

PROJECT NO. 32104

RULEMAKING PROCEEDING	§	PUBLIC UTILITY COMMISSION
RELATING TO RETAIL ELECTRIC	§	
COMPETITION IN NORTHEAST	§	OF TEXAS
TEXAS	§	

**ORDER ADOPTING NEW §25.422
AS APPROVED AT THE AUGUST 23, 2006 OPEN MEETING**

The Public Utility Commission of Texas (commission) adopts new §25.422, relating to Transition to Competition for Certain Areas within the Southwest Power Pool, with changes to the proposed text as published in the May 12, 2006, issue of the *Texas Register* (31 TexReg 3835). The new section addresses the readiness of the Southwestern Electric Power Company service area in Texas (SWEPCO) and the Southwest Power Pool (SPP) portion of the AEP Texas North Company service area in Texas (Texas North-SPP) to offer retail competition. The new section also defines the process and the sequence of events for the introduction of retail competition in these areas of Texas. This rule is a competition rule subject to judicial review as specified in §39.001(e) of the Public Utility Regulatory Act, Texas Utilities Code Annotated (Vernon 1998, Supplement 2005) (PURA). Project No. 32104 is assigned to this proceeding.

Since Senate Bill 7 was passed in 1999, the commission has been working toward implementing the legislative policy in PURA §39.001 of establishing a competitive retail electric market that allows each retail customer to choose the customer's provider of electricity and that encourages full and fair competition among all providers of electricity. The commission, with the help of market participants and other interested persons, has successfully established a retail electric market in the portions of Texas covered by the Electric Reliability Council of Texas (ERCOT). In order to make the transition to retail competition in ERCOT in accordance with the statutory

timelines of PURA, the commission and the market participants engaged in various proceedings to restructure the existing electric utilities, develop protocols for the market, and expand the responsibilities of ERCOT as the independent organization for the ERCOT power region. These steps were completed before the commission opened a pilot project in ERCOT and determined that the market was ready for retail competition.

The legislature recognized that all areas of Texas might not be ready for competition at the same time. Accordingly, Senate Bill 7 added §39.103 to PURA, authorizing the commission to delay the initiation of retail customer choice in any power region if the commission determines that the power region is unable to offer fair competition and reliable service to all retail customer classes. The commission has previously used its authority under §39.103 to delay the start of retail competition in the service areas of Entergy Gulf States, Inc. (Entergy) and El Paso Electric Company (EPE). Additionally, customer choice in the SWEPCO and Texas North-SPP areas has been delayed by order of the commission in Docket No. 24869, Southwest Power Pool Market Readiness Implementation Docket, until January 1, 2007, at the earliest. One important aspect of this new section is a commission determination that the power region including SWEPCO and Texas North-SPP remains unable to offer fair competition and reliable service to all customer classes at this time; therefore retail customer choice must be further delayed until at least January 1, 2011. The new section establishes the steps that must occur before the area will be able to provide fair competition and reliable service to all customer classes and retail competition can commence.

The commission received comments on the proposed new rule from Southwestern Electric Power Company (SWEPCO) and Mutual Energy Swepco, LP dba Mutual Energy SPP (ME SPP) (collectively the AEP Companies); Constellation New Energy, Direct Energy, Strategic Energy, and Stream Gas & Electric, (collectively known as the Alliance for Retail Markets “ARM”); and the cities of Atlanta, Carthage, Center, Daingerfield, Gilmer, Gladewater, Hallsville, Henderson, Jefferson, Kilgore, Longview, Marshall, Mineola, Mt. Pleasant, Mt. Vernon, New London, Pittsburg, Texarkana, White Oak and Winsboro (collectively known as Cities Advocating Reasonable Deregulation “CARD”). The commission received letters from State Senator Kevin P. Eltife and State Representative Bryan Hughes. Reply comments were received from AEP Companies.

Subsection (c)

AEP Companies, Representative Hughes, and Senator Eltife agreed with the commission’s findings that the Southwest Power Pool (SPP) region will not be in a position to offer fair competition and reliable service to all retail customer classes before January 2011.

