

PROJECT NO. 34706

**PUC RULEMAKING TO AMEND ERCOT § PUBLIC UTILITY COMMISSION
EMERGENCY INTERRUPTIBLE LOAD §
SERVICE § OF TEXAS**

**PROPOSAL FOR PUBLICATION OF AMENDMENT TO §25.507
AS APPROVED AT THE SEPTEMBER 13, 2007 OPEN MEETING**

The Public Utility Commission of Texas (commission) proposes an amendment to §25.507, relating to Electric Reliability Council of Texas (ERCOT) Emergency Interruptible Load Service (EILS). ERCOT has the discretion to instruct utilities to interrupt firm service to a limited number of customers, in order to prevent a broader service interruption. The emergency interruptible load service is intended to provide a means of reducing demand by interrupting service to customers who have offered to be interrupted, for a price, rather than interrupting service to customers who expect to have continuous, reliable service. The proposed amendment will make modifications to the service to allow ERCOT to maintain electric service for customers if an emergency arises in which electric generation resources are not adequate to supply customers' demand. This proposed rule is a competition rule subject to judicial review as specified in Public Utility Regulatory Act (PURA) §39.001(e). Project Number 34706 is assigned to this proceeding.

Shawnee Claiborn-Pinto, Sr. Retail Market Analyst, Electric Industry Oversight, 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. Claiborn-Pinto has 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 proposed section will be fewer involuntary interruptions of electric retail customers. 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 ERCOT's costs associated with procuring emergency interruptible load from customers who are willing to provide this service. However, it is believed that the benefits accruing from implementation of the proposed section will outweigh these costs. Customers will incur costs in participating in the program, but their participation will be voluntary, and it is expected that they will participate only if they expect to receive payments from ERCOT that will result in a net benefit to them.

Ms. Claiborn-Pinto has also 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 (APA), Texas Government Code §2001.022.

The commission staff will conduct a public hearing on this rulemaking, if requested pursuant to the Administrative Procedure Act, Texas Government Code §2001.029, at the commission's offices located in the William B. Travis Building, 1701 North Congress Avenue, Austin, Texas 78701 on Monday, October 15, 2007, at 9:30 a.m. The request for a public hearing must be received within 10 days after publication of the proposed section.

Comments on the proposal may be submitted to the Filing Clerk, Public Utility Commission of Texas, 1701 North Congress Avenue, P.O. Box 13326, Austin, Texas 78711-3326, within 14 days after publication. Reply comments may be submitted within 18 days after publication. Sixteen copies of comments on the proposed section are required to be filed pursuant to §22.71(c) of this title. Comments should be organized in a manner consistent with the organization of the proposed rule. 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 34706.

The commission will also take comments on the following question:

Giving ERCOT some flexibility in setting the duration of the contract periods or in seeking resources in addition to the resources acquired for the periods established in the rule might help ERCOT deal with unexpected events, such as an extended outage of a large generating unit. Should the rule give ERCOT this flexibility?

This amendment is proposed under the Public Utility Regulatory Act, Texas Utilities Code Annotated §11.002 (Vernon 2007) (PURA), which states that it is the purpose of this title to grant to the Public Utility Commission of Texas authority to make and enforce rules necessary to protect customers of electric services consistent with the public interest; Section 14.002 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, Section 39.151 which

provides that the commission shall adopt and enforce rules relating to the reliability of the regional electrical network and accounting for the production and delivery of electricity among generators and all other market participants. This amendment also gives the commission complete authority to oversee an independent organization's (such as ERCOT) budget and operations to ensure that it adequately performs its functions.

Cross Reference to Statutes: Public Utility Regulatory Act §§11.002, 14.002 and 39.151.

§25.507. Electric Reliability Council of Texas (ERCOT) Emergency Interruptible Load Service (EILS).

(a) **EILS procurement.** ERCOT shall procure EILS, a special emergency service that is intended to be deployed by ERCOT in an Emergency Electric Curtailment Plan (EECP) event prior to or in conjunction with ERCOT instructing transmission and distribution service providers to interrupt firm load.

(1) (No change.)

~~(2) Notwithstanding the foregoing, the first EILS contract period shall be from the effective date of this section through May of 2007.~~

~~(2)(3)~~ ERCOT may determine cost limits for each EILS contract period in order to ensure that the EILS cost cap is not exceeded. In order to minimize the cost of EILS, ERCOT may reject any bid that ERCOT determines to be unreasonable or outside of the parameters of an acceptable bid.

