

PROJECT NO. 39160

RULEMAKING PROCEEDING § PUBLIC UTILITY COMMISSION
RELATING TO ELECTRIC SERVICE §
EMERGENCY OPERATIONS § OF TEXAS

**PROPOSAL FOR PUBLICATION OF AMENDMENTS TO §25.53 AND §25.362
AS APPROVED AT THE JANUARY 23, 2014 OPEN MEETING**

The Public Utility Commission of Texas (commission) proposes amendments to §25.53, relating to Electric Service Emergency Operations Plans, and §25.362, relating to Electric Reliability Council of Texas (ERCOT) Governance. The proposed amendments will address developments and experience since §25.53 was amended in 2007, including drought issues and the Report on Extreme Weather Preparedness Best Practices prepared by Quanta Technologies, LLC for the commission pursuant to Texas Utilities Code §186.007. Project Number 39160 is assigned to this proceeding.

Regina Erales, Reliability and Emergency Management Coordinator, Infrastructure and Reliability Division, has determined that for each year of the first five-year period the proposed amendments are in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the amendments.

Ms. Erales has determined that for each year of the first five years the proposed amendments are in effect the public benefit anticipated as a result of enforcing the amendments will be an increased level of preparedness on the part of electric utilities, power generation companies (PGCs), and electric cooperatives to address issues resulting from emergency situations; and

authorizing ERCOT to conduct generator site visits to review compliance with weatherization plans and to obtain from generators information concerning water supplies in order to assess drought impacts. There will be no adverse economic effect on small businesses or micro-businesses as a result of enforcing the amendments. Therefore, no regulatory flexibility analysis is required. There will be limited economic costs to persons who are required to comply with the amendments as proposed. The amendments will require electric utilities, PGCs, and electric cooperatives to address additional issues in their emergency operations plans and prepare after action or lessons learned reports in some cases; require certain electric utility personnel to receive certain emergency management training; and require generators to participate in ERCOT-conducted site visits to review compliance with weatherization plans and to provide information to ERCOT concerning water supplies for generation purposes, including contracts, water rights, and other information. The economic compliance costs will consist of the time needed to comply with the amendments and will vary largely based on the extent to which an affected person has already addressed the requirements contained in the amendments as part of its self-initiated emergency preparedness activities. The public benefit anticipated as a result of enforcing the amendments is expected to substantially outweigh the economic compliance costs.

Ms. Erales has also determined that for each year of the first five years the proposed amendments will be 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.

Initial comments on the proposed amendments may be submitted to the Filing Clerk, Public Utility Commission of Texas, 1701 North Congress Avenue, P.O. Box 13326, Austin, Texas 78711-3326, by Monday, March 10, 2014. Reply comments may be submitted by Tuesday, March 25, 2014. Sixteen copies of comments on the proposed amendments 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 amended rules. The commission invites specific comments regarding the costs associated with, and benefits that will be gained by, implementation of the proposed amendments. The commission will consider the costs and benefits in deciding whether to adopt the amendments. All comments should refer to Project Number 39160.

The commission staff will conduct a public hearing on this rulemaking, if requested pursuant to the Administrative Procedure Act, Texas Government Code §2001.029, on March 26, 2014 at the commission's offices located in the William B. Travis Building, 1701 North Congress Avenue, Austin, Texas 78711. The request for a public hearing must be received by March 14, 2014.

The amendments are proposed under the Public Utility Regulatory Act, Texas Utilities Code Annotated (West 2007 and Supp. 2013) (PURA) §14.001, which provides the commission the general power to regulate and supervise the business of each public utility within its jurisdiction and to do anything specifically designated or implied to carry out that power; §14.002, which provides the commission with the authority to make and enforce rules reasonably required in the exercise of its powers and jurisdiction; §14.003, which provides the commission with the authority to require a public utility to file a report regarding information related to the utility and

