

PROJECT NO. 39125

RULEMAKING AND FORM	§	PUBLIC UTILITY COMMISSION
AMENDMENTS FOR ELECTRIC	§	
TRANSMISSION CERTIFICATE OF	§	OF TEXAS
CONVENIENCE AND NECESSITY	§	
APPLICATIONS	§	

**PROPOSAL FOR PUBLICATION OF AMENDMENTS TO §22.52
AS APPROVED AT THE FEBRUARY 24, 2011 OPEN MEETING**

The Public Utility Commission of Texas (commission) proposes amendments to §22.52, relating to Notice in Licensing Proceedings. The amendments change references to routes for a proposed transmission line for which a certificate of convenience and necessity is sought by a utility and require that newspaper notice for such a line include a map. Project Number 39125 is assigned to this proceeding.

Scottie Aplin, Attorney, Legal 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. Aplin 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 reduced landowner and public confusion concerning the routing of proposed transmission lines and better newspaper notice. The addition of the map to published notice will make the routing descriptions more readable and understandable for the general public. The anticipated economic cost to persons who are required to comply with the proposed amendments is the relatively small cost of including a map in the newspaper notice required for a proposed transmission line for

which a certificate of convenience and necessity is sought. Some utilities have included the map in their newspaper notices. 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.

Ms. Aplin 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.

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. Sixteen copies of comments on the proposed amendments are required to be filed pursuant to §22.71(c) of this title. Initial comments are due by March 31, 2011 and reply comments are due by April 4, 2011. Comments should be organized in a manner consistent with the organization of the amended 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 the amendments. All comments should refer to Project Number 39125.

Commission staff will conduct a public hearing on this rulemaking, if requested pursuant to APA §2001.029, at the commission's offices located in the William B. Travis Building, 1701 North

Congress Avenue, Austin, Texas 78701 on Tuesday, April 5, 2011. The request for a public hearing must be received by March 31, 2011.

The amendments are proposed under the Public Utility Regulatory Act, Texas Utilities Code Annotated §14.002 (Vernon 2007 and Supp. 2010) (PURA), which requires the commission to adopt and enforce rules reasonably required in the exercise of its power and jurisdiction; PURA §14.052 and Administrative Procedure Act (APA), Texas Government Code §2001.004 (Vernon 2008 & Supp. 2010), which require the commission to adopt procedural rules; and PURA §§37.053-37.057, which provide the commission authority over applications for certificates of convenience and necessity.

Cross Reference to Statutes: PURA §§14.002, 14.052, and 37.053-37.057 and APA §2001.004.

§22.52. Notice in Licensing Proceedings.

(a) Notice in electric licensing proceedings. In all electric licensing proceedings except minor boundary changes, the applicant shall give notice in the following ways:

(1) Applicant shall publish notice once of the applicant's intent to secure a certificate of convenience and necessity in a newspaper having general circulation in the county or counties where a certificate of convenience and necessity is being requested, no later than the week after the application is filed with the commission. This notice shall identify the commission's docket number and the style assigned to the case by the Central Records Division. In electric transmission line cases, the applicant shall obtain the docket number and style no earlier than 25 days prior to making the application by filing a preliminary pleading requesting a docket assignment. The notice shall identify in general terms the type of facility if applicable, and the estimated expense associated with the project. The notice shall describe all routes without designating a preferred route or otherwise suggesting that a particular route is more or less likely to be selected than one of the other routes.

(A) (No change.)

(B) The notice shall include a map as described in subparagraph (C) of this paragraph and shall ~~further~~ describe in clear, precise language the geographic area for which the certificate is being requested and the location of all ~~preferred and~~ alternative routes of the proposed facility. This description shall refer to area landmarks, including but not limited to

geographic landmarks, municipal and county boundary lines, streets, roads, highways, railroad tracks, and any other readily identifiable points of reference, unless no such references exist for the geographic area.

(C) The notice shall state a location where a map may be reviewed and from whom a copy of the map may be obtained. The map shall clearly and conspicuously illustrate the location of the area for which the certificate is being requested including all the ~~preferred locations and~~ alternative locations of the proposed ~~routes~~ facility, and shall reflect area landmarks, including but not limited to geographic landmarks, municipal and county boundary lines, streets, roads, highways, railroad tracks, and any other readily identifiable points of reference, unless no such references exist for the geographic area.

