

PROJECT NO. 39948

| | | |
|--------------------------------------|----------|----------------------------------|
| RULEMAKING TO AMEND SUBST. R. | § | PUBLIC UTILITY COMMISSION |
| 25.507, RELATING TO ELECTRIC | § | |
| RELIABILITY COUNCIL OF TEXAS | § | OF TEXAS |
| (ERCOT) EMERGENCY | § | |
| INTERRUPTIBLE LOAD SERVICE | § | |
| (EILS) | § | |

**PROPOSAL FOR PUBLICATION OF REPEAL OF §25.507 AND NEW §25.507
AS APPROVED AT THE DECEMBER 15, 2011 OPEN MEETING**

The Public Utility Commission of Texas (commission) proposes the repeal of §25.507, relating to Electric Reliability Council of Texas (ERCOT) Emergency Interruptible Load Service (EILS), and new §25.507, relating to Emergency Response Service (ERS). The proposed new rule would expand the repealed rule to include dispatchable distributed generation that is not registered with ERCOT as a generation resource and consequently change the name of the service to ERS. In addition, the rule would promote reliability during energy emergencies through provisions that provide ERCOT flexibility in the implementation and administration of ERS. This rule is a competition rule subject to judicial review as specified in Public Utility Regulatory Act (PURA) §39.001(e). Project Number 39948 is assigned to this proceeding.

Mark Bryant, Senior Market Analyst, Competitive Markets Division, has determined that for each year of the first five-year period the proposed rule is in effect, there will be no fiscal implications for state or local government as a result of enforcing or administering the rule.

Dr. Bryant has determined that for each year of the first five years the proposed rule is in effect, the public benefit anticipated as a result of enforcing the rule will be increased participation in and more efficient use of ERS (formerly known as EILS), resulting in improved reliability of

electric service in the ERCOT region. There will be no adverse economic effect on small businesses or micro-businesses as a result of enforcing the rule. Therefore, no regulatory flexibility analysis is required. There is no anticipated economic cost to persons who are required to comply with the rule.

Dr. Bryant has also determined that for each year of the first five years the proposed rule 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 APA, 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 January 31, 2012. The request for a public hearing must be received within 30 days after publication.

Comments on the proposed rule 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 30 days after publication. Sixteen copies of comments on the proposed rule 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 rule. The commission will consider the costs and benefits in deciding whether to adopt the rule. All comments should refer to Project Number 39948.

The commission also requests comments on the following questions:

1. The current EILS rule provides for “pay as bid” settlement, which is different from other ERCOT services that typically use a market clearing price mechanism. Should the rule require ERCOT to use a particular mechanism, or should the rule leave this to ERCOT’s discretion?
2. What impact, if any, does the deployment or procurement of the proposed Emergency Response Service have on scarcity pricing?

The repeal and new section are proposed under PURA, Texas Utilities Code Annotated §14.002 (West 2007 and Supp. 2011), which provides the commission with the authority to make and enforce rules reasonably required in the exercise of its powers and jurisdiction; and specifically, §39.151, which provides the commission with the authority to oversee ERCOT.

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

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

NEW §25.507. Electric Reliability Council of Texas (ERCOT) Emergency Response Service (ERS).

- (a) **Purpose.** The purpose of this section is to promote reliability during energy emergencies through provisions that provide ERCOT flexibility in the implementation and administration of ERS.
- (b) **ERS procurement.** ERCOT shall procure ERS, a special emergency response service that is intended to be deployed by ERCOT in an Energy Emergency Alert (EEA) event.
- (1) ERCOT shall determine the ERS contract periods during which ERS resources shall be obligated to provide ERS, including any additional ERS contract periods ERCOT deems necessary due to the depletion of available ERS.
- (2) ERCOT may spend a maximum of \$50 million per calendar year on ERS. ERCOT may determine cost limits for each ERS contract period in order to ensure that the ERS cost cap is not exceeded. To minimize the cost of ERS, ERCOT may reject any offer that ERCOT determines to be unreasonable or outside of the parameters of an acceptable offer. ERCOT may also reject any offer placed on behalf of any ERS resource if ERCOT determines that it lacks a sufficient basis to verify whether the ERS resource complied with ERCOT-established performance standards in an EEA during the preceding ERS contract period.

