

PROJECT NO. 33457

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| RULEMAKING CONCERNING A | § | PUBLIC UTILITY COMMISSION |
| DEMAND-RESPONSE PROGRAM | § | |
| FOR ERCOT EMERGENCY | § | OF TEXAS |
| CONDITIONS | § | |

**PROPOSAL FOR PUBLICATION OF NEW §25.507
AS APPROVED AT THE FEBRUARY 2, 2007 OPEN MEETING**

The Public Utility Commission of Texas (commission) proposes new §25.507, relating to Electric Reliability Council of Texas (ERCOT) Emergency Interruptible Load Service (EILS). The new rule will create a new service to be available to ERCOT to maintain electric service for customers if an emergency arises in which electric generation resources are not adequate to supply customers' demand. In such circumstances, ERCOT has the discretion to instruct utilities to interrupt firm service to a limited number of customers, in order to prevent a broader service interruption. The new emergency interruptible load service is intended to provide a means of reducing demand by interrupting service to customers who have offered to be interrupted, for a price, rather than interrupting service to customers who expect to have continuous, reliable service. This new rule is a competition rule subject to judicial review as specified in Public Utility Regulatory Act (PURA) §39.001(e). Project Number 33457 is assigned to this proceeding.

Mr. Jess Totten, Director, Electric Industry Oversight, has determined that for each year of the first five-year period the proposed section is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the section.

Mr. Totten has determined that for each year of the first five years the proposed section is in effect the public benefit anticipated as a result of enforcing the proposed section will be fewer involuntary interruptions of electric retail customers. There will be no adverse economic effect on small businesses or micro-businesses as a result of enforcing this section. There may be economic costs to persons who are required to comply with the proposed section. These costs are ERCOT's costs associated with procuring emergency interruptible load from customers who are willing to provide this service. However, Mr. Totten believes that the benefits accruing from implementation of the proposed section will outweigh these costs. Customers will incur costs in participating in the program, but their participation will be voluntary, and it is expected that they will participate only if they expect to receive payments from ERCOT that will result in a net benefit to them.

Mr. Totten has also determined that for each year of the first five years the proposed section is 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 solicits comments on the following:

- 1) Establishing the correct baseline is important to insure that there is actual load available when called upon for interruption. Please comment as to the requirements necessary to create an effective baseline.

- 2) For the EILS program to be effective, participating load cannot curtail on its own leading up to an interruption. What provisions are necessary, if any, to keep load online until ERCOT calls for an interruption?

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 on Tuesday, March 6, 2007, at 10:00 a.m. The request for a public hearing must be received within 14 days after publication of the proposed section.

Comments on the proposed new section 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 14 days after publication. Sixteen copies of comments on the proposed section are required to be filed pursuant to §22.71(c) of this title. Comments should be organized in a manner consistent with the organization of the proposed rule. The commission invites specific comments regarding the costs associated with, and benefits that will be gained by, implementation of the proposed section. The commission will consider the costs and benefits in deciding whether to adopt the section. All comments should refer to Project Number 33457.

This new section is proposed under the Public Utility Regulatory Act, Texas Utilities Code Annotated §11.002 (Vernon 2000, Supplement 2006) (PURA), which states that it is the purpose of this title to grant to the Public Utility Commission of Texas authority to make and enforce

rules necessary to protect customers of electric services consistent with the public interest; Section 14.002 which provides the Public Utility Commission with the authority to make and enforce rules reasonably required in the exercise of its powers and jurisdiction; and specifically, Section 39.151 which provides that the commission shall adopt and enforce rules relating to the reliability of the regional electrical network and accounting for the production and delivery of electricity among generators and all other market participants. This new section also gives the commission complete authority to oversee an independent organization's (such as ERCOT) budget and operations to ensure that it adequately performs its functions.

Cross Reference to Statutes: Public Utility Regulatory Act §§11.002, 14.002 and 39.151.

§25.507. Electric Reliability Council of Texas (ERCOT) Emergency Interruptible Load Service (EILS).