CARD commented that SWEPCO has the lowest electric rates for any investor-owned utility located outside of ERCOT, and that this is primarily due to the fact that over 90% of its native generation is lignite-fired. CARD noted that the SWEPCO service territory is unique, and that many of the cities who comprise CARD compete directly for new commercial enterprises or business expansion with cities located in the adjoining states of Louisiana, Arkansas, and Oklahoma. CARD commented that these states have electric rates very close to SWEPCO’s rates, and that none of the states have plans to enter into competition in the retail sale of

electricity. CARD commented that its member-cities are concerned that a move to retail competition at anytime in the next few years could cause electric rates to rise in Northeast Texas, which would make the area less attractive for economic development in comparison to the adjoining states.

ARM commented that PURA establishes clear policy regarding the development of retail electric competition, without creating distinctions for different areas of Texas. ARM commented that while Northeast Texas may have challenges being certified as a Qualifying Power Region under PURA §39.152, competition is still the best policy, and the commission should carefully consider this policy in connection with the proposed rule. ARM urged the commission to ensure that the new rule does not impose more severe standards than are required by PURA for the transition to competition; and asked the commission to frequently and continually test Northeast Texas to ensure that PURA's directives to establish retail competition are completed at the earliest possible time. Therefore, ARM requested that subsection (c) be removed. ARM commented that the subsection is unnecessary because the standards for transitioning to competition are outlined and detailed in PURA and the rest of the proposal for publication. ARM added that it was inappropriate for the commission to make a finding that the area will not be ready for competition without an evidentiary record.

AEP Companies disagreed with ARM's recommendation that subsection (c) be removed, and stated that subsection (c) does not provide standards for transition to competition in addition to or in substitution of those set forth in PURA and the remainder of the proposed rule. AEP Companies stated that based on the commission's experience implementing full customer choice

in ERCOT and its efforts to introduce retail competition in other regions, the AEP Companies believe it is reasonable to conclude that the area will not be able to offer fair competition and reliable service to all retail customer classes in Texas until January 1, 2011, at the earliest. AEP Companies stated that establishing a “no earlier than” date provides certainty to the AEP Companies’ customers and the local governments in this area, while continued operation of the pilot program during this transition period allows retail electric providers to operate in the region if they so choose.

Commission response

The commission agrees with Representative Hughes, Senator Eltife, and AEP Companies and declines to remove this subsection as requested by ARM. The commission’s experience in establishing retail competition in ERCOT and attempting to establish retail competition in areas outside ERCOT amply demonstrate that the service areas of SWEPCO and Texas North-SPP (collectively referred to as “the Northeast Texas area”) are not ready for retail competition at this time. Retail competition has been successful in ERCOT in large part due to the significant preparation by market participants and interested persons. Through these efforts, detailed market protocols were developed for operation of the ERCOT market, including protocols designed to ensure timely processing of customer information so that customers could switch to new providers and to ensure that electricity production and delivery and essential reliability-related services are accurately reported and settled. In effect, the protocols defined how important elements of the wholesale and retail markets would work and provided a great deal of certainty to companies that intended to invest in either the wholesale or retail markets. Additionally, before retail competition began in

ERCOT, the protocols were tested through a pilot program to try to correct any problems that might arise.

These necessary preparatory steps have not been taken in the Northeast Texas area. Unlike the Entergy and EPE areas, a regional transmission organization has been approved by the Federal Energy Regulatory Commission for the Northeast Texas area (*i.e.*, SPP), and SPP will be able to address *wholesale* competitive issues in the area. However, SPP is not operating balancing energy markets or markets for essential reliability-related services and, as noted above, SPP has not yet developed the systems to perform all of the necessary tasks related to *retail* competition that are required of an “independent organization” under PURA §39.151. The lack of these capabilities at this time clearly demonstrates that the Northeast Texas area is “unable to offer competition and reliable service to all retail customers.” Based upon its experience with Entergy and ERCOT, the commission recognizes that the development of protocols can take an extended period of time. Northeast Texas also represents a far smaller market than ERCOT, and it is not likely that the same level of participation by interested market participants in the development of protocols and testing them in a pilot project can be achieved. The development of such protocols is further complicated by the fact that SPP includes portions of eight states, rather than being limited to a single state jurisdiction like ERCOT, and SWEPCO operates in three states. Developing rules for operating a competitive retail market for a region that encompasses multiple states and a company that encompasses three states is certain to be time-consuming. The commission sees no need to conduct an

evidentiary hearing to determine these acknowledged deficiencies in the retail market in the Northeast Texas area.