(D) Proof of publication of notice shall be in the form of a publisher's affidavit which shall specify the newspaper(s) in which the notice was published, the county or counties in which the newspaper(s) is or are of general circulation, the dates upon which the notice was published, and a copy of the notice as published. Proof of publication shall be submitted to the commission as soon as available.

(2) Applicant shall, upon filing an application, also mail notice of its application to municipalities within five miles of the requested territory or facility, neighboring utilities providing the same utility service within five miles of the requested territory or facility, and the county government(s) of all counties in which any portion of the proposed facility or requested territory is located. The notice shall

contain the information as set out in paragraph (1) of this subsection and a map as described in paragraph (1)(C) of this subsection. An affidavit attesting to the provision of notice to municipalities, utilities, and counties shall specify the dates of the provision of notice and the identity of the individual municipalities, utilities, and counties to which such notice was provided. Before final approval of any modification in the applicant's proposed route(s), applicant shall provide notice as required under this paragraph to municipalities, utilities, and counties affected by the modification which have not previously received notice. The notice of modification shall state such entities will have 20 days to intervene.

- (3) Applicant shall, on the date it files an application, mail notice of its application to the owners of land, as stated on the current county tax roll(s), who would be directly affected by the requested certificate, ~~including the preferred location and any alternative location of the proposed facility~~. For purposes of this paragraph, land is directly affected if an easement or other property interest would be obtained over all or any portion of it, or if it contains a habitable structure that would be within 300 feet of the centerline of a transmission project of 230kV or less, or within 500 feet of the centerline of a transmission project greater than 230kV.

(A) - (E) (No change.)

- (4) The utility shall hold at least one public meeting prior to the filing of its licensing application if 25 or more persons would be entitled to receive direct mail notice of the application. Direct mail notice of the public meeting shall be sent by first-class mail to each of the persons listed on the current county tax rolls as an owner

of land within 300 feet of the centerline of a transmission project of 230kV or less, or within 500 feet of the centerline of a transmission project greater than 230kV. In the notice for the public meeting, at the public meeting, or in other communications with a potentially affected person, the utility shall not describe routes as preferred routes or otherwise suggest that a particular route is more or less likely to be selected than one of the other routes.

(5) - (6) (No change.)

(b) **Notice in telephone licensing proceedings.** In all telephone licensing proceedings, except minor boundary changes, applications for a certificate of operating authority, or applications for a service provider certificate of operating authority, the applicant shall give notice in the following ways:

(1) Applicants shall publish in a newspaper having general circulation in the county or counties where a certificate of convenience and necessity is being requested, once each week for two consecutive weeks, beginning the week after the application is filed, notice of the applicant's intent to secure a certificate of convenience and necessity. This notice shall identify in general terms the types of facilities, if applicable, the area for which the certificate is being requested, and the estimated expense associated with the project. Whenever possible, the notice should state the established intervention deadline. The notice shall also include the following statement: "Persons with questions about this project should contact (name of utility contact) at (utility contact telephone number). Persons who wish to intervene in the proceeding or comment upon action sought, should

contact the Public Utility Commission, P.O. Box 13326, Austin, Texas 78711-3326, or call the Public Utility Commission at (512) 936-7120 or (888) 782-8477. Hearing- and speech-impaired individuals with text telephones (TTY) may contact the commission at (512) 936-7136. The deadline for intervention in the proceeding is (date 70 days after the date the application was filed with the commission) and you must send a letter requesting intervention to the commission which is received by that date." Proof of publication of notice shall be in the form of a publisher's affidavit, which shall specify the newspaper(s) in which the notice was published; the county or counties in which the newspaper(s) is or are of general circulation; ~~and~~ the dates upon which the notice was published and a copy of the notice as published. Proof of publication shall be submitted to the commission as soon as available.

(2) - (3) (No change.)

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 28th DAY OF FEBRUARY 2011 BY THE
PUBLIC UTILITY COMMISSION OF TEXAS
ADRIANA A. GONZALES**