to establish the form, time, and frequency of the report; §14.151, which provides the commission with the authority to prescribe the form of the records to be kept by a public utility; §14.153, which provides the commission with the authority to adopt rules governing the communication between the regulatory authority and the public utility; §31.001, which states that PURA Subtitle B was enacted to protect the public interest in establishing an adequate regulatory system to assure operations and services that are just and reasonable; §37.001, which defines an electric utility to include an electric cooperative for purposes of Chapter 37; §37.151, which provides that a certificate holder shall serve all customers within the certificated area and shall provide continuous and adequate service within that certificated area; §38.001, which provides that electric utilities and electric cooperatives shall furnish service that is safe, adequate, efficient, and reasonable; §38.002, which provides the commission with the authority to adopt reasonable standards for an electric utility to follow, to adopt rules for examining, testing, and measuring a service, and to adopt rules to ensure the accuracy of equipment; §38.005, which requires the commission to implement service quality and reliability standards relating to the delivery of electricity to retail customers, and requires electric utilities to maintain adequately trained and experienced personnel so that the utility may comply with the standards; §38.071, which provides the commission with authority to order an electric utility to provide improvements in its service; §39.101, which provides the commission with the authority to ensure that customer protections are established to entitle a customer to safe, reliable, and reasonably priced electricity; §39.151(a)(2), which requires a power region to establish an independent organization to ensure the reliability and adequacy of the regional electrical networks; §39.151(d), which requires the commission to adopt and enforce rules relating to the reliability of the regional electrical network or delegate to an independent organization responsibilities for establishing or

enforcing such rules; §39.151(j), which requires a retail electric provider (REP), municipally owned utility, electric cooperative, power marketer, transmission and distribution utility, or PGC to observe all scheduling, operating, planning, reliability, and settlement policies, rules, guidelines, and procedures established by the independent system operator in ERCOT; §39.351, which requires a PGC to provide information required by commission rule and comply with the reliability standards adopted by an independent organization; 39.352, which requires a REP to demonstrate the financial and technical resources to provide continuous and reliable service and the resources needed to meet PURA's customer protection requirements, and to comply with all customer protection guidelines established by the commission and PURA, and §41.004, which provides the commission with jurisdiction to require electric cooperatives to report to the commission to the extent necessary to ensure the public safety.

Cross Reference to Statutes: Public Utility Regulatory Act §§14.001, 14.002, 14.003, 14.151, 14.153, 31.001, 37.001, 37.151, 38.001, 38.002, 38.005, 38.071, 39.101, 39.151, 39.351, and 39.352, and 41.004.

§25.53. Electric Service Emergency Operations Plans.

- (a) **Application.** ~~This section applies~~Unless the context clearly indicates otherwise, this section is applicable to electric utilities (including, 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. The commission intends that a market entity or electric cooperative apply the requirements of this section in a manner that is appropriate to its particular circumstances (“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 copy of its emergency operations plan or a comprehensive summary of its emergency operations plan. A new market entity shall file with the commission a copy of its plan or a comprehensive summary before it begins commercial operations. If an electric utility, REP, or ERCOT makes a significant change to its plan, it shall file the revised plan or a revision to the comprehensive summary that appropriately addresses the change to the plan no later than 30 days after the change takes effect. If a PGC makes a significant change to its plan that occurs during the time period November 1 through April 30, it shall file that change by June 1 and for a significant change that occurs during the time period May 1 through October 31, it shall file that change by December 1. A significant change includes but is not limited to a change that has a material impact on how the

~~market entity would respond to an emergency, as required in subsection (c) of this section, by May 1, 2008. To the extent significant changes are made to the revised plan or a revision to the comprehensive summary that appropriately addresses the changes to the plan no later than 30 days after such changes take effect.~~

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

(1) ~~An electric utility shall include in its TDU's and electric utilities shall include in their~~ emergency operations plans, but ~~is~~are not limited to, the following:

- (A) A registry of critical load customers, as defined in §25.497(a)~~(1)-(4)~~ of this title (relating to Critical Load Industrial Customers, Critical Load Public Safety Customers, Critical Care Residential Customers, and Chronic Condition Residential Customers~~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 ~~the~~a process for training staff with respect to serving critical load customers.;

- (B) A communications plan that describes the procedures for communicating with the public~~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 ~~shall~~should also address the electric utility's~~its~~ telephone system and complaint-handling procedures during an emergency.;

(C) Curtailment priorities, procedures for shedding load, rotating ~~outages~~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 plan that addresses wildfire mitigation efforts.

