

CHAPTER 25. SUBSTANTIVE RULES APPLICABLE TO ELECTRIC SERVICE PROVIDERS.

Subchapter J. COSTS, RATES AND TARIFFS.

§25.238. Purchased Power Capacity Cost Recovery Factor (PCRF).

- (a) **Application.** This section applies to an electric utility that sells electricity.
- (b) **Definitions.** The following terms, when used in this section, have the following meanings unless the context indicates otherwise.
- (1) **Class billing determinants** -- Kilowatt-hours (kWh) for each class that is not billed using a demand charge, and kilowatts (kW) for each class that is billed using a demand charge.
 - (2) **Cost year** -- the most recent historical 12-month period for which data are available at the time a utility prepares an application to establish, adjust, or terminate a PCRF.
 - (3) **Net production capacity invested capital** -- Production capacity invested capital costs recorded in Federal Energy Regulatory Commission (FERC) Uniform System of Accounts 303, 310 - 317, 320 - 326, 330 - 337, and 340 - 347, less accumulated depreciation and adjusted for any changes in production capacity-related accumulated deferred federal income taxes and excluding any impact associated with Financial Accounting Standards Board Interpretation No. 48.
- (c) **Establishment, adjustment, and termination of a PCRF.**
- (1) A utility may apply for establishment of a PCRF rider only if all of the following conditions are met:
 - (A) the utility's most recent comprehensive base-rate proceeding established sufficient information to allow for the determination of values for the parameters in subsection (h) of this section;
 - (B) no more than two years have passed since the final order in the utility's most recent comprehensive base-rate proceeding;
 - (C) the utility has not had a PCRF in effect within the last year; and
 - (D) no PCRF has been in effect for the utility since the final order in the utility's most recent comprehensive base-rate proceeding.
 - (2) The application in which the utility applies for the establishment, adjustment, or termination of a PCRF rider shall be limited to issues related to the establishment, adjustment, or termination of the PCRF rider.
 - (3) The PCRF shall not include:
 - (A) the cost of capacity purchased directly or indirectly from an affiliate, as defined in §25.5(3) of this title (relating to Definitions), of the utility, including, without limitation, whether such capacity is acquired through one or more intermediaries or pursuant to a FERC approved agreement or tariff of a Regional Transmission Organization or Independent System Operator, unless such affiliate-related purchases have been previously approved by the commission in a proceeding under subsection (d) of this section;
 - (B) the cost of capacity owned by the utility;
 - (C) any costs recoverable by the utility under §25.236 of this title (relating to Recovery of Fuel Costs), including purchases of firm energy;
 - (D) any costs for purchases made through day-ahead or real-time markets of a Regional Transmission Organization or Independent System Operator.
 - (4) Upon the establishment of a utility's PCRF, the utility shall annually file an application for an adjustment of the PCRF. The cost year used in an annual PCRF adjustment shall be the 12-month period that immediately follows the cost year used to set the existing PCRF. In addition, the utility shall file the application to adjust the PCRF promptly after the relevant cost-year data become available. The commission may establish a schedule for the filing of such applications.

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- (5) A utility may terminate its PCRFR as part of any annual PCRFR adjustment proceeding. The final order including the termination of a PCRFR shall specify the date by which the utility shall be required to file an application for the final reconciliation of the costs and revenues associated with the terminated PCRFR.
 - (6) Commission staff may petition at any time to terminate a utility's PCRFR.
 - (7) A utility's request to establish, adjust, terminate, or reconcile a PCRFR shall include the utility's direct testimony supporting the request.
- (d) **Pre-approval of purchased power agreements.**
- (1) The commission may pre-approve a utility's executed agreement for the purchase of power capacity from an affiliate if it finds that the agreement is reasonable, and the utility may thereafter seek to include the capacity costs incurred under such a commission-approved agreement in its PCRFR rider.
 - (2) Though not required for inclusion in a PCRFR rider, a utility may seek commission review of the reasonableness of a utility's executed agreement for the purchase of power capacity from a non-affiliate, and the utility may seek to include the capacity costs incurred under such a commission-approved agreement in its PCRFR rider.
 - (3) Agreements under paragraphs (1) and (2) of this subsection may include an agreement for the purchase of capacity to be delivered in the future that relies on the construction of a generating unit or units.
 - (4) An application in which the utility applies for pre-approval of purchased power capacity agreements under this subsection shall be limited to issues related to the pre-approval of such agreements.
 - (5) A utility may apply for pre-approval of purchased power agreements under this subsection no more than once per year, and no more than three times between comprehensive base-rate proceedings.
- (e) **Notice of PCRFR proceeding.**
- (1) Within one commission working day of filing an application limited to establishing, adjusting, or terminating a PCRFR, a utility shall provide notice of the application in accordance with the following:
 - (A) **Method of notice.**
 - (i) The utility shall serve notice of the application on the parties to the utility's last PCRFR reconciliation proceeding or, if there has been no PCRFR reconciliation proceeding, on the parties to the utility's last comprehensive base-rate proceeding.
 - (ii) The utility shall issue a news release and post the news release on its website.
 - (B) **Content of notice.** Notice provided pursuant to paragraph (1) of this subsection shall include the following:
 - (i) The date the application was filed;
 - (ii) A description of the application, including the relief requested;
 - (iii) The date of the intervention and hearing request deadline. The date of the intervention and hearing request deadline shall be 30 days after the application was filed, except that if the date would fall on a day that is not a commission working day, the intervention and hearing request deadline shall be the first commission working day after the 30th day after the application was filed;
 - (iv) To the extent applicable, the existing PCRFR and the proposed PCRFR by rate class, and the percentage difference between the two;