(c) **Definitions.**

- (1) ERS contract period -- A period defined by ERCOT for which an ERS resource is obligated to provide ERS.
- (2) ERS resource -- Either dispatchable generation that is not registered with ERCOT as a generation resource, or a load or aggregation of loads contracted to provide ERS.
- (3) ERS time period -- Sets of hours designated by ERCOT within an ERS contract period.
- (4) ERCOT -- The staff of the Electric Reliability Council of Texas, Inc.

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

- (1) An ERS resource must be represented by a qualified scheduling entity (QSE).
- (2) QSEs shall submit offers to ERCOT on behalf of their ERS resources.
 - (A) Offers may be submitted for one or more ERS time periods within an ERS contract period.
 - (B) QSEs representing ERS resources may aggregate multiple loads to reach the minimum capacity offer requirement established by ERCOT. Such aggregations shall be considered a single ERS resource for purposes of submitting offers.
- (3) ERCOT shall establish qualifications for QSEs and ERS resources to participate in ERS.

- (4) A resource shall not commit to provide ERS if it is separately obligated to provide response with the same capacity during any of the same hours.
 - (5) ERCOT shall establish performance criteria for QSEs and ERS resources.
 - (6) When dispatched by ERCOT, ERS resources shall deploy consistent with their obligations and shall remain deployed until recalled by ERCOT.
 - (7) ERCOT may deploy ERS resources as often and for any duration ERCOT deems necessary, subject to the annual expenditure cap. Except as provided in paragraph (8), below, ERS deployment shall be limited to a maximum of eight cumulative hours in an ERS contract period. However, if an instruction issued prior to reaching the eight-hour limit would cause the cumulative total ERS deployment period to exceed eight hours, each ERS resource must continue providing ERS consistent with its obligations in each ERS time period until the expiration of the instruction or until released by ERCOT, whichever comes first.
 - (8) Upon reaching the eight-hour deployment limit, ERCOT shall have the option to renew an ERS resource's obligation according to the same contract terms, subject to the consent of the ERS resource and its QSE. ERCOT may renew the obligation on each occasion that ERCOT reaches the eight-hour limit.
 - (9) ERCOT shall establish procedures for testing of ERS resources.
- (e) **ERS Payment and Charges.**
- (1) ERCOT shall make a payment to each QSE representing an ERS resource subject to modifications determined by ERCOT based on the ERS resource's availability

during an ERS contract period and the ERS resource's performance in any deployment event.

- (2) ERCOT shall charge each QSE a charge for ERS based upon its load ratio share during the relevant ERS time period and ERS contract period.
- (3) ERCOT shall settle an ERS contract period within 80 days following the completion of the ERS contract period.

(f) **Compliance.** A QSE representing ERS resources is subject to administrative penalties for non-compliance, by the QSE or the ERS resources it represents, with this rule or any related ERCOT Protocols, Operating Guides, or other ERCOT standards. ERCOT shall establish criteria for reducing a QSE's payment and/or suspending a QSE from participation in ERS for failure to meet its ERS obligations, and shall also establish criteria for subsequent reinstatement. In addition, ERCOT shall establish criteria under which an ERS resource shall be suspended for non-compliance, and shall also establish criteria for subsequent reinstatement. ERCOT shall notify the commission of all instances of non-compliance with this rule or any related ERCOT Protocols, Operating Guides, or other ERCOT standards. ERCOT shall maintain records relating to the alleged non-compliance.

(g) **Reporting.** Prior to the start of an ERS contract period, ERCOT shall report publicly the number of megawatts (MW) procured per ERS time period, the number and type of ERS resources providing the service, and the projected total cost of the service for that ERS contract period. ERCOT shall review the effectiveness and benefits of ERS and report its

findings to the commission annually by April 15 of each calendar year. 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 EEA events, and the number and duration of deployments.

- (h) **Implementation.** ERCOT shall develop additional procedures, guides, technical requirements, protocols, and/or other standards that are consistent with this section and that ERCOT finds necessary to implement ERS, including but not limited to developing a standard form ERS Agreement and specific performance guidelines and grace periods for ERS resources.

- (i) **Self Provision.** ERCOT shall establish procedures for self-provision of ERS by any QSE.

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 16TH DAY OF DECEMBER 2011 BY THE
PUBLIC UTILITY COMMISSION OF TEXAS
ADRIANA A. GONZALES**

Q:\CADM\TXR-Rules Management\Rules\Rulemaking Projects\Electric\39xxx\39948\39948pub.docx