

The Public Utility Commission of Texas (commission) proposes new §25.214, relating to Terms and Conditions of Retail Distribution Service Provided by Investor Owned Transmission and Distribution Utilities. The proposed new rule will implement the Public Utility Regulatory Act, Texas Utilities Code Annotated §39.203 (Vernon 1998, Supplement 2000) (PURA), as it relates to the establishment of non-discriminatory terms and conditions of retail distribution service, including the service provided to a retail customer at transmission voltage, provided by a transmission and distribution utility. Project Number 22187 has been assigned to this proceeding.

The proposed rule is intended to incorporate a standard tariff (pro-forma tariff), which is the document containing the terms and conditions of retail distribution service. This document will be adopted by reference and can only be changed through the rulemaking process. Each transmission and distribution utility (TDU) operating in Texas shall file with the commission a tariff to govern its retail distribution service, using pro-forma tariff chapters 1, 3, 4, and 5 as written, but with the ability to modify chapters 2 and 6 to reflect individual utility characteristics. The pro-forma tariff is divided into five chapters as follows: Chapter 1 defines various terms used throughout the pro-forma tariff; Chapter 2 involves descriptions of the TDU's certified service area; Chapter 3 sets forth rules and regulations applicable to both the TDU/Retail Electric Provider (REP) relationship and the TDU/Retail Customer relationship; Chapter 4 sets forth the rules and regulations governing the REPs' access to the TDU's delivery system; Chapter 5 sets

forth the rules and regulations governing the TDU's provision of delivery service and conditions of service to the retail customer; and Chapter 6 involves TDU specific rate schedules.

As part of the drafting process, commission staff conducted workshops in Austin to receive input from potentially affected persons. Following the first workshop, commission staff received proposed rules (straw-rules) from both the investor owned utilities, representing the TDUs, and the REPs. After consideration of these proposals, commission staff issued its first draft rule upon which it received informal comments. Commission staff then held a second workshop at which it received further input from the parties and attempted to work towards a consensus document. Commission staff later issued a second draft rule upon which further informal comments were received.

Damayanti Ghosh, Director of Costing and Pricing, Electric Industry Analysis Division, Office of Regulatory Affairs, 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.

Ms. Ghosh has also 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 section will be increased competition in the sale of electric power to retail customers, thus resulting in lower electric energy prices for those customers. Furthermore, 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 likely to vary from business to business, and are difficult to ascertain. However, it is believed that the benefits accruing from implementation of the proposed section will outweigh these costs.

Moreover, Ms. Ghosh has 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.

The commission seeks comments on the proposed rule from interested persons. Comments should be organized in a manner consistent with the organization of the proposed rule. When commenting on specific subsections of the proposed rule, parties are encouraged to describe "best practice" examples of regulatory policies, and their rationale, that have been proposed or implemented successfully in other states already undergoing electric industry restructuring, if the parties believe that Texas would benefit from application of the same policies. The commission is only interested in receiving "leading edge" examples which are specifically related and directly applicable to the Texas statute, rather than broad citations to other state restructuring efforts.

In addition to comments on specific subsections of the proposed rule, the commission requests that parties specifically address the following issues:

1. Are the provisions of this rule consistent with the protocols of the relevant independent organizations (as defined in PURA §39.151) in Texas? If not, please identify which provisions are inconsistent and explain why. Also explain how these provisions need to be modified, if at all, to make them consistent with those protocols.

