

PROJECT NO. 49827

**LINE INSPECTION AND SAFETY
RULEMAKING TO IMPLEMENT
HOUSE BILL 4150**

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**PUBLIC UTILITY COMMISSION
OF TEXAS**

**PROPOSAL FOR PUBLICATION OF NEW §25.97
AS APPROVED AT THE NOVEMBER 14, 2019 OPEN MEETING**

The Public Utility Commission of Texas (commission) proposes §25.97, relating to Line Inspection and Safety. The proposed rule will implement the reporting requirements in Public Utility Regulatory Act (PURA) §38.102.

Growth Impact Statement

The commission provides the following governmental growth impact statement for the proposed rule, as required by Texas Government Code §2001.0221. The commission has determined that for each year of the first five years that the proposed rule is in effect, the following statements will apply:

- (1) the proposed rule will not create a government program and will not eliminate a government program;
- (2) implementation of the proposed rule will not require the creation of new employee positions and will not require the elimination of existing employee positions;
- (3) implementation of the proposed rule will not require an increase and will not require a decrease in future legislative appropriations to the commission because it will not increase or decrease agency staffing levels;

(4) the proposed rule will not require an increase and will not require a decrease in fees paid to the commission;

(5) the proposed rule will create a new regulation to implement PURA §38.102 enacted by the 86th Legislative Session;

(6) the proposed rule will not limit an existing regulation;

(7) the proposed rule will not change the number of individuals subject to the rule's applicability; and

(8) the proposed rule will not affect this state's economy.

Fiscal Impact on Small and Micro-Businesses and Rural Communities

There is no adverse economic effect anticipated for small businesses, micro-businesses, or rural communities as a result of implementing the proposed rule. Accordingly, no economic impact statement or regulatory flexibility analysis is required under Texas Government Code §2006.002(c).

Takings Impact Analysis

The commission has determined that the proposed rule will not be a taking of private property as defined in chapter 2007 of the Texas Government Code.

Fiscal Impact on State and Local Government

Constance McDaniel Wyman, Director of Electric Utility Engineering, has determined that for the first five-year period the proposed rule is in effect, there will be no fiscal implications for the state

or for units of local government under Texas Government Code § 2001.024(a)(4) as a result of enforcing or administering the rule.

Public Benefits

Ms. McDaniel Wyman has also determined that for each year of the first five years the proposed rule is in effect, the anticipated public benefit expected as a result of the adoption of the proposed rule will be the implementation of PURA §38.102. There will be economic cost to affected entities required to comply with the rule under Texas Government Code §2001.024(a)(5).

Local Employment Impact Statement

For each year of the first five years the proposed rule is in effect, there should be no effect on a local economy; therefore, no local employment impact statement is required under Texas Government Code §2001.022.

Costs to Regulated Persons

Texas Government Code §2001.0045(b) does not apply to this rulemaking, because the Public Utility Commission is expressly excluded under subsection §2001.0045(c)(7).

Public Hearing

The commission staff will conduct a public hearing on this rulemaking, if requested in accordance with 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 Friday, January 17, 2020 at 9:00 a.m. The request for a public hearing must be received by Monday, January 13, 2020. If

no request for a public hearing is received and the commission staff cancels the hearing, it will make a filing in this project prior to the scheduled date for the hearing.

Public Comments

Initial 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, TX 78711-3326, no later than January 6, 2020. Sixteen copies of comments to the proposed rule are required to be under §22.71(c) of 16 Texas Administrative Code. Reply comments may be submitted in the same manner no later than January 13, 2020. 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 modify the proposed rule on adoption. All comments should refer to project number 49827.

Statutory Authority

This amendment is proposed under §14.002 of the Public Utility Regulatory Act, Tex. Util. Code (PURA), which provides the commission with the authority to make and enforce rules reasonably required in the exercise of its powers and jurisdiction, and §38.102, which requires certain utilities to file with the commission reports on safety processes and inspections.

