to on-site distributed generation and to providers of energy generation by renewable energy resources; §39.554, which provides for the interconnection of distributed renewable generation by El Paso Electric Company; and §39.916, which generally addresses the interconnection of distributed renewable generation.

Cross Reference to Statutes: Public Utility Regulatory Act §§14.001, 14.002, 32.101, 36.003, 38.001, 39.101(b)(3), and 39.554.

§25.213. Metering for Distributed Renewable Generation and Certain Qualifying Facilities.

(a) **Application.**

This section applies to transmission and distribution utilities, excluding river authorities; an electric utility subject to Public Utility Regulatory Act (PURA) Chapter 39, Subchapter L; distributed renewable generation owners as defined in §25.217 (relating to Distributed Renewable Generation); and the entity responsible for settlement.

(b) **Metering.**

(1) Upon request by a customer that has, or is in the process of installing distributed renewable generation with a capacity of less than 50 kilowatts (kW) on the retail electric customer's side of the meter and that desires to measure the generation's out-flow production, an electric utility shall provide metering at the point of common coupling using one or two meters that separately measure both the customer's electricity consumption from the distribution network and the out-flow that is delivered from the customer's side of the meter to the distribution network and separately report each metered value to the transmission and distribution utility. The two metered values shall be separately accounted for by the entity responsible for settlement.

(2) Upon request by a retail electric customer that has, or is in the process of installing distributed renewable generation with a capacity equal to or greater than 50 kW up to 2,000 kW on the retail electric customer's side of the meter, an electric utility shall provide one or two interval data recorders at the point of

common coupling that separately measure both the customer's electricity consumption from the distribution network and the out-flow that is delivered from the retail electric customer's side of the meter to the distribution network and separately report each metered value to the transmission and distribution utility. The two metered values shall be separately accounted for by the entity responsible for settlement.

(3) Upon request by a retail electric customer that has, or is in the process of installing distributed renewable generation with a capacity of less than 50 kW on the retail electric customer's side of the meter and that does not desire to measure the generation's out-flow production, an electric utility shall provide metering in accordance with paragraph (1) of this subsection or, at the electric utility's option, install a meter that measures the customer's electricity consumption from the distribution network but does not measure the out-flow that is delivered from the retail electric customer's side of the meter to the distribution network. Unless an existing distributed renewable generation owner requests to have the existing meter replaced, the electric utility may, at its option and expense, replace an existing distributed renewable generation owner's meter with a meter of a type specified in this rule.

(4) Pursuant to the applicable schedule in its tariff, an electric utility shall charge for the customer's electricity consumption from the distribution network as measured by the metering installed pursuant to paragraph (1), (2) or (3) of this subsection.

(5) An electric utility shall not provide metering for purposes of PURA §39.914(d) and PURA §39.916(f), that is inconsistent with paragraph (1), (2) or (3) of this subsection, unless ordered by the commission.

(6) The distributed renewable generation owner shall pay any significant differential cost of the metering.

(7) Electric utilities shall file tariffs for metering under this section within 60 days of its effective date.

(8) Distributed renewable generation owners may begin selling out-flow at any time. Electric utilities are required to comply with paragraphs (1), (2) and (3) of this subsection, as they relate to reporting the two metered values. The entity responsible for settlement is required to accept the meter data provided pursuant to paragraph (1), (2) or (3) of this subsection.

(9) The entity responsible for settlement shall have a process for settlement of electricity consumption and out-flow that reflects time of generation.

(c) **Metering Provisions Specific to an Electric Utility Subject to PURA Chapter 39, Subchapter L.**

(1) This subsection applies to an electric utility subject to PURA Chapter 39, Subchapter L.

(2) An electric utility shall provide the additional option of interconnection through a single meter that runs forward and backward for a customer that is either:

(A) an apartment house occupied by low-income elderly tenants that qualifies for master metering under Texas Utilities Code §184.012(b) and the

distributed renewable generation is reasonably expected to generate not less than 50 percent of the apartment house's annual electricity use; or,

(B) has a qualifying facility with a design capacity of 50 kW or less and that uses a renewable energy resource.

(3) The net metering option provided by paragraph (2) of this subsection is available only if the distributed renewable generation or qualifying facility is rated to produce an amount of electricity that is less than or equal to:

(A) the customer’s estimated annual kilowatt-hour consumption for a new apartment house or qualifying facility; or,

(B) the amount of electricity the customer consumed in the year before installation of the distributed renewable generation or qualifying facility.

(4) Measured net consumption shall be billed under the electric utility’s standard tariff schedule applicable to the customer. Measured net production shall be purchased in accordance with §25.217 of this title.

(5) The electric utility shall credit the payments to the customer’s monthly electric service bill, and specify in the bill the amount of non-firm energy purchased in kilowatt hours. If the payment for non-firm energy supplied to the electric utility exceeds the total of the owner's monthly electric service bill, a credit balance of not more than $50 shall be carried forward to the owner's next monthly bill. The electric utility shall refund to the customer a credit balance that is not carried forward, or the portion of a credit balance that exceeds $50, if the credit balance is carried forward.

(6) An electric utility shall install, maintain, and retain ownership of the meter(s) and metering equipment installed for purposes of this subsection and may install load research metering equipment on the premises of the owner, at no expense to the owner.

(7) At the request of an electric utility, the customer shall:

(A) provide and install a meter socket, a metering cabinet, or both a socket and cabinet at a location designated by the electric utility on the premises of the owner; and

(B) provide, at no expense to the electric utility, a suitable location for the electric utility to install meters and equipment associated with billing and load research.

This agency hereby certifies that the adoption 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 §25.213 relating to Metering for Distributed Renewable Generation and Certain Qualifying Facilities is hereby adopted with changes to the text as proposed.

SIGNED AT AUSTIN, TEXAS the _____ day of _____ 2014.

PUBLIC UTILITY COMMISSION OF TEXAS

DONNA L. NELSON, CHAIRMAN

KENNETH W. ANDERSON, JR., COMMISSIONER

BRANDY D. MARTY, COMMISSIONER

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