~~(4) The maximum amount of EILS for which ERCOT may contract in an EILS contract period is 1,000 megawatts (MW).~~

~~(3)(5) The minimum amount of EILS for which ERCOT may contract for any number of MW in an EILS contract period not to exceed 1,000 MW is 500 MW. If ERCOT does not receive enough offers to meet the required minimum amount for a period in which it seeks to procure EILS or cannot procure at least 500 MW for a period in which it seeks to procure EILS due to the EILS cap, ERCOT shall not contract for EILS.~~

~~(6) This section will no longer be effective provided the following conditions are met:~~

~~(A) — An alternative long term solution is approved in the form of a Protocol Revision that meets the requirements of subsection (h) of this section and ERCOT.~~

~~(B) — The Protocol Revision is implemented so that ERCOT has a solution continuously in place with no interruption of the protection offered by EILS.~~

~~(C) — If an alternative long term solution is developed, but cannot be implemented 30 days prior to the beginning of the next contract period EILS will be extended for an additional contract period.~~

(b) **Definitions.**

(1) – (2) (No change.)

(3) EILS cost cap -- The maximum amount ERCOT may spend on the EILS program in a year, February-January. The cost cap is set at ~~\$50~~\$17 Million ~~for 2007 (April 2007 – January 2008) and \$20 Million for 2008 (February 2008 – January 2009).~~

~~(4) — EILS non prime hours — Any hours not defined as EILS prime hours.~~

~~(5) — EILS prime hours — Hours occurring on a business day (as defined by ERCOT Protocols) during the time frame of hour ending 0900 through hour ending 2000.~~

~~(4)~~(6) EILS resource – Load that is contracted to provide EILS.

~~(5)~~(7) EILS time period -- Sets of hours designated by ERCOT within an EILS contract period~~EILS prime hours or EILS non prime hours.~~

~~(6)~~(8) ERCOT – The professional staff of the Electric Reliability Council of Texas, Inc.

(c) **Participation in EILS.** In addition to requirements established by ERCOT, the following requirements shall apply for the provision of EILS:

(1) EILS bids may be submitted to ERCOT by a qualified scheduling entity (QSE) on behalf of an EILS resource.

(A) Bids may be submitted for one or more time periods within a contract period~~EILS prime hours or EILS non prime hours.~~

(B) The minimum amount of EILS that may be offered in a bid to ERCOT is one MW. QSEs representing EILS resources may aggregate multiple resources to reach the one MW bid requirement,~~provided that each Electric Service Identifier (ESI ID) in an EILS Resource aggregation has a peak demand of 500 kilowatts (kW) or greater.~~ Such aggregated bids will be considered a single EILS resource.

(2) To qualify to participate in the EILS program, an EILS resource shall meet the technical requirements set out in this paragraph.

(A) Each EILS resource, including each EILS resource participating in an aggregated bid, shall have an ESI ID or unique service identifier, as defined by ERCOT.

(B) Each EILS resource shall have a dedicated installed Interval Data Recorder (IDR) meter or equivalent. If the IDR meter is not used for settlement with ERCOT, then the IDR meter and the method and format used to collect and transfer the meter data are subject to ERCOT approval. This subsection also applies to meters behind a Non-Opt-In Entity (NOIE) meter point ~~to meters~~ and behind a private network's settlement meter

point and to separately metered loads behind a single ESI ID. This requirement shall not apply to customers participating in aggregations of EILS resources if a statistically valid alternative to universal IDR metering for measurement and verification consistent with industry best practices can be developed and approved by ERCOT.

(C) - (I) (No change.)

(3) (No change.)

(4) EILS shall be deployed by ERCOT by VDIs in a single phone call to all QSEs providing EILS.

(A) - (B) (No change.)

(C) An EILS resource shall be subject to a maximum of two deployments per EILS contract period, lasting no more than eight hours total, unless an EILS deployment is still in effect when the eighth hour lapses, in which case EILS deployment shall continue until ERCOT releases the EILS resource. EILS resources may return to service only after being released by ERCOT.

(D) (No change.)

(d) - (e) (No change.)

(f) **Reporting.** Within 10 days of the EILS awards for a contract period, ERCOT shall report publicly the number of MW procured per time period, the number of resources providing the service, and the projected total cost of the service for that contract period.

At the completion of each contract period, ERCOT shall review the effectiveness and benefits of the EILS and report its findings to the commission within 70 days of the completion of the contract period. The report shall contain, at a minimum, the number of MW procured in each period, the total dollar amount spent, the number and level of EECF events, and the number and duration of deployments.

(g) (No change.)

~~(h) — **Long-term solution.** Any long-term solution must offer ERCOT the ability to avoid shedding firm load by bringing more resources online or curtailing load voluntarily. In this context the commission is interested in:~~

~~(1) — Better price signals leading up to an EECF event;~~

~~(2) — Bringing more resources (both interruptible load and generation) online through existing ancillary services; and~~

~~(3) — Examining the priorities set by TDSPs when shedding firm load.~~

~~(h) (i) **Non-Opt In Entity (NOIE) Self Provision.** ERCOT shall maintain~~develop~~ procedures for ~~NOIE~~ self provision of EILS by any QSE as soon as possible. ~~If no procedures for NOIE self provision are developed by the effective date of this rule, ERCOT shall implement procedures no later than the beginning of the following contract period.~~~~

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 14th DAY OF SEPTEMBER 2007 BY THE
PUBLIC UTILITY COMMISSION OF TEXAS
ADRIANA A. GONZALES**

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