

PROJECT NO. 27244

RULEMAKING TO AMEND P.U.C.	§	PUBLIC UTILITY COMMISSION
SUBSTANTIVE RULE 25.214 AND	§	
PRO-FORMA RETAIL DELIVERY	§	OF TEXAS
TARIFF	§	

**PROPOSAL FOR PUBLICATION OF AMENDMENTS TO §25.214,
AS APPROVED AT THE AUGUST 21, 2003 OPEN MEETING**

The Public Utility Commission of Texas (commission) proposes amendments to §25.214 relating to Terms and Conditions of Retail Delivery Service Provided by Investor Owned Transmission and Distribution Utilities. The proposed amendments will amend the Terms and Conditions Tariff to accommodate Competitive Metering. Project Number 27244 is assigned to this proceeding.

Shawnee Claiborn-Pinto, Retail Market Analyst, Electric 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 section.

Ms. Claiborn-Pinto 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 amended section will be broader metering options for commercial and industrial customers, resulting in enhanced competition in the sale of electric power to retail customers. There will be no adverse economic effect on small businesses or micro-businesses as a result of enforcing this section. There may be economic costs to persons

who are required to comply with the proposed section, as amended. These costs are likely to vary from business to business, and are difficult to ascertain. However, it is believed that the benefits accruing from implementation of the proposed amended section will outweigh these costs.

Ms Claiborn-Pinto has also determined that for each year of the first five years the proposed amendments are in effect, there should be no effect on a local economy, and therefore no local employment impact statement is required under Administrative Procedure Act §2001.022.

The commission staff will conduct a public hearing on this rulemaking, if requested, pursuant to the Administrative Procedure Act, Texas Government Code §2001.029. Any such hearing, if requested, will take place at the commission's offices located in the William B. Travis Building, 1701 North Congress Avenue, Austin, Texas 78701 on Wednesday, October 8, 2003, at 10:00 a.m.. The request for a public hearing must be received no later than 20 days after the date of publication of this proposal in the *Texas Register*.

Comments on the proposed amendment, 16 copies, may be submitted to the Filing Clerk, Public Utility Commission of Texas, 1701 North Congress Avenue, PO Box 13326, Austin, Texas 78711-3326, within 20 days after publication. Reply comments may be submitted no later than 31 days after the date of publication of this proposal in the *Texas*

Register. Comments should be organized in a manner consistent with the organization of the proposed rule and tariff. The commission invites specific comments regarding the costs associated with, and benefits that will be gained by, implementation of the proposed amendments. In addition, the commission requests comments on the following questions:

1. Should a retail customer have the ability to contact the Transmission and Distribution Utility (TDU) directly for the installation of a competitive meter or should the retail customer be required to apply for installation of a competitive meter through its Competitive Retailer (CR)? What are the implications of the two scenarios on: (a) TDUs providing a competitive service; and (b) a customers' ability to take advantage of competitive metering? Should the ability of the customer to contact the TDU directly depend on the Competitive Retailer's Designation of Contact for Service Requests under Appendix A of the pro-forma tariff or upon the Competitive Retailer's participation in Competitive Metering?
2. Under §25.311, relating to Competitive Metering Services, retail customers have the right to physical access to the meter for the purpose of collecting data. Should the tariff provide the parameters for such physical access to ensure data integrity and safety? Should the customer be able to access any other elements, such as programming parameters and passwords, in the process of collecting data? Consistent with the answer to this question, should the definition of "tampering" be altered?

3. Should this rule and tariff apply to customers participating in a pilot project pursuant to the Public Utility Regulatory Act (PURA) §39.104?
4. Should this rule and tariff be modified so that it would also apply to customers participating in a pilot project pursuant to §25.311?
5. Should the TDU be required to read and report all meter data that a Competitive Retailer needs to bill its customer? What data, if any, should the TDU be required to report for the purpose of CR billing?

When commenting on specific subsections of the proposed amended rule, parties are encouraged to describe "best practice" examples of regulatory policies, and their rationale, that have been proposed or implemented successfully in other states already undergoing electric industry restructuring, if the parties believe that Texas would benefit from application of the same policies. The commission is only interested in receiving "leading edge" examples which are specifically related and directly applicable to the Texas statute, rather than broad citations to other state restructuring efforts.

The commission will consider the costs and benefits in deciding whether to adopt the section as amended. All comments should refer to Project Number 27244.

These amendments are proposed under the Public Utility Regulatory Act, Texas Utilities Code Annotated §14.002 (Vernon 1998, Supplement 2003) (PURA), which provides the Public Utility Commission with the authority to make and enforce rules reasonably

required in the exercise of its powers and jurisdiction and specifically, PURA §39.203 which grants the commission authority to establish reasonable and comparable terms and conditions for open access on distribution facilities for all retail electric utilities offering customer choice, and comparable rates for open access for all retail electric utilities offering customer choice; and PURA §39.107 which requires that metering services provided to commercial and industrial customers be provided on a competitive basis beginning on January 1, 2004.

Cross Reference to Statutes: Public Utility Regulatory Act §§14.002, 39.107, and 39.203

§25.214. Terms and Conditions of Retail Delivery Service Provided by Investor Owned Transmission and Distribution Utilities.

- (a) **Purpose.** The purpose of this section is to implement Public Utility Regulatory Act (PURA) §39.203 as it relates to the establishment of non-discriminatory terms and conditions of retail delivery service, including delivery service to a retail customer at transmission voltage, provided by a transmission and distribution utility (TDU). A TDU shall provide retail delivery service in accordance with the terms and conditions set forth in this section to those retail customers participating in the pilot project pursuant to PURA §39.104 on and after June 1, 2001, and to all retail customers on and after January 1, 2002. By clearly stating these terms and conditions, this section seeks to facilitate competition in the sale of electricity to retail customers and to ensure reliability of the delivery systems, customer safeguards, and services.
- (b) **Application.** This section, which includes the pro-forma tariff set forth in subsection (d) of this section, governs the terms and conditions of retail delivery service by all transmission and distribution utilities in Texas. The terms and conditions contained herein do not apply to the provision of transmission service by non-ERCOT utilities to retail customers.
- (c) **Tariff.** Each TDU in Texas shall file with the commission~~Public Utility Commission of Texas (commission)~~ a tariff to govern its retail delivery service

using the pro-forma tariff in subsection (d) of this section. TDUs may add to or modify only Chapters 2 and 6 of the tariff, reflecting individual utility characteristics and rates, in accordance with commission rules and procedures to change a tariff. Chapters 1, 3, 4, and 5 of the pro-forma tariff shall be used exactly as written. These ~~these~~ chapters can be changed only through the rulemaking process. If any provision in Chapter 2 or 6 conflicts with another provision of Chapters 1, 3, 4, and 5, the provision found in Chapters 1, 3, 4, and 5 shall apply, unless otherwise specified in Chapters 1, 3, 4, and 5.

- (d) **Pro-forma Retail Delivery Tariff.** ~~The commission adopts by reference the form "Tariff for Retail Delivery Service," effective date of May 8, 2001. This form is available in the commission's Central Records division and on the commission's website at www.puc.state.tx.us.~~

(1) **Tariff for Retail Delivery Service.**

Figure: 16 TAC §25.214(d)(1)

- (2) **Compliance tariff.** Compliance tariffs pursuant to this section must be filed by December 1, 2003 to be effective January 1, 2004.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

**ISSUED IN AUSTIN, TEXAS ON THE 22nd DAY OF AUGUST 2003 BY THE
PUBLIC UTILITY COMMISSION OF TEXAS
RHONDA G. DEMPSEY**