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- (v) For an application seeking to establish or adjust a PCRFB, the following statement: “The PCRFB is subject to final review in the next PCRFB reconciliation.”;
 - (vi) The statement, “Persons with questions or who want more information on this application may contact (utility name) at (utility address) or call (utility toll-free telephone number) during normal business hours. A complete copy of this application is available for inspection at the address listed above”; and
 - (vii) The statement, “Persons who wish to intervene in the proceeding for this application, or who wish to provide their comments concerning this application, should contact the Public Utility Commission of Texas, Customer Protection Division, P.O. Box 13326, Austin, Texas 78711-3326, or call (512) 936-7120 or toll-free at (888) 782-8477. Hearing and speech-impaired individuals with text telephones (TTY) may call (512) 936-7136 or use Relay Texas (toll-free) 1-800-735-2989.”
- (C) **Proof of notice.** Within five commission working days from the filing of the application limited to establishing or adjusting a PCRFB, the utility shall file proof in the form of an affidavit that it complied with this paragraph.
- (2) If a utility applies to reconcile a PCRFB in a base-rate proceeding, the appropriate method and proof of notice set forth in §22.51 of this title (relating to Notice for Public Utility Regulatory Act, Chapter 36, Subchapters C-E; Chapter 51, §51.009; and Chapter 53, Subchapters C-E Proceedings) shall apply. The notice shall include a description of the requested change to the PCRFB.
 - (3) If a utility applies to reconcile a PCRFB outside of a base-rate proceeding, the method of notice set forth in §25.235(b)(1)(B) of this title (relating to Fuel Costs-General) shall apply. The proof of notice set forth in §25.235(b)(3) of this title shall apply. The notice shall include a description of the requested reconciliation of the PCRFB.
- (f) **Procedural schedule.** Upon the filing of an application limited to the annual adjustment of a PCRFB pursuant to this section, the presiding officer shall set a procedural schedule that will enable the commission to issue a final order in the proceeding as follows, except where good cause supports a different procedural schedule:
- (1) within 60 days after a sufficient application was filed, if no hearing is requested within 30 days of the filing of the application; or
 - (2) within 120 days after a sufficient application was filed, if a hearing is requested within 30 days of the filing of the application. If a hearing is requested, the hearing will be held no earlier than the first working day after the 45th day after a sufficient application was filed.
- (g) **Exclusion from fuel factor.** Costs that are recovered through a PCRFB shall be excluded in calculating the utility’s fixed fuel factor as defined in §25.237 of this title (relating to Fuel Factors).
- (h) **PCRFB formula.**
- (1) The PCRFB for each rate class shall be calculated using the following formula:

$$\text{PCRFB} = \{(((\text{PPC}_{\text{CY}} + \text{AAC}_{\text{CY}} + \text{APC}_{\text{M}}) * \text{TRAF}_{\text{CY}}) - \text{OSM}_{\text{CY}}) * \text{CAF}_{\text{CY}}\} - \{(\text{PPC}_{\text{RC-CLASS}} + \text{APC}_{\text{RC-CLASS}} - \text{OSM}_{\text{RC-CLASS}}) * \text{LGR}\} - \{((\text{PCIC}_{\text{RC-CLASS}} * \text{ROR}_{\text{AT}}) + \text{PCDEP}_{\text{RC-CLASS}} + \text{PCFIT}_{\text{RC-CLASS}} + \text{PCOT}_{\text{RC-CLASS}}) * \text{LGI}\} + \text{CTU} / \text{CBD}_{\text{E}}$$

Where:

PPC_{CY} = Cost-year purchased power capacity costs from entities that are not affiliates, in accordance with subsection (c)(3) of this section.

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AAC_{CY} = Cost-year purchased power capacity costs from entities that are affiliates and which costs are incurred from agreements that have been pre-approved by the commission in a proceeding under subsection (d) of this section as of the date of the filing of the instant PCRf application.

APC_M = The lesser of:

- purchased power capacity costs from affiliates used to set base rates in the utility's last comprehensive base-rate proceeding, or
- cost-year purchased power capacity costs from affiliates less AAC_{CY} .

OSM_{CY} = Cost-year margins from wholesale power capacity sales transactions.

$TRAF_{CY}$ = Cost-year value of the Texas retail jurisdiction production demand allocation factor, using the same type of production demand allocation factor used to set rates in the utility's last comprehensive base-rate proceeding.

