

PROJECT NO. 34202

RULEMAKING TO REPEAL P.U.C.	§	PUBLIC UTILITY COMMISSION
SUBSTANTIVE RULE 25.53 AND	§	
PROPOSE NEW 25.53 RELATING TO	§	OF TEXAS
ELECTRIC SERVICE EMERGENCY	§	
OPERATIONS PLANS	§	

**PROPOSAL FOR PUBLICATION OF REPEAL OF §25.53 AND NEW §25.53
AS APPROVED AT THE SEPTEMBER 13, 2007, OPEN MEETING**

The Public Utility Commission of Texas (commission) proposes the repeal of §25.53 relating to Emergency Operations Plan and proposes new §25.53 relating to Electric Service Emergency Operations Plans. The commission also proposes to amend Chapter 25, Subchapter C, Quality of Service, by changing the title to Infrastructure and Reliability. New §25.53 will establish the minimum requirements for emergency operations plans maintained by market entities. Project Number 34202 is assigned to this proceeding.

The proposed repeal of §25.53 is needed to accommodate the significant changes in the electric market since the rule was originally adopted in 1999. The deregulation of the electric market has increased the number of market entities serving unique business functions. As a result, this fundamental change in the market structure has created a need for enhanced coordination during emergency events.

New §25.53 recognizes the changes in the electric market and has developed a tiered approach for emergency operations procedures by establishing separate requirements for transmission and distribution utilities (TDUs), power generation companies (PGCs), and retail electric providers (REPs). Further, new §25.53 proposes to include market entities that were previously excluded

from the requirements set forth in the current rule such as electric cooperatives (“cooperatives”) and the Electric Reliability Council of Texas (ERCOT).

Municipally owned utilities have historically provided information regarding emergency operations to the commission on a voluntary basis, and they are encouraged to continue this practice. Such information may include emergency contacts, status reports during emergency events (either directly or through local emergency operations centers), and summaries or copies of emergency operations plans. A complete copy of the emergency operations plan shall be made available at the main office of each municipally owned utility for inspection by the commission or commission staff upon request.

Ms. Katie Rich, Infrastructure Policy Analyst and Homeland Security Assistant, has determined that for each year of the first five-year period the proposals are in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the proposals. It has been determined that there will be no adverse economic effect on small businesses or micro-businesses as a result of enforcing the proposals. It has also been determined that there may be economic costs to businesses that are required to comply with the proposals. These costs are likely to vary from business to business, and are difficult to ascertain. However, it is believed that the benefits of implementing the proposals will outweigh these costs.

Ms. Rich has determined that for each year of the first five years the proposals are in effect the public benefit anticipated as a result of enforcing the proposals will be the assurance that each utility maintains and exercises an emergency operations plan.

Ms. Rich has also determined that for each year of the first five years the proposals are 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 by a party or if deemed necessary by staff, pursuant to the Administrative Procedures Act, Texas Government Code §2001.029, at the commission's offices located in the William B. Travis Building, 1701 North Congress Avenue, Austin, Texas 78711 on Monday, November 5, 2007, at 10:00 a.m. The request for a public hearing must be received within 30 days after publication.

Comments on the proposed repeal and new section 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 and reply comments may be submitted within 45 days after publication. Sixteen copies of comments to the proposals are required to be filed pursuant to §22.71(c) of this title. Parties are also requested to e-mail an electronic copy of comments to katie.rich@puc.state.tx.us. Comments should be organized in a manner consistent with the organization of the proposed rule(s). All comments should refer to Project Number 34202. In addition to the proposed language, the commission requests that parties submit comments on the following questions:

Question 1: To what extent are the minimum requirements for emergency operations plans described in proposed §25.53(c) duplicative of ERCOT's filing requirements for market participants?

Question 2: Should electric utilities and REPs develop policies for disaster aid offerings for customers displaced by catastrophic events such as hurricanes and flooding (i.e., waiver of transfer fees and/or deposits)? If so, to what extent should those policies and offerings be memorialized in an electric utility's tariff or a REP's terms of service?

This repeal and new section are proposed under the Public Utility Regulatory Act, Texas Utilities Code Annotated §14.002 (Vernon 2007) (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. Specifically, PURA §38.005 requires the commission to implement service quality and reliability standards relating to the delivery of electricity and to retail customers.

Cross Reference to Statutes: Public Utility Regulatory Act, §§11.003, 14.001, 14.002, 14.003, 14.151, 14.153, 31.001, 31.002, 32.001, 37.001, 37.151, 38.001, 38.002, 38.005, 38.021, 38.022, 38.071, 39.101, 39.151, 41.001, and 41.004.

§25.53. Electric Service Emergency Operations Plans.

