

PUBLIC UTILITY COMMISSION OF TEXAS

OPEN MEETING AGENDA THURSDAY, NOVEMBER 10, 2011, 9:30 A.M. Commissioners' Hearing Room 7th Floor, William B. Travis Building

The following items will be taken up first without discussion: 3, 6, 8, 10, 14, 15, 18, 19, 23

Project No. 39008 - Open Meeting Agenda items without an associated control number.

COMMUNICATIONS

1. Docket No. 38387; SOAH Docket No. 473-10-5443 - Application of T-Mobile West Corporation for Designation as an Eligible Telecommunications Carrier (Rural) Pursuant to 47 U.S.C. § 214(e) and P.U.C. Substantive Rule 26.418. (Extension of Time) Katherine Lengieza-Gross
2. Docket No. 38388; SOAH Docket No. 473-10-5444 - Application of T-Mobile West Corporation for Designation as an Eligible Telecommunications Carrier (Non-Rural) Pursuant to 47 U.S.C. § 214(e) and P.U.C. Substantive Rule 26.418. (Extension of Time) Katherine Lengieza-Gross
3. Project No. 39555 - Development of COA/SPCOA Statewide Average Switched Access Rates for November 2011 Publication Pursuant to PURA § 52.155 and P.U.C. SUBST. R. 26.223. (Final Order) Andrew Kang
4. Project No. 21208 - Texas Universal Service Fund (TUSF) Administration. (Discussion and possible action) Jay Stone
5. Project No. 39586 - Rulemaking Proceeding to Amend Substantive Rules Relating to the Texas High Cost Universal Service Plan, and P.U.C. SUBST. R. 26.404, Relating to the Small and Rural Incumbent Local Exchange Company Universal Service Plan. (Discussion and possible action) Marshall Adair
6. Project No. 39840 - Rulemaking Proceeding to Amend P.U.C. SUBST. R. 26.130, Relating to Selection of Telecommunications Utilities. (Proposal for Publication) Scottie Aplin and David Smithson
7. Discussion and possible action regarding implementation of state and federal legislation affecting telecommunications markets, current and projected rulemaking projects, and Commission priorities.

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ELECTRIC

8. Docket No. 39366; SOAH Docket No. 473-11-5074 - Application of Entergy Texas, Inc. for Authority to Redetermine Rates for the Energy Efficiency Cost Recovery Factor Tariff and Request to Establish a Revised Energy Efficiency Goal and Cost Caps. (Final Order) Heidi Jackson
9. Docket No. 39375; SOAH Docket No. 473-11-5144 - Application of Oncor Electric Delivery Company, LLC for 2012 Energy Efficiency Cost Recovery Factor. (Final Order) Mark Hovenkamp
10. Docket No. 39552; SOAH Docket No. 473-11-8725 - Application of Oncor Electric Delivery Company, LLC for Reconciliation of Advanced Metering System Surcharge. (Final Order) Lisa Carter
11. Docket No. 39708 - Application of Southwestern Electric Power Company for Approval of Turk Rate Plan, Associated Rate Increase, and Deferred Accounting Order. (Preliminary Order) Mark Hovenkamp
12. Docket No. 39741 - Application of Entergy Texas, Inc. for Authority to Defer Expenses Related to its Proposed Transition to Membership in the Midwest Independent Transmission System Operator. (Preliminary Order) John Kramer
13. Docket No. 39722 - Remand of Docket No. 31056 (Application of AEP Texas Central Company and CPL Retail Energy, LP to Determine True-Up Balances Pursuant to PURA § 39.262). (Discussion and possible action) Heidi Jackson
14. Docket No. 39818 - Agreed Notice of Violation and Settlement Agreement Relating to the City of Garland's Violation of PURA § 39.151(j) and P.U.C. SUBST. R. 25.503, Relating to ERCOT Protocol § 6.3.2(2) Regarding Ancillary Service Provider Obligations. (Final Order) Irene Montelongo
15. Docket No. 39819 - Agreed Notice of Violation and Settlement Agreement Relating to Southwestern Electric Power Company's Violation of PURA § 38.005 and P.U.C. SUBST. R. § 25.52, Concerning Reliability and Continuity of Service. (Final Order) Irene Montelongo
16. Docket No. 37917; SOAH Docket No. 473-10-5401 - Application of dPi Energy, LLC for an Amendment to its Retail Electric Provider (REP) Certification, Pursuant to SUBST. R. 25.107. (Final Order) Mark Hovenkamp
17. Docket No. 39825 - Application of dPi Energy, LLC to Amend its Retail Electric Provider Certification; Change in Ownership/Control. (Final Order) Andrew Kang

