

# ***PUBLIC UTILITY COMMISSION OF TEXAS***

## **OPEN MEETING AGENDA THURSDAY, MARCH 28, 2013, 9:30 A.M. Commissioners' Hearing Room 7th Floor, William B. Travis Building**

The following items will be taken up first without discussion: 3, 4, 10, 11, 13, 14, 15, 16, 17

Project No. 41094 - Open Meeting Agenda items without an associated control number.

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### **COMMUNICATIONS**

1. Docket No. 41143; SOAH Docket No. 473-13-2370 - Complaint of Consolidated Communications of Fort Bend Company Against Bluecap, Ltd., Capricorn, Ltd. and Freeway Properties, LLC d/b/a Katy Ranch Crossing. (Order on Certified Issues) Katherine Lengieza-Gross
2. Docket No. 40962; SOAH Docket No. 473-13-2684 - Complaint of Danny Moffatt Against Texas Windstream, Inc. (Preliminary Order) Heidi Jackson
3. Docket No. 41096; SOAH Docket No. 473-13-2878 - Complaint of City of Houston Against Southwestern Bell Telephone Company d/b/a AT&T Texas. (Preliminary Order) John Kramer
4. Docket No. 41041 - Application of Southwestern Bell Telephone Company d/b/a AT&T Texas for Administrative Approval to Provide Non-Emergency 311 Service for the City of Round Rock. (Final Order) Irene Montelongo
5. Discussion and possible action regarding implementation of state and federal legislation affecting telecommunications markets, current and projected rulemaking projects, and Commission priorities.

### **ELECTRIC**

6. Docket No. 40443; SOAH Docket No. 473-12-7519 - Application of Southwestern Power Company for Authority to Change Rates and Reconcile Fuel Costs. (Appeal of Oral Ruling) Heidi Jackson
7. Docket No. 40868; SOAH Docket No. 473-13-2704 - Oncor Electric Delivery Company, LLC's Appeal of a Portion of the City of Dallas' Decision Regarding Cedric Vincent's Complaint. (Discussion and possible action, including Preliminary Order) Laura Kennedy

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8. Docket No. 41223; SOAH Docket No. 473-13-2879 - Application of Entergy Texas, Inc., ITC Holdings Corporation, Midsouth Transco LLC, Transmission Company Texas, LLC, and ITC Midsouth, LLC for Approval of Change of Ownership and Control of Transmission Business, Transfer of Certification Rights, Certain Cost Recovery Approvals, and Related Relief. (Preliminary Order) Heidi Jackson
9. Docket No. 41235; SOAH Docket No. 473-13-3021 - Application of Entergy Texas, Inc. for Transmission Cost Recovery Rider. (Preliminary Order) Mark Hovenkamp
10. Docket No. 40319; SOAH Docket No. 473-12-7091 - Application of Brazos Electric Power Cooperative, Inc. to Amend a Certificate of Convenience and Necessity for a 138-kV Single Circuit Transmission Line in Grimes, Walker, and Montgomery Counties. (Final Order) Heidi Jackson
11. Docket No. 40654; SOAH Docket No. 473-12-7879 - Application of Entergy Texas, Inc. to Revise Fixed Fuel Factor (Schedule FF) in Compliance with Order in Docket No. 32915. (Final Order) Laura Kennedy
12. Docket No. 40545 - Petition of Calpine Corporation for Approval of Voluntary Mitigation Plan. (Final Order) Irene Montelongo
13. Docket No. 40946 - Commission Staff's Application to Set 2013 Wholesale Transmission Service Charges for the Electric Reliability Council of Texas. (Final Order) Irene Montelongo
14. Docket No. 41070 - Petition of El Paso Electric Company to Approve Revisions to Residential and Commercial Deemed Savings Based on Climate Data Specific to El Paso, Texas. (Final Order) Irene Montelongo
15. Docket No. 41208 - Agreed Notice of Violation and Settlement Agreement Relating to First Choice Power Special Purpose, L.P.'s Violation of PURA §§ 17.004 and 39.101 as well as P.U.C. SUBST. R. 25.474 Concerning Selection of a Retail Electric Provider. (Final Order) Irene Montelongo
16. Docket No. 41209 - Agreed Notice of Violation and Settlement Agreement Relating to Young Energy, LLC's Violations of PURA §§ 17.004 and 39.101 as well as P.U.C. SUBST. R. 25.475, 25.480, 25.483, and 25.498, Concerning Customer Protection Rules for Retail Electric Service. (Final Order) Irene Montelongo
17. Docket No. 41276 - Request for Approval of a 2013 Voluntary Mitigation Plan for GDF Suez Energy North America, Inc. Pursuant to PURA § 15.023(f) and P.U.C. SUBST. R. 25.504(e). (Final Order) Irene Montelongo
18. Project No. 39246 - Rulemaking Proceeding Concerning Recovery of Purchased Power Capacity Costs, Including Amendment to SUBST. R. 25.238. (Discussion and possible action) William Abbott and Davida Dwyer

