

CHAPTER 25. SUBSTANTIVE RULES RELATING TO ELECTRIC SERVICE PROVIDERS.

Subchapter J. COSTS, RATES AND TARIFFS.

§25.251. Renewable Energy Tariff.

- (a) **Purpose.** This section allows electric utilities to offer a renewable energy tariff to all retail customers. The purpose of the renewable energy tariff is to use market-based methods to promote the use of renewable energy technologies to supply electricity to Texas, to protect and enhance the quality of Texas' environment, and to respond to customers' expressed preferences for renewable resources.
- (b) **Application.** This section applies to electric utilities as defined in the Public Utility Regulatory Act (PURA) §31.002(1) choosing to offer a tariff under this section.
- (c) **Definitions.**
 - (1) **Existing renewable resources** — Renewable resources that are in operation on the effective date of this rule.
 - (2) **New resources** — Renewable resources placed in service after the effective date of this rule.
 - (3) **Renewable energy** — Energy derived from renewable energy technologies as defined in §25.5 of this title (relating to Definitions).
 - (4) **Renewable energy premium** — The sum of the purchase cost per kWh of renewable energy acquired to serve customers under this tariff minus the average embedded cost per kWh of the utility's existing generation and purchased resources outside this tariff, plus the appropriate per kWh cost of renewable energy tariff marketing and administrative activities pursuant to subsection (1)(1) of this section.
 - (5) **Renewable energy price** — The sum of the utility's average delivered retail cost per kWh for its embedded mix of energy and capacity from all resources excluding those acquired for this tariff, and the renewable energy premium as defined in paragraph (4) of this subsection.
- (d) **Eligible renewable resources.** Except where specifically noted, renewable resources that are acceptable under this tariff shall meet the following requirements:
 - (1) **Renewable energy resource.** A renewable energy resource eligible under this tariff must meet the requirements of subsection (c)(3) of this section.
 - (2) **New and existing resources.** A new or existing resource is eligible if its costs have not been placed in any utility's rates or in a purchase power cost recovery factor (PCRf) as of the effective date of this rule.
 - (3) **Repowered or retrofitted projects.** The incremental energy achieved from renewable energy projects that are repowered or retrofitted to improve the overall efficiency of the facility would qualify as a new resource under this section.
 - (4) **Affiliated purchases.** Any renewable resources obtained from an affiliate of the regulated utility must be secured through an arm's-length, competitive solicitation.
- (e) **Renewable energy tariff requirements.** All electric utilities choosing to offer a renewable resource tariff under this section shall submit for commission review and approval a tariff that implements the provisions of this section. No utility may conduct any sales or marketing activities under a renewable energy program until a renewable energy tariff has been filed and approved by the commission. Each tariff submitted shall, at a minimum, contain the following provisions:
 - (1) **Definitions.** This section shall define all relevant terms and concepts in a manner that is simple and easy to understand.

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- (2) **Rates and charges.** This section shall clearly identify the charges that the participants will incur for participating at various levels in the program. The tariff shall allow participation at a variety of monthly costs or energy demand volume levels and will clearly state how much renewable energy a given monthly charge will buy, or alternatively, the cost to buy a given number of kWh from a renewable resource.
- (f) **Tariff attributes and operation.** A renewable energy tariff enables a utility's customers to receive all or part of their energy needs from renewable energy resources. All tariffs filed shall contain the following attributes:
 - (1) All retail customers shall be given the opportunity to purchase all or a portion of their energy requirements under this tariff.
 - (2) The renewable energy price must be cost-based. The relationship between the renewable energy price and the cost of the acquired resource must be demonstrated in the utility's initial tariff-filing package. The tariff must identify with specificity the elements of the price, including the portion of the price that is attributable to the cost of the renewable energy, and the utility's profit, if any. The filing shall identify the utility's projections of renewable energy demand in kWh and renewable marketing and advertising costs that underlie the per kWh marketing and advertising cost included in the total renewable energy price, and show that it meets the limits identified in subsection (l)(1) of this section.
 - (3) No utility may sell existing renewable energy under a tariff pursuant to this section until it has made a commitment to acquire renewable energy from new resources. These new resources shall be deployed within 24 months of tariff approval.
 - (4) A utility may not charge customers for any more kWh of renewable energy provided under this tariff than it has specifically received to serve customers under this tariff.
- (g) **Marketing.**
 - (1) **Marketing plan.** Each utility shall include a description of its marketing plan with its initial tariff filing package. Included in this description shall be an explanation of how the utility intends to provide customers with clear information regarding how they may obtain the service(s).
 - (2) **Disclosure of resource location.** Each utility shall disclose the location of the renewable resource offered under the tariff on all advertising, educational, or promotional materials in a bold and conspicuous manner.
- (h) **Accountability.** Each utility shall provide a report to renewable energy tariff subscribers on the status of the program and use of funds. This report shall contain information that will allow customers to review the benefits they have received as a result of the costs they have voluntarily incurred to buy renewable energy under the tariff.
 - (1) **Contents.** The report required by this section shall be organized to clearly convey the following information to tariff subscribers and other interested customers:
 - (A) The number of program participants.
 - (B) The total revenues collected through the renewable energy tariff, total expenditures under the tariff, and how renewable energy tariff revenues were spent for the calendar year.
 - (C) The amount of renewable energy sold to subscribers under the tariff and the amount of new renewable resources acquired.