The commission notes that the Northeast Texas area is similar to the Entergy and EPE areas in the lack of participation in the existing pilot program. In the SWEPCO area, no REPs have offered service during the four years that the pilot project has been open, and no customers have switched their service from the utility to REPs. The lack of participation in the pilot project is an important consideration for the commission in determining that the Northeast Texas area is not ready for the introduction of retail competition at this time.

The commission agrees with CARD that the current rates for electric service in the SWEPCO area are low. That fact may be a consideration in how the commission implements the various steps necessary to establish competition in the area. However, the fact that current rates of the bundled utilities are low does not necessarily indicate that the area is unable to offer fair competition and reliable service. The commission agrees with the legislative policy of PURA §39.001 that the public interest is served by letting the prices for electric service be determined by customer choice and the normal forces of competition. Until the area is able to offer fair competition and reliable service to all retail customer classes, however, the commission must delay competition in order to protect the public interest, consistent with PURA §39.001 and §39.103.

Subsection (e)

AEP Companies, Representative Hughes, and Senator Eltife supported the language in the proposed rule that full retail competition not be introduced in the Northeast Texas service areas before January 1, 2011. AEP Companies recognized that the affected areas of the SPP are not yet ready for retail customer choice. Representative Hughes noted that the specific proposed language would allow Northeast Texas citizens to benefit from low electric utility rates, reliable service, and robust economic development. Senator Eltife commented that Northeast Texas communities will benefit from the rule as published, which provides for certainty and stability in electric rates that help meet the challenges of growth and economic development.

Commission response

Consistent with parties' comments, the commission makes no changes to this subsection. As noted previously, based upon its experience with ERCOT and the fact that the SPP is a multi-state regional transmission organization, the commission believes that the January 1, 2011, date is a realistic estimate of the earliest the Northeast Texas area would be able to complete the preparation for retail competition.

Subsection (e)(3)(A)(iii)

CARD commented that during the second stage of activities during the transition to competition, the proposed rule requires SWEPCO to submit a transition to competition plan, which includes the establishment of a price to beat for eligible residential and commercial customers. CARD stated that the price to beat should be set so that it tracks actual fuel costs because given the more than 90% reliance on lignite-fired generation by SWEPCO it makes no sense to index the price

of such generation to NYMEX Henry Hub gas prices. CARD proposed that this language should be restated to say: “the establishment of a price to beat for eligible residential and commercial customers; *provided that the calculation of the price to beat may not utilize NYMEX Henry Hub natural gas prices or any other natural gas market or index.*”

AEP Companies replied that the commission should reject CARD’s recommendation because it is inconsistent with PURA §39.202 and P.U.C. SUBST. R. §25.41(f) and (g) which specifically address the use of natural gas and purchased power prices in the fuel factor component of an established price to beat. AEP Companies noted that the price to beat for all other utilities subject to retail competition in the state were established and have been adjusted based on a natural gas index, and that it would be inequitable for the commission to address competition in a manner differently in the Southwest Power Pool area than the ERCOT area where retail competition has commenced. AEP Companies added that there is no need to incorporate into the rule a requirement or restriction that can be addressed as part of the transition to competition plan that must be filed pursuant to subsection (e)(3)(A)(iii).

Commission response

The commission agrees with AEP Companies and declines to amend this subsection as requested by CARD. The determination of the appropriate price to beat for SWEPCO and Texas North-SPP can be made as part of the proceedings contemplated by the new section. In this rulemaking proceeding sufficient information has not been developed and sufficient notice to affected parties has not been provided to permit the commission to address substantive issues related to the setting of the price to beat.

Subsection (e)(3)(A)(viii)

AEP Companies requested the deletion of this subsection, which mandates the filing of “any necessary amendments to the previously filed price-to-beat rates” as part of a transition to competition plan. AEP Companies commented that the commission has not yet established price to beat rates for either of the AEP Companies’ eligible residential and commercial customers. AEP Companies stated that subsection (e)(3)(A)(iii), which requires the AEP Companies to present, in the transition to competition plan, information concerning the establishment of a price to beat for eligible residential and commercial customers, provides a more accurate obligation for the AEP Companies to meet as part of their transition to competition plans.

Commission response

The commission agrees that subsection (e)(3)(A)(iii) more accurately describes the obligation of the AEP Companies in this stage of the transition to competition. However, the commission finds that this language alone is not specific enough to ensure that the commission will receive the information needed to set price to beat rates as required by subsection (e)(3)(B)(v). Accordingly, the commission agrees to delete subsection (e)(3)(A)(viii), and adds clarifying language to subsection (e)(3)(A)(iii).