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19. Project No. 40979 - Proceeding to Track Compliance with the Terms and Conditions Set Forth in the Commission's Order Issued in Docket No. 40346 and the NUS, and Associated Studies Arising from the Order and/or NUS. (Discussion and possible action)  
Davida Dwyer
20. Project No. 41060 - Proceeding to Examine the Inputs Included in the ERCOT Capacity, Demand and Reserves Report. (Discussion and possible action)
21. Project No. 41061 - Rulemaking Regarding Demand Response in the Electric Reliability Council of Texas (ERCOT) Market. (Discussion and possible action)
22. Project No. 41210 - Information Related to the Southwest Power Pool Regional State Committee. (Discussion and possible action)
23. Project No. 41211 - Information Related to the Organization of MISO States. (Discussion and possible action)
24. Project No. 40000 - Commission Proceeding to Ensure Resource Adequacy in Texas. (Discussion and possible action) Diana Leese and Jason Haas
25. Project No. 37344 - Information Related to the Entergy Regional State Committee. (Discussion and possible action)
26. Discussion and possible action on electric reliability; electric market development; ERCOT oversight; transmission planning, construction, and cost recovery in areas outside of ERCOT; SPP Regional State Committee and electric reliability standards and organizations arising under federal law.
27. Discussion and possible action regarding implementation of state and federal legislation, affecting electricity markets, current and projected rulemaking projects, and Commission priorities.

**GENERAL**

28. Discussion and possible action regarding agency review by Sunset Advisory Commission, operating budget, strategic plan, appropriations request, project assignments, correspondence, staff reports, agency administrative issues, fiscal matters and personnel policy.
29. Discussion and possible action regarding customer service issues, including but not limited to correspondence and complaint issues.
30. Discussion and possible action on infrastructure reliability, emergency management, and homeland security.

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31. Adjournment for closed session to consider:

- a. litigation matters, pursuant to Tex. Gov't Code § 551.071(a)(1), regarding pending or contemplated litigation, including but not limited to:

**Texas District Courts**

Cities of Beaumont, Conroe, Groves, Nederland, Pine Forest, Port Neches, Rose City, and Silsbee v. PUC, Cause No. D-1-GV-08-000003, Travis County District Court. (Appeals of Docket No. 32710)

Cities of Dickinson *et al.* v. PUC, D-1-GN-07-000116, Travis County District Court (Appeal of Docket No. 31994)

Environmental Defense v. TCEQ (White Stallion), D-1-GN-11-000011

Environmental Defense & Texas Clean Air Cities Coal v. TCEQ (Las Brisas), D-1-GN-11-001364

Exelon Wind, LLC v. PUC, Cause No. D-1-GN-10-004130, Travis County District Court (Docket No. 37361)

JD Wind 1, LLC, JD Wind 2, LLC, et al. v. PUC, Cause No. D-1-GV-08-001459, Travis County District Court (Docket No. 34442)

Kathryn Runnells et al. v. TCEQ, Travis County District Court, D-1-GN-12-002111 (White Stallion)

Pioneer Natural Resources USA, Inc. v. Public Util. Comm'n, No. D-1-GN-06-003805, 200<sup>th</sup> Judicial District, Travis County District Court; Pioneer Natural Resources USA, Inc. v. Public Util. Comm'n, No. D-1-GN-06-003209, 126<sup>th</sup> Judicial District, Travis County District Court. (Appeal of Docket No. 31422)