(G) A plan for identification of potentially severe weather events, including but not limited to tornadoes, hurricanes, severely cold weather, severely hot weather, and flooding.

(H) A plan for the inventory of pre-arranged supplies for emergencies.

(I) A plan that addresses staffing during severe weather events.

~~(J)(F)~~ A hurricane plan, including evacuation and re-entry procedures (if facilities are located within a hurricane evacuation zone, as defined by the Texas Department of Public Safety Texas Governor's—Division of Emergency Management (TDEM)).

~~(G) Following the annual drill, the utility shall assess the effectiveness of the drill and modify its emergency operations plan as needed.~~

~~(K)(H)~~ An affidavit from the electric utility's operations officer affirming that all relevant operating personnel of the electric utility~~market entity's operations officer indicating that all relevant operating personnel within the market entity~~ are familiar with the contents of the emergency operations plan; and such personnel are committed to following the plan

~~and the provisions contained therein in the event of a system wide or local emergency that arises from natural or manmade disasters~~ except to the extent deviations are appropriate under the circumstances during the course of an emergency.

- (L) An affidavit from the electric utility that states that its emergency management personnel, who are designated to interact with local, state, and federal emergency management officials during emergency events have received Federal Emergency Management Agency (FEMA) National Incident Management System (NIMS) training, specifically IS-700.a, IS 800.b, IS-100.b, and IS-200.b.
- (2) An electric utility that operates an electric generation facility or a PGC shall include in its emergency operations plan for its generation facilities, but is~~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 plan that addresses severely cold weather and severely hot weather.~~summary of power plant weatherization plans and procedures;~~
- (B) A plan that addresses critical failure points, including any effects of weather design limits.
- (C) A plan that addresses an emergency shortage of water.
- (D) A plan for identification of potentially severe weather events, including but not limited to tornadoes, hurricanes, severely cold weather, severely hot weather, and flooding.
- (E) A plan for the inventory of pre-arranged supplies for emergencies.

(F) A plan that addresses staffing during severe weather events.

(G) Checklists for generating facility personnel to address emergency events.

(H)(B) A summary of alternative fuel and storage capacity.;

(I) A plan for alternative fuel testing if the facility has the ability to utilize alternative fuels.

(J)(C) Priorities for recovery of generation capacity.;

(K)(D) A pandemic preparedness plan.; ~~and~~

(L)(E) A hurricane plan, including evacuation and re-entry procedures (if facilities are located within a hurricane evacuation zone, as defined by the (TDEM)Governor's Division of Emergency Management).

(M)(F) An affidavit from the PGC'smarket—entity's operations officer affirmingindicating that all relevant operating personnel ofwithin the market entity are familiar with the contents of the emergency operations plan; and such personnel are committed to following the plan and the provisions contained therein in the event of a system wide or local emergency that arises from natural or manmade disasters—except to the extent deviations are appropriate under the circumstances during the course of an emergency.

(G) Following the annual drill, the utility shall assess the effectiveness of the drill and modify its emergency operations plan as needed.

- (3) A REP shall include in its emergency operations plan, but is not limited to, an affidavit from an officer of the REP affirming that the REP is prepared to implement the plan in the event of an emergency affecting the REP ~~REPs shall include in their~~

~~filing with the commission, but are not limited to, an affidavit from an officer of the REP affirming that it 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.~~