Subsection (f)

ARM recommended that the requirement that an Annual Report be submitted beginning on January 31, 2009, if full retail competition has not begun by that time, be amended to January 31, 2008. (The commission notes that ARM referred to the date proposed in an earlier draft of the

proposed section rather than “January 31, 2011” which was the date in the rule approved for publication.) AEP Companies responded that ARM’s recommendation was without justification. AEP Companies stated that the recommended date change would unreasonably truncate the time provided in the proposed rule for the companies to complete activities needed to achieve transition to competition. AEP Companies recommended that the commission reject this recommendation and keep the dates as they are in the proposed rule, without modification.

Commission response

The commission agrees with AEP Companies that changing the date would not provide reasonable time for the companies to complete the activities needed to achieve transition to competition, and therefore declines to amend this subsection.

General Comments

AEP Companies commented that they agreed with the general approach that the proposed rule takes towards reaching the introduction of retail customer choice in both SWEPCO’s and ME SPP’s respective areas.

AEP Companies commented that the rule applies to ME SPP’s service area which is solely within the SPP. The AEP Companies noted that AEP Texas North Company (TNC), SWEPCO and ME SPP jointly filed an application on May 1, 2006, which seeks, among other things, (a) to transfer the portion of TNC’s certificate of convenience and necessity which encompasses the area served by ME SPP to SWEPCO and extinguish TNC’s rights and obligations to serve customers within the affected area; and (b) to assign the rights and obligations to serve

customers within the affected area to SWEPCO and remove any such obligation from ME SPP. If the application is approved as requested, ME SPP's entire service area and customers would become part of SWEPCO's service area, and the obligations mandated upon both SWEPCO and ME SPP within the rule would be applicable solely to SWEPCO.

Commission response

The commission amends subsection (b) to clarify the applicability of the rule in the case of such transfer.

AEP Companies stated that they understood that the proposed rule is intended to comprehensively address the process towards the commencement of retail customer choice in the areas affected in the SPP, and therefore, the rule should replace the current obligations placed on the AEP Companies by the commission's order in Docket No. 24869 addressing the process of implementation of customer choice in the affected areas. AEP Companies urged the commission to express intent in the preamble that the rule supersedes these obligations set forth in the commission's order in Docket No. 24869, to provide needed clarification towards resolving any ambiguity concerning which provisions control the process of the implementation of customer choice in the affect areas.

Commission response

Because of the possible overlap of this rulemaking project and two other commission matters, Docket No. 24869, *Southwest Power Pool Market Readiness Implementation Docket*, and Project No. 27750, *Implementation of Market Readiness in the Southwest Power Pool*

***Market Area of Texas*, the commission mailed notice of this project to the parties in those proceedings. The commission intends that the new section will govern future steps in the implementation of retail competition in the Northeast Texas area and will therefore supersede applicable portions of the commission's order in Docket No. 24869. Implementation activities should continue to take place in Project No. 27750. The commission also revises the rule to clarify that the application of the PURA provisions and commission rules related to energy efficiency and renewable energy will become effective on January 1, 2007, to correspond to the annual reporting and compliance cycles for those subjects.**

All comments, including any not specifically referenced herein, were fully considered by the commission. In adopting this section, the commission makes other minor modifications for the purpose of clarifying its intent.

This section is adopted under the Public Utility Regulatory Act, Texas Utilities Code Annotated §14.002 (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, and specifically PURA §39.051, which requires an electric utility to separate its business functions prior to the introduction of retail competition; PURA §39.102, which requires the implementation of retail customer choice on and after January 1, 2002, and allows the affiliated retail electric provider to provide service until the customer chooses service from another provider; PURA §39.103, which grants the commission the authority to delay competition if a power region cannot offer fair competition and reliable service to all customer classes; PURA §39.104, which addresses the

retail competition pilot projects; PURA §39.151, which requires that a power region establish one or more independent organizations, and sets forth requirements for commission authority over an independent organization; PURA §39.152, which grants the commission authority to certify a power region; PURA §39.153 which sets forth requirements for capacity auctions; PURA §39.154, which grants the commission authority to evaluate market power; PURA §39.156, which requires the mitigation of market power due to ownership of capacity; PURA §39.201, which addresses unbundled cost-of-service rates; PURA §39.202, which establishes the price-to-beat obligation for affiliated retail electric providers; and PURA §39.904 and §39.905, which address the state goals for renewable energy development and energy efficiency.

