

PROJECT NO. 39829

RULEMAKING TO ESTABLISH	§	PUBLIC UTILITY COMMISSION
BILLING DEMAND FOR CERTAIN	§	
UTILITY CUSTOMERS PURSUANT	§	OF TEXAS
TO PURA § 36.009	§	

**PROPOSAL FOR PUBLICATION OF NEW §25.244
AS APPROVED AT THE FEBRUARY 10, 2012 OPEN MEETING**

The Public Utility Commission of Texas (commission) proposes new §25.244, relating to Billing Demand for Certain Utility Customers. The new section addresses demand ratchets and the billing units for nonresidential secondary voltage service customers of transmission and distributions utilities, pursuant to House Bill 1064 of the 82nd Legislature, Regular Session in 2011, which enacted Public Utility Regulatory Act §36.009. Project Number 39829 has been assigned to this proceeding.

Richard Lain, Director of Tariff and Rate Analysis in the Rate Regulation Division has determined that for each year of the first five-year period the proposed new section is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the new section.

Mr. Lain has determined that for each year of the first five years the new section is in effect the public benefit anticipated as a result of enforcing the new section will be the implementation of PURA §36.009. There will be no adverse economic effect on small businesses or micro-businesses as a result of enforcing the new section. Therefore, no regulatory flexibility analysis is required. There is no anticipated economic cost to persons who are required to comply with the new section as proposed.

Mr. Lain has also determined that for each year of the first five years the new section is in effect there should be no effect on a local economy, and therefore no local employment impact statement is required under Administrative Procedure Act (APA), Texas Government Code §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, at the commission's offices located in the William B. Travis Building, 1701 North Congress Avenue, Austin, Texas 78701 on Wednesday, March 28, 2012. The request for a public hearing must be received within 30 days after publication.

Initial comments on the proposed rule may be submitted to the Filing Clerk, Public Utility Commission of Texas, 1701 North Congress Avenue, P.O. Box 13326, Austin, Texas 78711-3326, within 30 days after publication. Sixteen copies of comments on the proposed new section are required to be filed pursuant to §22.71(c) of this title. Reply comments may be submitted within 40 days after publication. Comments should be organized in a manner consistent with the organization of the proposed rule. All comments should refer to Project Number 39829.

The new section is proposed under the Public Utility Regulatory Act, Texas Utilities Code Annotated §14.002 (Vernon 2007 and Supp. 2011) (PURA), which provides the commission with the authority to make and enforce rules reasonably required in the exercise of its powers and jurisdiction; and specifically, PURA §36.009, which requires the commission to establish by rule

the requirement that a transmission and distribution utility waive the application of demand ratchet provisions for certain nonresidential secondary service customers.

Cross Reference to Statutes: Public Utility Regulatory Act §14.002 and §36.009.

§25.244. Billing Demand for Certain Utility Customers.

- (a) **Application.** This section applies to a transmission and distribution utility (TDU) that provides retail distribution service.
- (b) **Definitions.** The following terms, when used in this section, have the following meanings, unless the context indicates otherwise.
- (1) **Demand ratchet** – A provision in a TDU’s tariff for retail distribution service that allows a customer to be billed based on the greater of the peak demand by that customer in the current month or some fixed percentage of the peak demand for that customer during previous months.
 - (2) **Nonresidential secondary voltage service customer** – A nonresidential customer that is billed demand charges for retail distribution service and that receives retail distribution service at secondary voltage through one point of delivery and that is measured using one meter.
- (c) **Rates.** In a proceeding in which base rates are set for nonresidential secondary voltage service customers, the rates set for nonresidential secondary voltage service customers shall provide that these customers shall be billed on a kilowatt hour (kWh), kilowatt (KW), or kilovolt-amperes (kVa) basis, and that a demand ratchet shall not apply to a

nonresidential secondary voltage service customer that has an annual load factor less than or equal to 25 percent.

- (d) **Annual Verification.** Upon the implementation of rates consistent with subsection (c) of this section, a TDU shall determine annually for each of its nonresidential secondary service customers whether to apply a demand ratchet. In addition, on the first anniversary of the date of the commission's final order in a proceeding described by subsection (c) of this section and annually thereafter, a TDU shall file an affidavit certifying that it has accurately identified and billed nonresidential secondary service customers who under subsection (c) of this section cannot be charged a demand ratchet. In addition, the TDU shall attach to the affidavit a thorough description of the procedures that it uses to ensure that these customers are accurately identified and billed.

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

**ISSUED IN AUSTIN, TEXAS ON THE 10th DAY OF FEBRUARY 2012 BY THE
PUBLIC UTILITY COMMISSION OF TEXAS
ADRIANA A. GONZALES**