

The Public Utility Commission of Texas (commission) proposes an amendment to §22.225 relating to Written Testimony and Accompanying Exhibits in Chapter 22, Subchapter L of the commission's Procedural Rules. Project Number 22870 is assigned to this rulemaking.

The proposed amendment is necessary to:

- (1) Remove the reference to the position of "general counsel" as required prior to September 1, 1999 by the Public Utility Regulatory Act (PURA) §12.101(2). The statutory requirement for a general counsel was removed from the Public Utility Regulatory Act (PURA) by Acts 1999, 76th Legislature, chapter 405, §61(1), effective September 1, 1999. Any references to "general counsel" in the Procedural Rules as proposed now refer to the General Counsel who oversees the administrative functions of the agency, not the statutory functions as previously required by PURA;
- (2) Add a requirement that utilities file written testimony and exhibits supporting their application contemporaneous with the filing of an application for construction of a transmission facility that has been designated as critical to the reliability of the Electric Reliability Council of Texas (ERCOT) system and is to be considered on an expedited basis. This requirement will allow commission staff and affected landowners sufficient time to review the evidence prior to a hearing or commission decision; and
- (3) Clarify and correct references to other commission rules.

Under Project Number 22870, the commission previously proposed an amendment to §22.225 for minor revisions as published in the November 10, 2000 *Texas Register* (25 TexReg 11201). The amendment to §22.225 as proposed November 10, 2000 is being withdrawn simultaneously with the proposal of this amendment. The withdrawal and republication of §22.225 does not in any way affect the other proposed amendments to commission Procedural Rules as published November 10, 2000.

Geoffrey Petrov, Attorney, Legal Division, 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. Petrov 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 this section will be clearer, more efficient rules of practice and procedure before the commission. There will be no effect on small businesses or micro-businesses as a result of enforcing this section. There is no anticipated economic cost to persons who are required to comply with the section as proposed.

Mr. Petrov 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 §2001.022.

Comments on the proposed amendment (16 copies) 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 publication. 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 22870.

This amendment is proposed under the Public Utility Regulatory Act, Texas Utilities Code Annotated §14.002 and §14.052 (Vernon 1998, Supplement 2000) (PURA), which provides the Public Utility Commission with the authority to make and enforce rules reasonably required in the exercise of its powers and jurisdiction, including rules of practice and procedure.

Cross Reference to Statutes: Public Utility Regulatory Act §§14.002, 14.052, 39.151, 39.152, and 39.155.

§22.225. Written Testimony and Accompanying Exhibits.

(a) Prefiling of testimony, exhibits, and objections.

(1) - (5) (No change.)

(6) The testimony pre-filing schedule in a major Public Utility Regulatory Act, Chapter 36, Subchapter C or E, or Chapter 53, Subchapter C or E rate proceeding shall be established as set out in this subsection.

(A) (No change.)

(B) Other parties in the proceeding shall prefile written testimony and exhibits according to the schedule set forth by the presiding officer. Except for good cause shown or upon agreement of the parties, the **commission staff representing the public interest** may not be required to file earlier than seven days prior to hearing.

(C) (No change.)

(7) (No change.)

(8) **Utilities filing an application for construction of a transmission facility that has been designated by the Electric Reliability Council of Texas (ERCOT) independent system operator as critical to the reliability of the ERCOT system and to be considered on an expedited basis, shall file written testimony and exhibits supporting its direct case on the same date that the application is filed with the commission. This requirement shall also apply to transmission lines located in other reliability councils or administered by other**

independent system operators provided such councils have a process for designation of critical transmission lines.

(9) The times for pre-filing set out in this section may be modified upon a showing of good cause.

(10) Late-filed testimony may be admitted into evidence if the testimony is necessary for a full disclosure of the facts and admission of the testimony into evidence would not be unduly prejudicial to the legal rights of any party. A party that intends to offer late-filed testimony into evidence shall, at the earliest opportunity, inform the presiding officer, who shall establish reasonable procedures and deadlines regarding such testimony.

(b) - (c) (No change.)

(d) **Tender and service.** On or before the date the prefiled written testimony and exhibits are due, parties shall file the number of copies required by §22.71 of this title (relating to Filing of Pleadings, Documents and Other Materials), or other commission rule or order, of the testimony and exhibits with the commission filing clerk and shall serve a copy upon each party.

(e) (No change.)

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

**ISSUED IN AUSTIN, TEXAS ON THE 5th DAY OF DECEMBER 2000 BY THE
PUBLIC UTILITY COMMISSION OF TEXAS
RHONDA G. DEMPSEY**