Cross Reference to Statutes: Public Utility Regulatory Act §§14.002, 39.051, 39.102, 39.103, 39.104, 39.151, 39.152, 39.153, 39.154, 39.156, 39.201, 39.202, 39.904, and 39.905.

§25.422. Transition to Competition for Certain Areas within the Southwest Power Pool.

- (a) **Purpose.** The purpose of this section is to address the process and the sequence of events for the introduction of retail competition in the Southwestern Electric Power Company service area in Texas (SWEPCO) and in the Southwest Power Pool portion of the AEP Texas North Company service area in Texas (Texas North-SPP).
- (b) **Application.** This section shall apply to SWEPCO and Texas North-SPP (collectively referred to as “the utilities”). In the event that the customers, facilities, and the service area of Texas North-SPP are transferred to SWEPCO, the requirements of this section shall apply to the combined company.
- (c) **Readiness for retail competition.** The commission determines that the power region in which SWEPCO and Texas North-SPP are located will be unable to offer fair competition and reliable service to all retail customer classes in Texas until January 1, 2011, at the earliest. Therefore, pursuant to Public Utility Regulatory Act (PURA) §39.103, the introduction of full retail competition for these portions of the power region in Texas shall be further delayed until this region can offer fair competition and reliable service to all retail customer classes, subject to the terms and conditions established in this section.
- (d) **Cost-of-service regulation.** Until the date authorized by the commission for the implementation of full retail competition in SWEPCO and Texas North-SPP pursuant to

this section, the rates of the utilities are subject to regulation under PURA Chapter 36. Until full retail competition begins, the utilities shall file Annual Earnings Reports as required by §25.73 of this title (relating to Financial and Operations Reports) in lieu of the Annual Report required by PURA §39.257.

- (e) **Transition to competition.** Full retail competition shall not be introduced in the utilities' service areas before January 1, 2011. In addition, the introduction of retail competition in the utilities' service areas shall be conditioned on successful fulfillment of the sequence of events and activities set forth in paragraphs (1) through (5) of this subsection. All the listed items in each stage must be completed before the next stage is initiated. Unless stated otherwise in this section, each of the activities will be conducted by the commission in conjunction with SWEPCO and Texas North-SPP and other interested parties. Full retail competition will not begin in SWEPCO and Texas North-SPP until completion of the fourth stage.

- (1) **Completed Activities.** The stages outlined below assume that the following activities have been completed, by SWEPCO and Texas North-SPP:
- (A) The initiation of a pilot program, including the establishment of rates for the pilot program.
 - (B) The filing of a business separation plan and unbundled cost of service.
 - (C) The separation of competitive energy services.
 - (D) Approval by the Federal Energy Regulatory Commission (FERC) of a regional transmission organization for the power region containing the utilities' service areas and the commencement of independent operation of

the transmission network that ensures non-discriminatory access, by the approved regional transmission organization.

- (2) **Stage one.** The first stage consists of the following activities:
 - (A) The utilities will continue the operation of the pilot projects to a point that competitive retail electric providers are providing service to a reasonable number of customers for all major customer classes in the pilot program offered in the utilities' service areas;
 - (B) The utilities will file a plan for the development of retail market protocols to facilitate retail competition;
 - (C) The utilities will file a plan for the development of a balancing energy market, market for ancillary services, and market-based congestion management system for the wholesale market in the region in which the regional transmission organization operates; and
 - (D) A seams agreement will be implemented with adjacent power regions to reduce barriers to entry and facilitate competition.
- (3) **Stage two.** The second stage consists of the following activities:
 - (A) The utilities shall file a transition to competition plan identifying how they intend to achieve full customer choice, including:
 - (i) certification of a qualified power region under PURA §39.152;
 - (ii) auctioning rights to generating capacity;
 - (iii) the establishment of a price to beat for eligible residential and commercial customers, including all necessary information for the derivation of the price to beat;