Power Resource Group, Inc. v. Public Utility Commission, No. GN5-02139, Travis County District Court. (Appeal of Docket No. 30172)

Public Utilities Board of the City of Brownsville v. PUC, Travis County District Court, D-1-GV-08-001459. (Appeal of Docket No. 34410)

Sierra Club v. TCEQ, Travis County District Court, D-1-GN-11-000036, (White Stallion)

Southwestern Bell Telephone, L.P. v. Current Communications of Texas, L.P., No. 06-11388 in the 162<sup>nd</sup> District Court of Dallas County, Texas

Southwestern Electric Power Company. v. PUC, 07-10-00108-CV, 7<sup>th</sup> Court of Appeals (Appeal of Docket No. 33891)

Texas Cable & Telecommunications Association v. Public Util. Comm'n, No. D-1-GN6-001900, Travis County District Court. (SB 5)

**Texas Appeals Courts**

CenterPoint Energy Houston Electric, LLC v. Public Utility Commission, 03-11-00065-CV, in the Third Court of Appeal (Appeals of Docket No. 36952)

City of Dallas v. Public Utility Commission, 03-11-00635-CV, in the Third Court of Appeals (Appeal of Docket No. 38630)

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Oncor Electric Delivery Company, LLC v. Public Utility Commission, 03-11-00233-CV, in the Third Court of Appeals (Appeal of Docket No. 36530)

State of Texas Agencies and Institutions of Higher Learning v. Public Utility Commission, -03-11-00072-CV in the Third Court of Appeals (Appeal of Docket No. 35717)

Wilks Ranch v. Public Utility Commission, 03-12-00164-CV, in the Third Court of Appeals (Appeal of Docket No. 38230)

**Texas Supreme Court**

**Federal Courts**

Entergy Texas, Inc. v. Barry T. Smitherman, Donna L. Nelson, and Kenneth W. Anderson, Case No. A-09-CA-0183-LY, United States District Court for the Western District of Texas (Appeal of Docket No. 35269)

Exelon Wind 1, LLC, et al. v. Nelson, et al., No 1:12-CV-00902-SS, United States District Court, Austin Division

JD Wind 1, LLC, JD Wind 2, LLC, JD Wind 3, LLC, JD Wind 4, LLC, JD Wind 5, LLC and JD Wind 6, LLC, et al. v. PUC, Cause No. A09CA917SS, Federal District Court (Docket No. 34442).

Occidental Permian Ltd. v. Federal Energy Regulatory Commission, Cause No. 10-1381, DC Circuit Court of Appeals.

Texas Cable & Telecommunications Association v. Perry, et al., No. A-05-CV-721-LY, Western District of Texas No. A-05-CV-721; No. 10-51113, Fifth Circuit Court of Appeals; U.S. Supreme Court, No. 06-51514

Texas Commercial Energy, L.L.C., Case No. 03-20366-C-11, U.S. Bankruptcy Court, Southern District of Texas

White Stallion Energy Center, LLC v. U.S. Environmental Protection Agency, Case No. 12-1100

White Stallion Energy Center, LLC v. U.S. Environmental Protection Agency, Case No. 12-1272

**EPA**

EPA-HQ-OAR-2009-0491 – Revisions to Federal Implementation Plans to Reduce Interstate Transport of Fine Particulate Matter and Ozone

**FCC**

In the Matter of ASAP Paging for Preemption of PUC Concerning Retail Rating of Local Calls to CMRS Carriers, FCC DA-04-92; WC 04-6 (Docket No. 25673)

In the Matter of Petition of Alenco Communications, Inc., Big Bend Telephone Company, Dell Telephone Cooperative, Inc., Riviera Telephone Company, Valley Telephone Cooperative, Inc., Texas Statewide Telephone Cooperative, Inc., and Texas Telephone Association for a Declaratory Ruling and for Preemption, CC Docket No. 96-45, Federal Communications Commission

In the Matter of Review of Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers, CC Docket No. 01-338, Federal Communications Commission

In the Matter of Sprint Spectrum, L.P. Petition for Declaratory Ruling that the Kansas Corporation Commission's October 2, 2006 Order in Docket 06-GMIT-446-GIT, WC Docket Nos. 03-109, 07-138, Federal Communications Commission

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**FERC**

FERC Docket No. ER07-682-002, Entergy Services, Inc.