- (a) **Application.** Unless the context clearly indicates otherwise, this section is applicable to electric utilities, transmission and distribution utilities (TDUs), power generation companies (PGCs), retail electric providers (REPs), and the Electric Reliability Council of Texas (ERCOT), collectively referred to as “market entities,” and electric cooperatives (“cooperatives”) and shall refer to the definitions provided in the Public Utility Regulatory Act §11.003 and §31.002. For the purposes of this section, market entities and cooperatives are those operating within the State of Texas.
- (b) **Filing requirements.** Each market entity shall file with the commission a comprehensive summary of its emergency operations plan, as described in subsection (c)(1) and (2) of this section, or an affidavit affirming the contents of its emergency operations plan, as described in subsection (c)(3) and (4) of this section, by May 1, 2008. The comprehensive summary shall also include an affidavit from the market entity’s senior operations officer indicating that all relevant operating personnel within the market entity are familiar with the contents of the emergency operations plan and are committed to following the plans and the provisions contained therein in the event of a system-wide or local emergency that arises from natural or manmade disasters. To the extent significant changes are made to an emergency operations plan, and the comprehensive summary of the affected portion of the plan is no longer adequately addressed under the current comprehensive summary, a revision to the comprehensive summary shall be filed no later than 30 days after such changes take effect.

(c) **Information to be included in the emergency operations plan.**

- (1) TDUs and electric utilities shall include in their emergency operations plans, but are not limited to, the following:
- (A) A registry of critical load customers, as defined in §25.497(a) of this title (relating to Critical Care Customers), directly served. This registry shall be updated as necessary but, at a minimum, annually. The description filed with the commission shall include the location of the registry, the process for maintaining an accurate registry, the process for providing assistance to critical load customers in the event of an unplanned outage, the process for communicating with the critical load customers, and a process for training staff with respect to serving critical load customers;
 - (B) A communications plan that describes the procedures for contacting the media, customers, and critical load customers directly served as soon as reasonably possible either before or at the onset of an emergency affecting electric service. The communications plan should also address its telephone system and complaint-handling procedures during an emergency;
 - (C) Curtailment priorities, procedures for shedding load, rotating black-outs, and planned interruptions;
 - (D) Priorities for restoration of service;
 - (E) A plan to ensure continuous and adequate service during a pandemic; and
 - (F) A hurricane plan, including evacuation and re-entry procedures (if facilities are located within a hurricane evacuation zone).

- (2) Electric utilities that own or operate electric generation facilities and PGCs shall include in their emergency operations plans, but are not limited to, the following:
 - (A) A summary of power plant weatherization plans and procedures;
 - (B) A summary of alternative fuel and storage capacity;
 - (C) Priorities for recovery of generation capacity;
 - (D) A pandemic preparedness plan; and
 - (E) A hurricane plan, including evacuation and re-entry procedures (if facilities are located within a hurricane evacuation zone).
- (3) REPs shall include in their filing with the commission, but are not limited to, an affidavit from an officer of the REP affirming the following:
 - (A) The REP has a plan that addresses business continuity should its normal operations be disrupted by a natural or manmade disaster, a pandemic, or a State Operations Center (SOC) declared event; and
 - (B) The REP commits to the obligations outlined in §25.485 of this title (relating to Customer Access and Complaint Handling) and §25.497 of this title and to carry out the functions set forth in those sections during the course of a natural or manmade disaster.
- (4) ERCOT shall include in its filing with the commission, but is not limited to, an affidavit from a senior operations officer affirming the following:
 - (A) ERCOT maintains Crisis Communications Procedures that address procedures for contacting media, governmental entities, and market participants during events that affect the bulk electric

system and normal market operations and include procedures for recovery of normal grid operations;

- (B) ERCOT maintains a business continuity plan that addresses returning to normal operations after disruptions caused by a natural or manmade disaster, or a SOC declared event; and
 - (C) ERCOT maintains a pandemic preparedness plan.
- (d) **Exercises.** Each market entity shall conduct an annual drill to test its emergency procedures if its emergency procedures have not been implemented in response to an actual event within the last 12 months. If a market entity is in a hurricane evacuation zone, this drill shall also test its hurricane plan/storm recovery plan. The commission should be notified 30 days prior to the date of the drill.
- (e) **Emergency contact information.** Each market entity shall submit emergency contact information in a form prescribed by commission staff by May 1 of each year. Notification to commission staff regarding changes to its emergency contact information shall be made within 30 days. This information will be used to contact market entities prior to and during an emergency event.
- (f) **Reporting requirements.** Upon request by the commission or commission staff during a SOC declared emergency event, affected market entities shall use their best efforts to

provide outage and restoration information to the commission staff pursuant to a schedule provided by staff.