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18. Docket No. 39838 - Agreed Notice of Violation and Settlement Agreement Relating to AEP Texas Central Company's Violation of PURA § 38.005 and P.U.C. SUBST. R. 25.52, Concerning Reliability and Continuity of Service. (Final Order) Irene Montelongo
19. Docket No. 39839 - Agreed Notice of Violation and Settlement Agreement Relating to AEP Texas North Company's Violation of PURA § 38.005 and P.U.C. SUBST. R. 25.52, Concerning Reliability and Continuity of Service. (Final Order) Irene Montelongo
20. Docket Nos. 39843, 39844, 39845 - Petitions of Electric Reliability Council of Texas for Approval of Unaffiliated Director. (Discussion and possible action)
21. Project No. 39797 - Rulemaking to Implement SB 365 and SB 981 Relating to Distributed Generation. (Proposal for Publication) Scottie Aplin and Katie Rich
22. Project No. 39357 - Project to Develop a Standard Form for the Prepaid Disclosure Statement Pursuant to P.U.C. SUBST. R. § 25.498. (Proposal for Adoption) Rebecca Reed and Scottie Aplin
23. Project No. 39657 - Rulemaking to Implement SB 943, Relating to Electric Energy Storage Equipment or Facilities. (Proposal for Adoption) Jason Haas and Temujin Roach
24. Project No. 37897 - PUC Proceeding Relating to Resource and Reserve Adequacy and Shortage Pricing. (Discussion and possible action)
25. Project No. 39764 - Issues Relating to Energy Storage and Emerging Technologies. (Discussion and possible action) Temujin Roach and Jason Haas
26. Project No. 37344 - Information Related to the Entergy Regional State Committee. (Discussion and possible action)
27. 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.
28. Discussion and possible action regarding implementation of state and federal legislation, affecting electricity markets, current and projected rulemaking projects, and Commission priorities.

GENERAL

29. 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.

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30. Discussion and possible action regarding customer service issues, including but not limited to correspondence and complaint issues.
31. Infrastructure Reliability, Emergency Management, and Homeland Security matters. (Discussion and possible action) David Featherston
32. 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

AEP Texas Central Company v. PUC, D-1-GN-07-001153, Travis County District Court; Steering Committee of Cities v. PUC, D-1-GN-07-001144, Travis County District Court. (Appeal of Docket No. 32758)

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 Corpus Christi, et al. v. Public Utility Commission, No. D-1-GV-06-000973, 201st Judicial District, Travis County District Court. (Appeal of Docket No. 31433)

Cities of Corpus, et al. v. PUC, D-1-GN-08001522, Travis County District Court. (Appeal of Docket No. 33309)

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

City of Bryan v. PUC, D-1-GV-08-002325, Travis County District Court (Appeal of Docket No. 35011)

City of Garland v. PUC, D-1-GV-09-001199 (Consolidated), Travis County District Court (Appeal of Docket No. 35665)

City of Kerrville, Kerrville Public Utility Board, and City of Junction vs. PUC, D-1-GV-11-000324, Travis County District Court (Appeal of Docket No. 38354)

City Public Service Board of San Antonio v. Public Util. Comm'n, Cause No. GNO-002343, Travis County District Court. (Appeal of Docket No. 22055)

Entergy Texas, Inc. v. PUCT, Cause No. D-1-GN-09-000816, Travis County District Court, 126th District (Appeal of Docket No. 35269)

Harris County Hospital District v. PUC, Cause No. D-1-GN-09-002116, Travis County District Court (Docket No. 34332)

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)

