

The Public Utility Commission of Texas (commission) proposes amendments to §25.192 relating to Transmission Service Pricing, and §25.236 relating to Recovery of Fuel Costs. Amended §25.192 would require transmission customers taking planned transmission service to pay a fee to the independent system operator (ISO) for the Electric Reliability Council of Texas (ERCOT), to permit the ISO to begin funding the additional functions that will be required to implement competition in the retail sale of electricity. Amended §25.236 would permit utilities to recover these costs as fuel costs. Project Number 21066 has been assigned to this proceeding.

The legislature recently passed and the Governor signed Senate Bill 7, 76th Legislature, Regular Session (1999), which would introduce competition in the retail sale of electricity in Texas, beginning in 2002. The bill requires the establishment of independent organizations in each power region to carry out certain functions that are essential to the operation of a competitive retail electric market. The ERCOT ISO currently performs functions related to transmission access and reliability for the competitive wholesale market, but it will have significantly greater responsibilities and workload if it is to be the independent organization for ERCOT. It has begun planning for its additional manpower and other resource needs, with the expectation that additional personnel and systems will need to be in place and operational by the summer of 2001. While full-scale competition begins in January 2002, Senate Bill 7 requires utilities to conduct pilot projects in retail competition beginning in June 2001. This amendment will give the ISO

the funds to carry out this expansion, so that it can meet its additional responsibilities without undue financial burden.

Section 25.192, relating to transmission service pricing, currently requires transmission service customers to pay an ISO fee for unplanned service and for weekly and daily planned service. The proposed amendment would also require the payment of the ISO fee for annual and monthly planned service. Section 25.236, relating to recovery of fuel costs, currently permits a utility to include transmission payments related to unplanned transmission service as fuel costs. The proposed amendment to this section would permit the ISO fee to be recovered as a fuel cost, regardless of whether the payment is in connection with planned or unplanned transmission service.

Jess Totten, Director, Office of Policy Development, has determined that for each year of the first five-year period the proposed sections are in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the sections.

Mr. Totten has determined that for each year of the first five years the proposed sections are in effect the public benefit anticipated as a result of enforcing the sections will be more orderly development of the ERCOT ISO to meet the additional responsibilities and challenges of performing the function of an independent organization under Senate Bill 7. Providing this source of funding for the ISO should also obviate the need for the ISO to devote management resources on its own financial concerns and instead concentrate on acquiring the manpower,

systems, and other resources that will be needed to carry out these responsibilities. There will be no effect on small businesses as a result of enforcing these sections. There is no anticipated economic cost to persons who are required to comply with the sections as proposed.

Mr. Totten has also determined that for each year of the first five years the proposed sections are in effect there will be no impact on employment in the geographic area affected by implementing the requirements of the sections.

The commission staff will conduct a public hearing on this rulemaking under Government Code §2001.029 at the commission's offices, located in the William B. Travis Building, 1701 North Congress Avenue, Austin, Texas 78701, on Thursday, September 2, 1999, at 9:00 a.m. in the Commissioners' Hearing Room.

Comments on the proposed amendments (16 copies) may be submitted to the Filing Clerk, Public Utility Commission of Texas, 1701 North Congress Avenue, PO 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 sections. The commission will consider the costs and benefits in deciding whether to adopt the sections.

These amendments are proposed under the Public Utility Regulatory Act, Texas Utilities Code Annotated §14.002 (Vernon 1999) (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; PURA §31.001, which declares that the public interest requires that rules, policies and principles be formulated and applied to protect the public interest in a more competitive marketplace; §35.004, which requires utilities to provide comparable wholesale transmission service, directs the commission to ensure that utilities provide non-discriminatory transmission service, and requires the commission to adopt reasonable rates for transmission service; §35.005, which permits the commission to require an electric utility to provide wholesale transmission service, determine whether the terms and conditions of such service are reasonable, and require the construction or enlargement of a transmission facility; and §35.006, which directs the commission to adopt rules relating to wholesale transmission service. These amendments are also proposed under Senate Bill 7, in particular the provision that will be codified in Texas Utilities Code Annotated §39.151, which requires that an independent organization be established in each power region.

Cross-Index to Statutes: Public Utility Regulatory Act §§14.002, 31.001, 35.004 through 35.006, and 39.151.

**Subchapter I. Transmission and Distribution. Division 1. Open-access Comparable
Transmission Service for Electric Utilities in the Electric Reliability Council of Texas.**

§25.192. Transmission Service Rates.

- (a) **Charges for transmission service.** Transmission service customers shall incur [~~both~~] facilities charges, [~~and~~] loss compensation charges, **and an independent system operator (ISO) fee** for planned transmission service. Transmission service customers shall incur loss compensation charges and an **ISO**[~~independent system operator (ISO)~~] fee for unplanned transmission service. Transmission service customers shall incur facilities charges and an ISO fee for weekly and daily planned transmission service. The facilities charge for annual and monthly planned transmission service shall consist of an access fee and an impact fee. Facilities charges shall be determined in transmission ratemaking proceedings conducted periodically, at such intervals as the commission determines are appropriate.

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

(b) - (h) (No change.)

Subchapter J. Costs, Rates and Tariffs.

§25.236. Recovery of Fuel Costs.

(a) **Eligible fuel expenses.** Eligible fuel expenses include expenses properly recorded in the Federal Energy Regulatory Commission Uniform System of Accounts, numbers 501, 503, 518, 536, 547, 555, and 565, as modified in this subsection, as of April 1, 1997, and the items specified in paragraph (7) of this subsection. Any later amendments to the System of Accounts are not incorporated into this subsection. Subject to the commission finding special circumstances under paragraph (6) of this subsection, eligible fuel expenses are limited to:

(1) - (4) (No change.)

(5) For Account 565, an electric utility may not recover transmission expenses paid to affiliated companies for the purpose of equalizing or balancing the financial responsibility of differing levels of investment and operating costs associated with transmission assets. A non-ERCOT electric utility may not recover expenses for wheeling transactions. An ERCOT electric utility may only recover the expenses properly recorded in Account 565, for **ISO fees and** payments to parties related to unplanned transmission service, such as ~~[ISO fees,]~~ losses, and re-dispatch fees.

(6) - (8) (No change.)

(b) - (f) (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 16th DAY OF JULY 1999 BY THE
PUBLIC UTILITY COMMISSION OF TEXAS
RHONDA G. DEMPSEY**