Cross reference to statutes: Public Utility Regulatory Act §§ 14.002 and 38.102.

§ 25.97 Line Inspection and Safety

- (a) **Purpose.** This section implements the reporting requirements in Public Utility Regulatory Act (PURA) §38.102.
- (b) **Applicability.** This section applies to electric utilities, municipally owned utilities, and electric cooperatives that own or operate overhead transmission or distribution assets.
- (c) **Definition.** When used in this section, the term “affected entity” means an electric utility, electric cooperative, or municipally owned utility that owns or operates overhead transmission or distribution assets.
- (d) **Employee Training Report.**
 - (1) Not later than May 1, 2020, each affected entity must submit to the Commission a report that includes:
 - (A) a summary description of hazard recognition training documents provided by the affected entity to its employees related to overhead transmission and distribution facilities; and
 - (B) a summary description of training programs provided to employees by the affected entity related to the National Electrical Safety Code (NESC) for construction of electric transmission and distribution lines.
 - (2) An affected entity must submit an updated report not later than the 30th day after the date the affected entity finalizes a material change to a document or training program included in a report submitted under paragraph (1) of this subsection.
- (e) **Five-Year Report.**

(1) Not later than May 1 every five years, each affected entity that owns or operates overhead transmission facilities greater than 60 kilovolts must submit to the commission a report for the five-year period ending on December 31 of the preceding calendar year that includes:

- (A) the percentage of overhead transmission facilities greater than 60 kilovolts inspected for compliance with the NESC relating to vertical clearance in the reporting period; and
- (B) the percentage of the overhead transmission facilities greater than 60 kilovolts anticipated to be inspected for compliance with the NESC relating to vertical clearance during the five-year period beginning on January 1 of the year in which the report is submitted.

(2) The first report submitted under this subsection must be submitted not later than May 1, 2020.

(f) **Annual Report.** Not later than May 1 of each year, each affected entity must make a report to the commission for the preceding calendar year.

(1) For each affected entity that owns or operates overhead transmission facilities greater than 60 kilovolts, the report must include the following information related to those facilities:

- (A) the number of identified occurrences of noncompliance with PURA §38.004 regarding vertical clearance requirements of the NESC for overhead transmission facilities;
- (B) whether the affected entity has actual knowledge that any portion of the affected entity's transmission system is not in compliance with PURA

§38.004 regarding vertical clearance requirements of the NESC for overhead transmission facilities; and

- (C) whether the affected entity has actual knowledge of any violations of easement agreements with the United States Army Corps of Engineers relating to PURA §38.004 regarding the vertical clearance requirements of the NESC for overhead transmission facilities.

(2) For each affected entity that owns or operates overhead transmission facilities greater than 60 kilovolts or distribution facilities greater than 1 kilovolt, the report must include the following information related to those facilities:

- (A) the number of fatalities or injuries of individuals other than employees, contractors, or other persons qualified to work in proximity to overhead high voltage lines involving transmission or distribution assets related to noncompliance with the requirements of PURA §38.004; and

- (B) a description of corrective actions taken or planned to prevent the reoccurrence of fatalities or injuries described by subparagraph (A) of this paragraph.

(3) Violations resulting from, and incidents, fatalities, or injuries attributable to a violation resulting from, a natural disaster, weather event, or man-made act or force outside of an affected entity's control are not required to be included in the report under this subsection.

(g) **Reporting Form.** An affected entity must make a report required by this section on a form prescribed by the commission.

(h) **Report Filing.** An affected entity filing a report required under this subsection must

include the project number designated by the commission for the report on the first page of the report and submit the correct number of copies of the report to the commission's central records for filing.

- (i) **Reports Publicly Available.** Not later than September 1 each year, the commission will make the reports submitted under this section publicly available on the commission's Internet website.

This agency 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 NOVEMBER 2019 BY THE
PUBLIC UTILITY COMMISSION OF TEXAS
ANDREA GONZALEZ**