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- (D) The unit cost of the new renewable resource acquisition (by renewable technology if appropriate), and how it compares to benchmark prices for the utility's current resource mix and to new non-renewable resources.
 - (E) The location, technology, and providers of new and existing renewable energy provided to customers under the tariff.
 - (F) The amount of generation-related air emissions that have been avoided as a result of the program.
 - (G) Information regarding any local demonstration or education projects (e.g., school photovoltaic installations) to support either the renewable energy tariff or the education program.
- (2) Information shall be provided to renewable energy tariff subscribers annually and shall be filed with the commission and the Texas Natural Resource Conservation Commission on the same date the information is provided to subscribers.
- (i) **Tariff approval process.** The commission will review and approve or deny each utility's tariff filed under this section within 90 days of filing. It will consider the following matters in its review:
- (1) **Cost analysis.** Each utility shall file supporting analysis showing that the proposed cost of renewable energy is reasonable and meets the requirements of subsection (f)(2) of this section.
 - (2) **Program marketing and administrative costs analysis.** Each utility shall develop a marketing plan for its renewable energy tariff that explains how the utility will publicize, market, and advertise the tariff. The plan shall include the schedule of renewable energy prices, and itemized costs to execute the marketing plan. Disclosure of this material may be subject to a protective order if the commission determines it involves confidential competitive business information.
 - (3) **Relevant assumptions.** Each utility shall explain all relevant assumptions, including the cost of non-renewable electric resources.
 - (4) **Resource procurement plan.** The utility shall explain how it intends to secure the renewable energy needed to meet its projected customer demand for the first two years the tariff is in effect; disclosure of this material may be protected if the commission determines it involves confidential competitive business information.
- (j) **Education program.** Each utility that offers a renewable energy tariff shall also design and implement a customer education program about renewable energy. The utility shall provide educational materials to all of its customers on renewable resources as supply-side options and as demand-side options. Each utility shall inform its customers of the utility's generation mix and generation emissions. This information shall be comprehensible and succinct. Customer educational materials shall be sent to customers during the initial tariff offering in conjunction with the initial renewable energy marketing materials, and shall be distributed at least annually.
- (k) **Criteria for educational materials.**
- (1) Educational materials may include the utility's name and the name of the utility's commission-approved program with information on how to participate, but shall otherwise not be used to promote the utility or any of its other service offerings in any way.

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- (2) Educational materials should include information on renewable energy technology applications as defined in §25.5 of this title, as well as information regarding the potential for renewable energy technology development in the State of Texas. It should include information on renewable resources both for supply- and demand-side applications, including off-grid and peak-shaving uses.
 - (3) The utility's generation mix shall be disclosed to all customers in table form as a component of the tariff's educational campaign. Disclosure statements shall indicate the utility's generation mix in percentages rounded to the nearest whole number for the previous calendar year using the following categories: coal and lignite, natural gas, nuclear fuel, renewable resource, and fuel oil and other.
 - (4) The utility's generation emissions, as well as nuclear waste, shall be disclosed in total and shall include emissions associated with the utility's power purchases to the extent that this information is available. Disclosure statements shall indicate the utility's average monthly generation emissions or average nuclear waste per customer for each customer class and by MWh generated for the previous calendar year, based on the average emissions or nuclear waste by fuel type, for: nitrogen oxide (NO_x), sulfur dioxide (SO₂), carbon dioxide (CO₂), particulate matter, and nuclear waste.
 - (5) Each utility shall file these materials with the commission as part of its tariff-filing package for approval.
- (l) **Cost recovery.** Utilities shall be allowed to recover costs incurred through the tariff in the following manner:
- (1) **Marketing and administration costs.** Program marketing and administration costs may be included within the premium for renewable energy, and shall not exceed 20% of the total revenues collected from the renewable energy price in the first two years that the tariff is in effect and 10% in subsequent years. Prudently incurred marketing and administration costs in excess of these limits may be recoverable through base rates pursuant to §23.21 (c)(1)(E) of this title (relating to Cost of Service).
 - (2) **Education program costs.** All prudently incurred costs of commission approved customer education materials and activities shall be recoverable and allocated among all customers through base rates.
- (m) **Commission review.** The commission will periodically review each utility's renewable energy tariff and activities to ensure that new renewable energy resources are deployed in/or next to the State of Texas and that program participants are receiving appropriate benefits from participation.