- (a) **EILS procurement.** ERCOT shall procure EILS, an ancillary service that is intended to be deployed by ERCOT in an Emergency Electric Curtailment Plan (EECP) event prior to ERCOT instructing transmission and distribution service providers to interrupt firm load.
- (1) EILS may be procured for one or more of three contract periods:
 - (A) February through May;
 - (B) June through September; and
 - (C) October through January.
 - (2) Notwithstanding the foregoing, the first EILS contract period shall be from the effective date of this section through May of 2007.
 - (3) ERCOT may determine cost limits for each EILS contract period in order to ensure that the EILS cost cap is not exceeded.
 - (4) The maximum amount of EILS for which ERCOT may contract in an EILS contract period is 1,000 megawatts (MW).
 - (5) The minimum amount of EILS for which ERCOT may contract in an EILS contract period is 500 MW. If ERCOT does not receive enough offers to meet the required minimum amount for a period in which it seeks to procure EILS or cannot procure at least 500 MW for a period in which it seeks to procure EILS due to the EILS cap, ERCOT shall not contract for EILS.
 - (6) This section will sunset October 1, 2007, provided the following conditions are met:

- (A) An alternative long-term solution is approved in the form of a Protocol Revision that meets the requirements of the Public Utility Commission of Texas and ERCOT.
- (B) This Protocol Revision must be implemented such that ERCOT has a solution continuously in place with no interruption of the protection offered by EILS.
- (C) If a solution is developed, but cannot be implemented by October 1, 2007, EILS will be extended for an additional contract period.

(b) **Definitions.**

- (1) EILS -- An ancillary service procured and used by ERCOT in accordance with this section.
- (2) EILS contract period -- As defined in subsection (a) of this section.
- (3) EILS cost cap -- The maximum amount ERCOT may spend on the EILS program in a year, February-January. The cost cap is set at \$17 Million for 2007 (April 2007 - January 2008) and \$20 Million for 2008 (February 2008 - January 2009).
- (4) EILS non-prime hours -- Any hours not defined as EILS prime hours.
- (5) EILS prime hours -- Hours occurring on a business day (as defined by ERCOT Protocols) during the time frame of hour ending 0900 through hour ending 2000.
- (6) EILS resource -- Load that is contracted to provide EILS.
- (7) EILS time period -- EILS prime hours or EILS non-prime hours.

- (8) Resource entity -- An entity that owns or controls a generation resource or behaves as a LaaR or emergency interruptible load, that can comply with ERCOT instructions to reduce electricity usage or provide an ancillary service.
- (c) **Participation in EILS.** In addition to requirements established by ERCOT, the following requirements shall apply for the provision of EILS:
- (1) EILS bids may be submitted to ERCOT by a resource entity or a qualified scheduling entity (QSE) on behalf of resource entity.
- (A) Bids may be submitted for EILS prime hours or EILS non-prime hours.
- (B) The minimum amount of EILS that may be offered in a bid to ERCOT is one MW. QSEs representing EILS resources may aggregate multiple resources to reach the one MW bid requirement provided that each Electric Service Identifier (ESI ID) in an EILS Resource aggregation has a peak demand of 500 kilowatts (kW) or greater. Such aggregated bids will be considered a single EILS resource.
- (2) To qualify to participate in the EILS program, a resource shall meet the technical requirements set out in this paragraph.
- (A) Each EILS resource, including each resource participating in an aggregated bid, shall have an ESI ID.
- (B) Each EILS resource shall have a dedicated installed Interval Data Recorder (IDR) meter. If the IDR meter is not used for settlement with ERCOT, then the IDR meter and the method and format used to collect

and transfer the meter data are subject to ERCOT approval. This subsection also applies to meters behind a Non-Opt-In Entity (NOIE) meter point and behind a private network's settlement meter point.

- (C) An EILS resource shall be capable of reducing its load by its contracted capacity compared to its baseline capacity within ten minutes of an ERCOT verbal dispatch instruction (VDI) to its QSE and must be able to maintain performance at contracted levels for the entire period of the EILS deployment.
- (D) EILS resources, once deployed, shall be able to return to their contracted operating level for providing EILS within ten hours following the recall instruction.
- (E) EILS resources shall be subject to qualification, testing, and performance requirements as developed and administered by ERCOT.
- (F) The resource entity responsible for an EILS resource shall be registered as a Resource Entity with ERCOT.
- (G) The resource entity shall execute a standard form EILS agreement as developed by ERCOT.
- (H) The resource entity shall be served by a QSE qualified to provide ancillary services and capable of communicating with ERCOT and the EILS resource.

