

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

## **OPEN MEETING AGENDA THURSDAY, JUNE 6, 2013, 9:30 A.M. Commissioners' Hearing Room 7th Floor, William B. Travis Building**

The following item will be taken up first without discussion: 1, 4, 5, 7, 8, 10, 11, 14, 15, 16

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

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### **COMMUNICATIONS**

1. Docket No. 41461 - Notice of Violation and Settlement Agreement Relating to AT&T Texas' Violation of P.U.C. SUBST. R. § 26.54, Concerning Service Objectives and Performance Benchmarks. (Final Order) Irene Montelongo
2. Docket No. 41097 - Commission Staff's Petition to Establish a Reasonable Rate for Basic Local Telecommunications Service Pursuant to P.U.C. SUBST. R. 26.404. (Discussion and possible action)
3. Discussion and possible action regarding implementation of state and federal legislation affecting telecommunications markets, current and projected rulemaking projects, and Commission priorities.

### **ELECTRIC**

4. Docket No. 41333; SOAH Docket No. 473-13-4186 - Non-Standard True-Up Filing of Entergy Texas, Inc. Pursuant to the Financing Order in Docket No. 33586. (Preliminary Order) John Kramer
5. Docket No. 41336; SOAH Docket No. 473-13-4063 - Complaint of Judith Faller Against Oncor Electric Delivery Company, LLC. (Preliminary Order) Larry Barnes
6. Docket No. 41430; SOAH Docket No. 473-13-4202 - Joint Report and Application of Sharyland Utilities, LP, Sharyland Distribution & Transmission Services, LLC, and Southwestern Public Service Company for Approval of Purchase and Sale of Facilities for Regulatory Accounting Treatment of Gain on Sale, and for Transfer of Certificate Rights. (Preliminary Order) Katherine Lengieza Gross
7. Docket No. 41496; SOAH Docket No. 473-13-4304 - Application of Texas-New Mexico Power Company for Approval of an Energy Efficiency Cost Recovery Factor. (Preliminary Order) Katherine Lengieza-Gross
8. Docket No. 41497; SOAH Docket No. 473-13-4333 - Application of Southwestern Public Service Company for Authority to Revise its Fuel Factors Using the Formulae Approved in Docket No. 40133. (Preliminary Order) Lisa Carter

**OPEN MEETING AGENDA**  
**JUNE 6, 2013**

9. Docket No. 40487; SOAH Docket No. 473-12-7110 - Notice of Violation by CPS Energy, an Authorized Qualified Scheduling Entity (QSE) of PURA § 39.151(d) and (j), P.U.C. SUBST. R. § 25.503(f)(2), ERCOT Protocols §§ 6.5.7.6.2.3(4) Relating to Non-spinning Reserve Service (NSRS) Deployment, 8.1.1.2.1.3, Relating to NSRS Qualification and 8.1.1.4.3(3)(b) Relating to NSRS Energy Deployment Criteria. (Final Order) Heidi Jackson
10. Docket No. 40550; SOAH Docket No. 473-13-0312 - Application of Southwestern Public Service Company to Amend a Certificate of Convenience and Necessity for a 115-kV Transmission Line within Gray and Wheeler Counties. (Final Order) John Kramer
11. Docket No. 40684; SOAH Docket No. 473-13-0821 - Application of LCRA Transmission Services Corporation to Amend its Certificate of Convenience and Necessity for the Proposed EC Mornhinweg to Parkway 138-kV Transmission Line in Comal and Guadalupe Counties. (Final Order) Lisa Carter
12. Docket No. 40824; SOAH Docket No. 473-13-1173 - Application of Southwestern Public Service Company for Authority to Change Rates and to Reconcile Fuel and Purchased Power Costs for the Period January 1, 2010 through June 30, 2012. (Final Order) Heidi Jackson
13. Docket No. 40636 - Petition for Declaratory Ruling Regarding CenterPoint Energy Houston Electric, LLC Joint Advertising with a Competitive Affiliate. (Declaratory Order) Mark Hovenkamp
14. Docket No. 40749 - Application of Bluestar Energy Services, Inc. for Amendment to a Retail Electric Provider Certification; Name Change. (Final Order) Irene Montelongo
15. Docket No. 41452 - Agreed Notice of Violation and Settlement Agreement Relating to Luminant Energy Company, LLC's Violation of PURA § 39.151 and P.U.C. SUBST. R. 25.503(f)(2); Relating to Failure to Adhere to ERCOT Protocol § 4.3(2) and § 8(B)(2). (Final Order) Irene Montelongo
16. Docket No. 41462 - Petition of the Electric Reliability Council of Texas, Inc. for Approval of Protocol Revisions Affecting Non-Competitive Constraint Designations. (Final Order) Irene Montelongo
17. Docket No. 41473 - Agreed Notice of Violation and Settlement Agreement Relating to Acacia Energy, Inc.'s Violation of PURA §§ 17.004 and 39.101 and P.U.C. SUBST. R. 25.474, 25.475, 25.480, 25.485 and 25.498, Concerning Customer Protection Rules for Retail Electric Service. (Final Order) Irene Montelongo
18. 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) Margaret Pemberton and Davida Dwyer

**OPEN MEETING AGENDA**  
**JUNE 6, 2013**

19. Project No. 41060 - Proceeding to Examine the Inputs Included in the ERCOT Capacity, Demand and Reserves Report. (Discussion and possible action)
20. Project No. 41061 - Rulemaking Regarding Demand Response in the Electric Reliability Council of Texas (ERCOT) Market. (Discussion and possible action)
21. Project No. 40000 - Commission Proceeding to Ensure Resource Adequacy in Texas. (Discussion and possible action) Diana Leese and Jason Haas
22. Project No. 37344 - Information Related to the Entergy Regional State Committee. (Discussion and possible action)
23. Project No. 41210 - Information Related to the Southwest Power Pool Regional State Committee. (Discussion and possible action)
24. Project No. 41211 - Information Related to the Organization of MISO States. (Discussion and possible action)
25. 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.
26. Discussion and possible action regarding implementation of state and federal legislation, affecting electricity markets, current and projected rulemaking projects, and Commission priorities.

**GENERAL**

27. 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.
28. Discussion and possible action regarding customer service issues, including but not limited to correspondence and complaint issues.
29. Discussion and possible action on infrastructure reliability, emergency management, and homeland security.
30. 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:

**OPEN MEETING AGENDA  
JUNE 6, 2013**

**Texas District Courts**

Enforcement of Final Order in Docket No. 41049

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)

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

**OPEN MEETING AGENDA  
JUNE 6, 2013**

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**

Contemplated filings regarding Energy Future Holdings Corporation and its subsidiaries under title 11 of the United States Code

Energy 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

**OPEN MEETING AGENDA  
JUNE 6, 2013**

**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.

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

**OPEN MEETING AGENDA**  
**JUNE 6, 2013**

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. ER13-1317, Energy Arkansas, Inc.

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)

FERC Docket No. EL13-61-000, Exelon Corporation, Exelon Wind 1, LLC, Exelon Wind 2, LLC, Exelon Wind 3, LLC, Exelon Wind 4, LLC, Exelon Wind 5, LLC, Exelon Wind 6, LLC, Exelon Wind 7, LLC, Exelon Wind 8, LLC, Exelon Wind 9, LLC, Exelon Wind 10, LLC, Exelon Wind 11, LLC, High Plains Wind Power, LLC

- 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.*