- (g) **Copy available for inspection.** A complete copy of the emergency operations plan shall be made available at the main office of each market entity for inspection by the commission or commission staff upon request.

- (h) **Procedures for filing comprehensive summaries.** Each electric utility, TDU, and PGC may file its comprehensive summary confidentially, pursuant to §22.71(d) of this title (relating to Filing of Pleadings, Documents and Other Materials) and is provided enhanced protection under Texas Government Code Chapter 421 (relating to Homeland Security). Access to the filings will be limited to the commission and commission staff.

- (i) **Review of filed comprehensive summaries.** Each market entity shall comply with the filing requirements set forth in subsection (b) of this section. Each comprehensive summary will be reviewed to ensure that it addresses, at a summary level, the minimum requirements, as described in subsection (c) of this section.

- (j) **Electric cooperatives.**
 - (1) **Application.** This subsection is applicable to electric cooperatives, as defined in the Public Utility Regulatory Act §11.003, that operates, maintains or controls in this state a facility to provide retail electric utility service or transmission service.

- (2) **Reporting Requirements.** Each electric cooperative shall file with the commission a comprehensive summary of its emergency operations plan by May 1, 2008. The comprehensive summary shall also include an affidavit from the electric cooperative's senior operations officer indicating that all relevant operating personnel within the electric cooperative are familiar with the contents of the emergency operations plan and are committed to following the plans and the provisions contained therein in the event of a system-wide or local emergency that arises from natural or manmade disasters. To the extent significant changes are made to an emergency operations plan, and the comprehensive summary of the affected portion of the plan is no longer adequately addressed under the current comprehensive summary, a revision to the comprehensive summary shall be filed no later than 30 days after such changes take effect.
- (3) **Information to be included in the emergency operations plan.** Each electric cooperative's emergency operations plan shall include, but is not limited to, the following:
- (A) A registry of critical load customers, as defined in §25.497(a) of this title, directly served. This registry shall be updated as necessary but, at a minimum, annually. The description filed with the commission shall include the location of the registry, the process for maintaining an accurate registry, the process for providing assistance to critical load customers in the event of an unplanned outage, the process for communicating with the critical load customers, and a process for training staff with respect to serving critical load customers;

- (B) A communications plan that describes the procedures for contacting the media, customers, and critical load customers directly served as soon as reasonably possible either before or at the onset of an emergency affecting electric service. The communications plan should also address its telephone system and complaint-handling procedures during an emergency;
 - (C) Curtailment priorities, procedures for shedding load, rotating black-outs, and planned interruptions;
 - (D) Priorities for restoration of service;
 - (E) A plan to ensure continuous and adequate service during a pandemic;
 - (F) A hurricane plan, including evacuation and re-entry procedures (if facilities are located within a hurricane evacuation zone);
 - (G) A summary of power plant weatherization plans and procedures;
 - (H) A summary of alternative fuel and storage capacity; and
 - (I) Priorities for recovery of generation capacity.
- (4) **Preparedness Review.** Each electric cooperative shall conduct an annual review of its emergency procedures with key emergency operations personnel if its emergency procedures have not been implemented in response to an actual event within the last 12 months. If the electric cooperative is in a hurricane evacuation zone, this review shall also address its hurricane plan/storm recovery plan. The commission shall be notified 30 days prior to the date of the review.
- (5) **Emergency contact information.** Each electric cooperative shall submit emergency contact information to the commission by May 1 of each year.

- (6) **Reporting requirements.** Upon request by the commission or commission staff during a SOC declared emergency event, electric cooperatives shall use their best efforts to provide outage and restoration information to the commission staff pursuant to a schedule provided by staff.
- (7) **Copy available for inspection.** A complete copy of the emergency operations plan shall be made available at the main office of each electric cooperative for inspection by the commission or commission staff upon request.
- (8) **Procedures for filing comprehensive summaries.** Each electric cooperative may designate all or portions of its comprehensive summary “Confidential,” pursuant to §22.71(d) of this title, and the confidentiality of such information shall be maintained, as set forth in §22.71(d) of this title.
- (9) **Review of filed comprehensive summaries.** Each electric cooperative shall comply with the filing requirements set forth in paragraph (2) of this subsection. Each comprehensive summary will be reviewed to ensure that it addresses, at a summary level, the minimum requirements, as described in paragraph (3) of this subsection.

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 13th DAY OF SEPTEMBER 2007 BY THE
PUBLIC UTILITY COMMISSION OF TEXAS
ADRIANA A. GONZALES**

Q:\CADM\TXR-Rules Management\Rules\Rulemaking Projects\Electric\34202\34202pub.doc