- (I) An EILS resource shall not provide other ancillary services, including balancing energy services with the same capacity, while under an EILS Agreement.
- (3) ERCOT shall establish an individual load baseline for each proposed EILS resource. If the EILS resource is an aggregation of ESI IDs, ERCOT shall take into account the load characteristics of each ESI ID represented by the EILS resource.
- (A) ERCOT shall review IDR data from the most recent available 12-month period to determine the baseline consumption. ERCOT may use its own data at its reasonable discretion. If ERCOT does not possess sufficient data, the EILS Resource or its QSE must provide data to ERCOT according to ERCOT's specifications.
 - (B) The baseline shall be used to verify or establish an EILS Resource's maximum contract amount and to verify the EILS resource's performance as compared to its contracted capacity during an EILS deployment event.
- (4) EILS shall be deployed by ERCOT by VDIs in a single phone call to all QSEs providing EILS.
- (A) When ERCOT issues a VDI, 100% of the available contracted EILS resources shall be deployed.
 - (B) ERCOT may deploy EILS at any time during a settlement interval.
 - (C) An EILS resource entity shall be subject to a maximum of two deployments per EILS contract period lasting no more than eight hours

total, unless an EILS deployment is still in effect when the eighth hour lapses, in which case EILS deployment shall continue until ERCOT releases the EILS resource.

- (D) ERCOT may conduct a load-shedding test of each resource once a year unless the resource has met its performance obligations during an EILS deployment during the preceding 12 months. ERCOT tests are not “deployments” under subparagraph (C) of this paragraph.

(d) **EILS Payment and Charges.**

- (1) ERCOT shall pay a capacity payment to each QSE representing an EILS resource on an as-bid basis subject to modifications determined by ERCOT based on the EIL resource’s availability during an EILS contract period, and the EILS resource’s performance in a deployment event.
- (2) ERCOT shall charge each QSE a capacity charge for EILS based upon its load ratio share during the relevant EILS time period and EILS contract period.
- (3) There shall be no energy payments for providing EILS above and beyond typical load imbalance payments pursuant to the ERCOT protocols.
- (4) ERCOT shall settle an EILS contract period via payments and charges on a settlement statement of a single operating day within 70 days following the completion of the EILS contract period.
- (5) ERCOT shall make the following available to market participants via market notices and by posting on a publicly accessible section of the ERCOT web site:

- (A) Baseline formulas;
 - (B) Formulas used for wholesale market settlement; and
 - (C) Equations used to determine an EILS resource's compliance with its obligations in an EILS deployment.
- (e) **Compliance.** Resource entities representing EILS resources and QSEs representing EILS resources are subject to penalties for failure to meet their obligations under this section. ERCOT shall withhold all or part of an EILS resource's capacity payment for a contract period if the EILS resource fails to make its committed load available during its committed hours, or fails to meet its load reduction obligations in an EILS deployment event.
- (f) **Reporting.** At the completion of each contract period, ERCOT shall review the effectiveness and benefits of the EILS and report its findings to the commission within 70 days of the completion of the contract period. The report shall contain at a minimum the number of MW procured in each period, the total dollar amount spent, the number and level of EECF events, and the number and duration of deployments.
- (g) **Implementation.** ERCOT shall develop additional procedures, guides, and/or protocols that are consistent with this section and that ERCOT finds necessary to implement EILS, including but not limited to developing a standard form EILS Agreement and establishing specific performance guidelines and grace periods for EILS Resources.

- (h) **Long-term solution.** Any long-term solution must offer ERCOT the ability to avoid shedding firm load by bringing more resources online or curtailing load voluntarily. In this context the commission is interested in:
- (1) Better price signals leading up to an EECF event;
 - (2) Bringing more resources (both interruptible load and generation) online through existing ancillary services;
 - (3) Examining the priorities set by TDSPs when shedding firm load;
 - (4) Paragraphs (1) – (3) of this subsection in combination with an EILS program.

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 2nd DAY OF FEBRUARY 2007 BY THE
PUBLIC UTILITY COMMISSION OF TEXAS
ADRIANA A. GONZALES**