- (4) ERCOT shall include in its emergency operations plan~~filing with the commission,~~ but is not limited to, an affidavit from ~~its a senior~~ operations officer affirming the following:
- (A) ERCOT maintains crisis communications procedures that address communicating with the public, media, governmental entities, and market participants concerning events that affect the bulk electric system~~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 emergency~~disaster, or a SOC declared event;~~ and
- (C) ERCOT maintains a pandemic preparedness plan.
- (d) **Drills.** ~~A Each~~ market entity shall conduct or participate in one or more drills annually~~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 (as defined by TDEM), at least one of the annual drills

shall include a test of its hurricane plan/storm recovery plan. Following the annual drills, the market entity shall assess the effectiveness of the drill and modify its emergency operations plan as needed. An electric utility that directly serves retail customers shall notify commission staff using the method and form prescribed by commission staff, as described on the commission's website, and the appropriate TDEM District Coordinators by email or other written form of the date, time and location at least 30 days prior to the date of at least one drill each year ~~the Governor's Division of Emergency Management), this drill shall also test its hurricane plan/storm recovery plan. The commission should be notified 21 days prior to the date of the drill.~~

- (e) **Emergency contact information.** A market entity shall submit emergency contact information using the method and form prescribed by commission staff, as described on the commission's website. A market entity shall notify commission staff regarding a change to its emergency contact information within 30 days of the change ~~Each market entity shall submit emergency contact information in a and form prescribed by commission staff, by May 1 of each calendar 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 commission staff during an activation of the State Operations Center (SOC) by TDEM, an affected market entity ~~the commission or commission staff during a SOC inquiry or SOC declared emergency event, affected~~

~~market entities~~ shall provide updates on the status of operations, outages, and restoration efforts. Updates shall continue until all event-related outages are restored or unless otherwise notified by commission staff. After an emergency event declared by the Governor of the State of Texas or the President of the United States of America, commission staff may require an affected market entity to provide an after action or lessons learned report and file it with the commission by a date specified by commission staff.

- (g) **Copy available for inspection.** A market entity shall make available a complete copy of its emergency operations plan at its main office for inspection by the commission staff upon request. ~~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) **Electric cooperatives.**

- (1) **Application.** This subsection applies to an electric cooperative that operates generation, transmission, and/or distribution facilities ~~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.** An~~Each~~ electric cooperative shall file with the commission a copy of its emergency operations plan or a comprehensive summary of its emergency operations plan. A new electric cooperative shall file with the

commission a copy of its plan or a comprehensive summary before it begins commercial operations by May 1, 2008. The filing shall also include an affidavit from the electric cooperative's operations officer ~~affirming~~indicating that all relevant operating personnel ~~of~~within the electric cooperative are familiar with the contents of the emergency operations plan; and such personnel are committed to following the ~~plan~~plans and the provisions contained therein in the event of a system wide or local emergency that arises from natural or manmade disasters, except to the extent deviations are appropriate under the circumstances during the course of an emergency. If an electric cooperative makes a significant change to its emergency operations plan, it shall file the revised plan or a revision to the comprehensive summary that appropriately addresses the change to the plan no later than 30 days after the change takes effect. A significant change to a plan includes, but is not limited to, a change that has a material impact on how the electric cooperative would respond to an emergency.~~To the extent significant changes are made to an emergency operations plan, the electric cooperative shall file the revised plan or a revision to the comprehensive summary that appropriately addresses the changes to the plan no later than 30 days after such changes take effect.~~

- (3) **Information to be included in the emergency operations plan.** ~~An~~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)~~(1)-(4)~~ of this title, directly served, if maintained by the electric cooperative. 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 ~~the~~ process for training staff with respect to serving critical load customers.;

- (B) A communications plan that describes the procedures for communicating with the public, ~~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 ~~shall also address the electric cooperative's~~ ~~should also address its~~ telephone system and complaint-handling procedures during an emergency.;
- (C) Curtailment priorities, procedures for shedding load, rotating ~~outages~~ ~~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 plan that addresses wildfire mitigation efforts.
- (G) A plan for identification of potentially severe weather events, including but not limited to tornadoes, hurricanes, severely cold weather, severely hot weather, and flooding.
- (H) A plan for the inventory of pre-arranged supplies for emergencies.

(I) A plan that addresses staffing during severe weather events.

~~(J)(F)~~ A hurricane plan, including evacuation and re-entry procedures (if facilities are located within a hurricane evacuation zone, as defined by TDEM~~the Governor's Division of Emergency Management~~);

(K) A statement from an electric cooperative that directly serves retail customers of whether or not its emergency management personnel who are designated to interact with local, state, and federal emergency management officials during emergency events have received Federal Emergency Management Agency (FEMA) National Incident Management System (NIMS) training, specifically IS-700.a, IS 800.b, IS – 100.b, and IS-200.b.