FERC Docket No. ER07-683, Entergy Services, Inc.

FERC Docket No. ER07-956-000, Entergy Services, Inc.

FERC Docket No. ER09-636-000, Entergy Services, Inc.

FERC Docket No. ER09-833-000, Entergy Services, Inc.

FERC Docket No. ER09-1224, Entergy Services, Inc.

FERC Docket No. ER10-2748, Entergy Services, Inc.

FERC Docket No. ER11-1923, Entergy Services, Inc.

FERC Docket No. ER12-1384; ER12-1385; ER12-1386; ER12-1387; ER12-1388; ER12-1390, Entergy Services, Inc. (Powered System Agreement to Include Cancellation Costs of Little Gypsy Gas Plant)

FERC Docket No. ER12-2682, Midwest Independent Transmission System Operator, Inc.

FERC Docket No. ER12-2683, Entergy Services, Inc.

FERC Docket No. ER12-2693, Entergy Services, Inc.

FERC ER 13-432, Entergy Services, Inc. (Proceeding to Amend Entergy System Agreement Regarding Exiting of Entergy Arkansas and Move to MISO)

FERC Docket No. EL09-77-000, JD Wind 1, LLC, JD Wind 2, LLC, JD Wind 3, LLC, JD Wind 4, LLC, JD Wind 5, LLC, JD Wind 6, LLC

FERC Docket No. EL11-62-000, Petition for Creation of a Joint Federal-State Board to Study Electric Reliability

FERC Docket No. EL00-66-013 and EL95-33-009, Louisiana Public Service Commission and the City Council of New Orleans

FERC Docket No. EL01-88, Louisiana Public Service Commission v. Entergy Services, Inc.

FERC Docket No. EL11-34-000, Petition for Declaratory Order and Request for Shortened Notice Period and for Expedited Treatment of the Midwest Independent Transmission System Operator, Inc.

FERC Docket No. EL12-35-000, Midwest Independent Transmission System Operator, et al.

FERC Docket No. EL12-80-000, Exelon Wind 1, LLC et al., Petition for Enforcement and Declaratory Order Pursuant to Section 210(h) of the Public Utility Regulatory Policies Act of 1978

FERC Docket No. EL12-107-000, EC12-145-000, ER12-2681-000, ITC Holdings Corporation Entergy Corporation Midwest Independent Transmission System Operator, Inc.

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FERC Docket No. EL13-41-000, Occidental Chemical Corp v. MISO

FERC Docket No. ER13-665-000 Midwest Independent Transmission System Operator, Inc.'s Section 205 filing to Revise the Open Access Transmission Energy and Operating Reserve Markets Tariff Provision on Long-Term Transmission Rights to Address Integration of Second Planning Area

FERC Docket No. EL13-43-000, Counsel of the City of New Orleans (Petition for Declaratory Order regarding QF pricing)

FERC Docket No. EL 13-782-000, ITC Arkansas LLC, et al. (Accounting and Ratemaking Treatment for Pension and OPEB Costs)

- b. Consultation with its attorneys, pursuant to Tex. Gov't Code § 551.071(a)(2).
- c. Personnel matters, pursuant to Tex. Gov't Code § 551.074; discussion and decision regarding personnel matters including but not limited to the Executive Director, the Deputy Executive Director, and the Division Directors.
- d. Security matters pursuant to Tex. Gov't Code § 551.076; including matters under Project No. 24729 and other matters related to deployment, use or implementation of security personnel or devices.

Reconvene for discussion and decisions on matters considered in closed session.

*Persons planning to attend this meeting who have disabilities requiring auxiliary aids or services should notify the Commission as far in advance as possible so that appropriate arrangements can be made. Requests can be made by mail, telephone or in person to the Commission's Office of Customer Protection, 1701 N. Congress Ave., Austin, Texas 78701, phone number (512) 936-7150 or (512) 936-7136 for the teletypewriter for the deaf.*