- (iv) the retail market protocols that will be applicable in the utilities' service areas;
 - (v) a plan, developed with the regional transmission organization, the statewide registration agent, and market participants, for testing retail and wholesale systems, including those systems necessary for switching customers to the retail electric provider of their choice and for settlement of wholesale market transactions;
 - (vi) any necessary amendments to the previously filed business separation plan; and
 - (vii) an unbundled cost of service rate filing package.
- (B) The activities to be completed by the commission in the second stage are to:
- (i) Approve, modify, or reject the transition to competition plan within 180 days after the date of filing unless a hearing is requested. If a hearing is requested, the 180-day deadline shall be extended one day for each day of hearing;
 - (ii) Approve a business separation plan or amendments to the business separation plan;
 - (iii) Set unbundled transmission and distribution rates;
 - (iv) Certify a qualified power region for an area that includes the utilities, pursuant to PURA §39.152; and
 - (v) Set price-to-beat rates for the utilities' service areas.
- (4) **Stage three.** The third stage consists of the following activities:

- (A) The commission shall evaluate the results of the pilot projects pursuant to §25.431 of this title (relating to Retail Competition Pilot Projects), including whether the pilot project has progressed to a point that competitive retail electric providers are providing service to a reasonable number of customers for all major customer classes in the pilot programs offered in the utilities' service areas and whether the retail and wholesale systems have been tested and are performing adequately.
 - (B) The utilities shall initiate capacity auctions pursuant to PURA §39.153 and §25.381 of this title (relating to Capacity Auctions) at a time to be determined by the commission, and consistent with the transition to competition plan.
- (5) **Stage four.** The fourth stage consists of the following activities:
- (A) The utilities shall file a request for approval to commence competition, consistent with the procedures and standards developed in the previous stages. This filing should be made at least 180 days before the anticipated date of the commencement of competition.
 - (B) The commission shall evaluate whether the power region can offer fair competition and reliable service to all retail customer classes, and whether there are any outstanding items in the competition plan that must be completed prior to the commencement of full competition. If the commission concludes that the power region can offer fair competition and reliable service to all retail customer classes, it shall issue an order

initiating retail competition consistent with the approved transition to competition plan.

- (f) **Annual Report.** If full retail competition has not been implemented by January 1, 2011, the utilities shall file a report with the commission by January 31, 2011, identifying the items required by this section that have not yet been completed and an estimate of when completion of each item is anticipated. The utilities shall make a similar filing each year on January 31 until full retail competition in their service areas is authorized by the commission or the commission rules that no further reports are necessary.
- (g) **Pilot Project Continuation.** Notwithstanding the provisions of subsection (e) of this section, the pilot projects in the utilities' service areas shall continue. However, so long as the utilities can effectively administer customer registrations and convey information relating to a customer's choice of retail electric provider and meter information to persons who need such information, they may continue to perform these functions, subject to the codes of conduct.
- (h) **Protection of Contractual Rights.** The transition to competition plan in the utilities' service areas shall not adversely affect the rights or obligations of an electric cooperative under a wholesale generation or transmission agreement.
- (i) **Energy efficiency and renewable energy requirements.** Effective January 1, 2007, SWEPCO and Texas North-SPP shall:

- (1) Be subject to requirements of PURA §39.905 and §25.181 of this title (relating to Energy Efficiency Goal) and shall continue to participate in the required energy efficiency programs.
 - (2) Be subject to the requirements of PURA §39.904 and §25.173 of this title (relating to Goal for Renewable Energy) and shall continue to participate in the renewable energy credits program.
- (j) **Applicability of other sections.** This section governs the implementation of PURA Chapter 39 requirements as applied to SWEPCO and Texas North-SPP. If there is an inconsistency or conflict between this section and other sections in this Chapter (relating to Substantive Rules Applicable to Electric Service Providers), the provisions of this section shall control.
- (k) **Good cause.** Upon a finding of good cause, as determined by the commission, the sequence for retail competition set forth in subsection (e) of this section may be modified by commission order.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority. It is therefore ordered by the Public Utility Commission of Texas that §25.422, relating to Transition to Competition for Certain Areas Within the Southwest Power Pool, is hereby adopted with changes to the text as proposed.

ISSUED IN AUSTIN, TEXAS ON THE 28th DAY OF AUGUST 2006.

PUBLIC UTILITY COMMISSION OF TEXAS

PAUL HUDSON, CHAIRMAN

JULIE PARSLEY, COMMISSIONER

BARRY T. SMITHERMAN, COMMISSIONER