Mobberley Road & 285 Partners, Ltd., BVJV Wataugua, L.P., and Duck Point Partners, Ltd. v. PUC, D-1-GN-08-000982, Travis County District Court (Appeal of Docket No. 32871)

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Nucor Steel v. PUC, Oncor Electric Delivery Co. and Texas Energy Future Holdings Limited Partnership, Travis County District Court, D-1-GN-08-002467. (Appeal of Docket No. 34077)

Pioneer Natural Resources USA, Inc. v. Public Util. Comm'n, No. D-1-GN-06-003805, 200th Judicial District, Travis County District Court; Pioneer Natural Resources USA, Inc. v. Public Util. Comm'n, No. D-1-GN-06-003209, 126th 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 Utility Commission v. State Telephone Texas Corporation, No. D-1-GN10-001980, in the 201st District Court of Travis County, Texas (Enforcement of Docket No. 36991 Order)

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

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

Southwestern Electric Power Company. v. PUC, 07-10-00108-CV, 7th 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 New Mexico Power Company v. PUC, D-1-GN-09-000071, Travis County District Court. (Appeal of Docket No. 35038)

Texas Appeals Courts

CenterPoint Energy Houston Electric, LLC v. PUC Rulemaking Proceeding No. 37623, Cause No. 03-10-00633, Third Court of Appeals.

City of El Paso and El Paso Electric Company v. Public Util. Comm'n. 03-08-00577, in the Third Court of Appeals. (Appeals of Docket No. 26194)

Constellation Energy v. PUC, No. 03-09-00417-CV, in the Third Court of Appeals (Appeal of Docket No. 33500)

McCullough v. Public Util. Comm'n, No. 13-07-00624-CV, Court of Appeals for the Thirteenth District of Texas. (Appeal of Docket No. 29415)

Public Utility Comm'n, et al. v. Cities of Harlingen, et al., No. 03-08-00793-CV, Third Court of Appeals (Appeal of Docket No. 33734)

Texas Supreme Court

Oncor Electric Delivery Company LLC v. Dallas Area Rapid Transit and Fort Worth Transportation Authority, No. 11-0079, Supreme Court of Texas

Texas Industrial Energy Consumers and Gulf Coast Coalition of Cities v. CenterPoint Energy Houston Electric, LLC, and Pub. Util. Comm'n, Texas Supreme Court, No. 08-0727. (Appeal of Docket No. 30706)

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Texas-New Mexico Power, et. al. v. Public Util. Comm'n, No. 08-0187, Supreme Court of Texas. (Appeal of Docket No. 29206)

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)

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.

Talk America, Inc. and Orjiakor N. Isiogu et al. v. Michigan Bell Telephone Company, Nos. 10-313 and 10-329, U.S. Supreme Court

Texas Cable & Telecommunications Association v. Perry, et al., No. A-05-CV-721-LY, Western District of Texas No. A-05-CV-721; 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

UTEX Communications Corp. v. Public Utility Commission, et al., No. 09-50313, Fifth Circuit Court of Appeals (Docket No. 30459, 26381, 32041, 33323)

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

In the Matter of UTEX Communications Corp., Pursuant to Section 252(e)(5) of the Communications Act, for Preemption of the Jurisdiction of the Public Utility Commission of Texas Regarding Interconnection Disputes with AT&T Texas, FCC DA-09-1643, WC 09-134 (Docket No. 26381)

UTEX Communications Corp., WC Docket No. 09-134 (Docket No. 26381, Petition for Adoption)

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FERC

FERC Docket No. TX11-2-000, Application of the City of College Station, Texas for an Order Directing a Physical Interconnection of Facilities and Transmission Services for Emergency Purposes only Under 210, 211 and 212 of the FPA and Request for Expedited Action in TX11-2.

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. 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. 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. EL11-61-000, Southern Cross Transmission, LLC

FERC Docket No. TX11-1-000, Joint Application of Southern Cross Transmission, LLC and Pattern Power Marketing, LLC

FERC Docket No. ER10-1069, Southwest Power Pool, Inc.

FERC Docket No. EL10-22-000, Tres Amigas, LLC

FERC Docket No. EL10-396-000, Tres Amigas, 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.

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- 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.