2. Are the provisions of this rule consistent with the commission's customer protection rules as proposed in Project Number 22255? If not, please identify which provisions are inconsistent and explain why. Also explain how these provisions need to be modified, if at all, to make them consistent with the proposed customer protection rule. (Note: The commission plans to consider the Project Number 22255 customer protection rules for publication at the August 10, 2000 Open Meeting. The rules as approved for publication should be available in Central Records and on the commission's web site no later than August 17, 2000. If for some reason there is a delay in Project 22255, staff will attempt to make a draft available for your review no later than August 17, 2000.)
3. The proposed rule incorporates certain provisions (e.g., provisions relating to line extension, service connection) of the existing customer protection rules §§25.21 – 25.31. What other provisions, if any, of the existing customer protection rules, should be incorporated in this rule assuming that the existing §§25.21 – 25.31 will be replaced with new rules (viz., new customer protection rules to be adopted in Project Number 22255 and the present rule dealing with the terms and conditions of retail delivery service provided by a TDU) in the restructured market in Texas?
4. Are the standard electronic transaction (SET) protocols and testing procedures referenced in Section 4.3.1, Eligibility, sufficient to ensure accurate data transfer between competitive retailers and TDUs, or does there need to be an Electronic Trading Agreement to supplement those protocols? If so, what are the elements and provisions needed for that agreement?

In conjunction with their comments filed in this rulemaking, interested persons may append sworn affidavits in support of their positions. The commission will consider any comments and affidavits submitted in determining whether to receive further evidence at the public hearing held pursuant to the Administrative Procedure Act, Texas Government Code Annotated §2001.029.

Comments on the proposed new rule (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 28 days after publication. Reply comments may be submitted within 42 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 22187.

The commission staff will conduct a public hearing on this rulemaking pursuant to Texas Government Code §2001.029 on Friday, September 29, 2000, at 9:30 a.m. in the Commissioner's Hearing Room located on the seventh floor of William B. Travis Building, 1701 North Congress Avenue, Austin, Texas 78701.

This new rule is proposed under the Public Utility Regulatory Act, Texas Utilities Code Annotated §14.002 (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. The commission also proposes this rule pursuant to PURA §39.203, which grants the commission authority to establish reasonable and comparable terms and

conditions for open access on distribution facilities for all retail electric utilities offering customer choice, and comparable rates for open access for all retail electric utilities offering customer choice.

Cross Reference to Statutes: PURA §14.002 and §39.203.

§25.214. Terms and Conditions of Retail Delivery Service Provided by Investor Owned Transmission and Distribution Utilities.

- (a) **Purpose.** The purpose of this section is to implement Public Utility Regulatory Act (PURA) §39.203 as it relates to the establishment of non-discriminatory terms and conditions of retail delivery service, including delivery service to a retail customer at transmission voltage, provided by a transmission and distribution utility (TDU). A TDU shall provide retail delivery service in accordance with the terms and conditions set forth in this section to those retail customers participating in the pilot project pursuant to PURA §39.104 on and after June 1, 2001, and to all retail customers on and after January 1, 2002. By clearly stating these terms and conditions, this section seeks to facilitate competition in the sale of electricity to retail customers and to ensure reliability of the delivery systems, customer safeguards, and services.
- (b) **Application.** This section, which includes the pro-forma tariff set forth in subsection (d) of this section, governs the terms and conditions of retail delivery service by all transmission and distribution utilities in Texas.
- (c) **Tariff.** Each TDU in Texas shall file with the Public Utility Commission of Texas (commission) a tariff to govern its retail delivery service using the pro-forma tariff in subsection (d) of this section. TDUs may add to or modify only Chapters 2 and 6 of the tariff, reflecting individual utility characteristics and rates, in accordance with

commission rules and procedures to change a tariff. Chapters 1, 3, 4, and 5 of the pro-forma tariff shall be used exactly as written; these chapters can be changed only through the rulemaking process. If any provision in Chapter 2 or 6 conflicts with another provision of Chapters 1, 3-5, the provision found in Chapters 1, 3-5 shall apply, unless otherwise specified in Chapters 1, 3-5.

- (d) **Pro-forma Retail Delivery Tariff.** The commission adopts by reference the form "Tariff for Retail Delivery Service", revision date of July 20, 2000. This form is available in the commission's Central Records division and on the commission's website at www.puc.state.tx.us.

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 24th DAY OF JULY 2000 BY THE
PUBLIC UTILITY COMMISSION OF TEXAS
RHONDA G. DEMPSEY**