~~(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.~~

~~(J) Following the annual preparedness review, the electric cooperative shall assess the effectiveness of the review and modify its emergency operations plan as needed.~~

(4) In addition to the information required by paragraph (3) of this subsection, an electric cooperative that operates an electric generation facility shall include, but is not limited to, the following information in its emergency operations plan:

(A) A plan that addresses severely cold weather and severely hot weather.

(B) A plan that addresses weather design limits and critical failure points, including any effects of weather design limits.

(C) A plan that addresses an emergency shortage of water.

(D) Checklists for generating facility personnel to address emergency events.

(E) A summary of alternative fuel and storage capacity.

(F) A plan for alternative fuel testing if the facility has the ability to utilize alternative fuels.

(G) Priorities for recovery of generation capacity.

(5)(4) Preparedness Review. ~~An~~Each electric cooperative shall conduct one or more reviews annually~~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, at least one of the annual reviews shall include its hurricane plan/storm recovery plan. Following the annual preparedness reviews, the electric cooperative shall assess the effectiveness of the drill and modify its emergency operations plan as needed. An electric cooperative that directly serves retail customers shall notify commission staff using the method and form prescribed by commission staff, as described on the commission's website, and the appropriate TDEM District Coordinators by email or other written form, of the location, date, and time at least 30 days prior to the date of at least one review each year~~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.~~

(6)(5) Emergency contact information. An electric cooperative shall submit emergency contact information using the method and form prescribed by commission staff, as described on the commission's website. An electric

cooperative shall notify commission staff regarding a change to its emergency contact information within 30 days of the change. ~~Each electric cooperative shall submit emergency contact information to the commission by May 1 of each year.~~

~~(7)(6)~~ **Reporting requirements.** Upon request by commission staff during an activation of the SOC by TDEM, ~~an~~ ~~the commission or commission staff during a SOC inquiry or SOC declared emergency event,~~ affected electric cooperative shall provide updates on the status of operations, outages, and restoration efforts. Updates shall continue until all event-related outages are restored or unless otherwise notified by commission staff. -After an emergency event declared by the Governor of State of Texas or the President of the United States of America, commission staff may require an affected electric cooperative to provide an after action or lessons learned report and file it with the commission by a date specified by commission staff.

~~(8)(7)~~ **Copy available for inspection.** An electric cooperative shall make available a complete copy of its emergency operations plan at its main office for inspection by ~~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.

(i) **Effective date.** The effective date of the amendments made to this section in Project Number 39160 is March 31, 2015.

§25.362. Electric Reliability Council of Texas (ERCOT) Governance.

(a)-(h) (No change.)

(i) **Required reports and other information.** ERCOT shall file with the commission the reports and provide the information required by this subsection.

(1) (No change.)

(2) **Operations report and plan.** No later than January 15 of each year, ERCOT shall file an operations report and plan. The commission may initiate a review of the plan, at its discretion. The report and plan shall contain the following information:

(A)-(F) (No change.)

(G) An emergency communications plan that describes how ERCOT will communicate with the public, media, governmental entities, and market participants concerning events that affect the bulk electric system~~to market participants, government officials, and the public information concerning actual or likely disruptions of electric service that would affect a significant number of customers;~~

(H) An assessment of the reliability and adequacy of the ERCOT system during extremely cold or extremely hot weather conditions, or drought, for which purpose ERCOT has the right, upon reasonable notice, to conduct generator site visits to review compliance with weatherization plans and has the right to obtain from generators any information concerning water

~~supplies for generation purposes, including contracts, water rights, and other information; and including information regarding steps to be taken by power generation companies and utilities to prepare their assets for extreme weather events; and~~

(I) (No change.)

(3)-(5) (No change.)

(j)-(k) (No change.)

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 23RD DAY OF JANUARY 2014 BY THE
PUBLIC UTILITY COMMISSION OF TEXAS
ADRIANA A. GONZALES**