CAF_{CY} = Cost-year value of the corresponding rate class production demand allocation factor, using the same type of production demand allocation factor used to set rates in the utility's last comprehensive base-rate proceeding.

$PPC_{RC-CLASS}$ = Purchased power capacity costs from entities that are not affiliates, allocated to the rate class and used to set base rates from the utility's last comprehensive base-rate proceeding.

$APC_{RC-CLASS}$ = Purchased power capacity costs from affiliates allocated to the rate class and used to set base rates from the utility's last comprehensive base-rate proceeding.

$OSM_{RC-CLASS}$ = Margins from wholesale power capacity sales allocated to the rate class and used to set base rates from the utility's last comprehensive base-rate proceeding.

LGR = The greater of (CBD_{CY} / CBD_{RC}) or 1.

CBD_{CY} = Cost-year rate class billing determinants.

CBD_{RC} = Rate class billing determinants used to calculate base rates from the utility's last comprehensive base-rate proceeding.

$PCIC_{RC-CLASS}$ = Net production capacity invested capital allocated to the rate class and used to set base rates from the utility's last comprehensive base-rate proceeding.

ROR_{AT} = The after-tax rate of return used to set base rates from the utility's last comprehensive base-rate proceeding.

$PCDEP_{RC-CLASS}$ = Depreciation expense, as related to gross production capacity, allocated to the rate class and used to set base rates from the utility's last comprehensive base-rate proceeding.

$PCFIT_{RC-CLASS}$ = Federal income tax, as related to net production capacity invested capital, allocated to the rate class and used to set base rates from the utility's last comprehensive base-rate proceeding.

$PCOT_{RC-CLASS}$ = Other taxes, as related to net production capacity invested capital, allocated to the rate class and used to set base rates from the utility's last comprehensive base-rate proceeding, and not including municipal franchise fees.

LGI = The greater of $((CBD_{CY} - CBD_{RC}) / CBD_{RC})$ or 0.

CTU = The rate class under/(over)-recovery, including interest, as calculated in subsection (i) of this section.

CBD_E = Estimated PCRf rate year class billing determinants.

- (2) Where the cost year used in setting a PCRf includes a change in base rates due to a comprehensive base-rate proceeding, parameters in the PCRf formula that refer to values from the utility's last comprehensive base-rate proceeding shall be calculated by prorating the values from the relevant base rate-proceedings across the cost-year.

- (i) **True-up.** After establishment of an initial PCRf, a subsequent PCRf cost year is expected to contain portions of two different PCRf rate years. Therefore, for purposes of calculating class over- or under-recoveries for use in a proceeding to adjust the PCRf, previous PCRf revenue requirements from

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PCRF rate years in effect during the cost year shall be prorated across the cost year. For each rate class, the difference between the prorated cost-year PCRF revenue requirement that previous PCRFs were set to recover from that class and the actual cost-year PCRF revenues recovered from that class, with interest on the balance calculated at the rate established annually by the commission pursuant to §25.28(c) and (d) of this title (relating to Bill Payment and Adjustments), shall be credited or charged to that class when calculating the adjusted PCRF. In the event that a PCRF rider is terminated, any over- or under-recovery amounts, with interest applied, shall be included in a separate rider.

(j) **Reconciliation of PCRF expenses.**

- (1) The reasonableness and necessity of expenses recovered through the PCRF shall be reviewed, and such costs and corresponding PCRF revenues shall be reconciled, as part of any proceeding initiated under §25.236(b) of this title. Upon motion and showing of good cause, a PCRF reconciliation proceeding may be severed from or consolidated with other proceedings.
- (2) In a proceeding in which PCRF costs are being reconciled, the electric utility has the burden of showing that:
 - (A) its expenses recovered through the PCRF during the reconciliation period were reasonable and necessary expenses incurred to provide reliable electric service to retail customers; and
 - (B) it has properly accounted for the amount of purchased power capacity-related revenues collected pursuant to the PCRF and corresponding to costs reviewed during the reconciliation period.
- (3) Any refunds or surcharges resulting from a PCRF reconciliation, with interest applied, shall, in the annual PCRF proceeding immediately subsequent to the filing of the final order in the reconciliation proceeding, be incorporated into the true-up balances described in subsection (i) of this section. In the event that no PCRF rider is in effect subsequent to a PCRF reconciliation, such refunds or surcharges, with interest applied, shall be included in a separate rider.

(k) **Transition Issues.**

For a utility subject to a commission order to transition to retail competition as of the effective date of this section, the utility's existing power cost recovery factor in its tariff approved under the prior rule shall continue to be effective until the effective date of new unbundled retail delivery tariffs for the utility, at which time the power cost recovery factor shall be terminated. Any over- or under-recovery amounts, with interest applied, shall be included in a separate rider to the utility's retail delivery tariffs to be established in the proceeding that approves such tariffs and shall be credited or charged to customers as appropriate. The utility shall file monthly reports with the commission showing all such amounts until no remaining amounts remain to be credited or charged, at which time the utility shall file a final report with the commission.