

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 §25.101
AS APPROVED AT THE FEBRUARY 24, 2011 OPEN MEETING**

The Public Utility Commission of Texas (commission) proposes amendments to §25.101, relating to Certification Criteria. The amendments change references to routes for a proposed transmission line for which a certificate of convenience and necessity is sought by a utility. 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. There is no anticipated economic cost to persons who are required to comply with the amendments as proposed. 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 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.

These 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.

§25.101. Certification Criteria.

(a) **Definitions.** (No change.)

(b) **Certificates of convenience and necessity for new service areas and facilities.** Except for certificates granted under subsection (e) of this section, the commission may grant an application and issue a certificate only if it finds that the certificate is necessary for the service, accommodation, convenience, or safety of the public, and complies with the statutory requirements in the Public Utility Regulatory Act (PURA) §37.056. The commission may issue a certificate as applied for, or refuse to issue it, or issue it for the construction of a portion of the contemplated system or facility or extension thereof, or for the partial exercise only of the right or privilege. The commission shall render a decision approving or denying an application for a certificate within one year of the date of filing of a complete application for such a certificate, unless good cause is shown for exceeding that period. A certificate, or certificate amendment, is required for the following:

(1) - (2) (No change.)

(3) **New electric transmission line.** All new electric transmission lines shall be reported to the commission in accordance with §25.83 of this title (relating to Transmission Construction Reports).

(A) (No change.)

(B) **Routing:** An application for a new transmission line shall address the criteria in PURA §37.056(c) and considering those criteria, engineering

constraints, and costs, the line shall be routed to the extent reasonable to moderate the impact on the affected community and landowners unless grid reliability and security dictate otherwise. The following factors shall be considered in the selection of the utility's ~~alternative preferred and alternate~~ routes unless a route is agreed to by the utility, the landowners whose property is crossed by the proposed line, and owners of land that contains a habitable structure within 300 feet of the centerline of a transmission project of 230 kV or less, or within 500 feet of the centerline of a transmission project greater than 230 kV, and otherwise conforms to the criteria in PURA §37.056(c):

(i) - (iv) (No change.)

(C) (D) (No change.)

(c) - (g) (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**

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