

PROJECT NO. 47545

RULEMAKING PROCEEDING TO	§	PUBLIC UTILITY COMMISSION
ESTABLISH FILING SCHEDULES FOR	§	
INVESTOR-OWNED ELECTRIC	§	OF TEXAS
UTILITIES OPERATING SOLELY	§	
INSIDE ERCOT	§	

**PROPOSAL FOR PUBLICATION OF NEW §25.247
AS APPROVED AT THE NOVEMBER 17, 2017 OPEN MEETING**

The Public Utility Commission of Texas (commission) proposes new §25.247, relating to rate review schedule. The proposed new rule will establish a schedule requiring periodic filings for rate proceedings by investor-owned electric utilities operating solely inside the Electric Reliability Council of Texas (ERCOT), as required by Senate Bill 735 (SB 735) of the 85th Legislature, Regular Session in 2017. Project Number 47545 is assigned to this proceeding.

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

Darryl Tietjen has determined that for each year of the first five years the proposed section is in effect the public benefit anticipated as a result of adopting the section will be to bring the commission's rules into compliance with the provisions of SB 735 requiring the establishment of regularly scheduled commission reviews of the rates charged by electric investor-owned utilities operating in ERCOT.

There will be no adverse economic effect on small businesses or micro-businesses as a result of enforcing this section. Therefore, no regulatory flexibility analysis is required. There is no anticipated economic cost to persons who are required to comply with the section as proposed.

Darryl Tietjen has also determined that for each year of the first five years the proposed section is in effect there should be no effect on a local economy, and therefore no local employment impact statement is required under the Administrative Procedure Act (APA), Tex. Gov't Code Ann. §2001.022 (West 2016).

The commission staff will conduct a public hearing on this rulemaking, if requested in accordance with the APA, Tex. Gov't Code Ann. §2001.029 (West 2016), at the commission's offices located in the William B. Travis Building, 1701 North Congress Avenue, Austin, Texas 78701 on January 23, 2018. The request for a public hearing must be received within 30 days after publication.

Initial comments on the proposed new section may be filed with the Commission's filing clerk at 1701 North Congress Avenue, Austin, Texas or mailed to P.O. Box 13326, Austin, TX 78711-3326, within 30 days after publication. Sixteen copies of such comments are required by 16 Tex. Admin. Code §22.71(c) to be submitted when filed. Reply comments may be submitted within 45 days after publication. Comments should be organized in a manner consistent with the organization of the proposed rule(s). The commission invites specific comments regarding the costs associated with, and benefits that will be gained by, implementation of the proposed

section. The commission will consider the costs and benefits in deciding whether to adopt the section. All comments should refer to Project Number 47545.

This new section is proposed under Public Utility Regulatory Act, Tex. Util. Code Ann. §14.002 (West 2007 and Supp. 2017) (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 §36.157, which requires the commission to establish by rule a schedule requiring electric utilities to make periodic filings with the commission to modify or review base rates charged by the electric utility.

Cross reference to statutes: Public Utility Regulatory Act §14.002 and §36.157.

§25.247. Rate Review Schedule.

- (a) **Application.** This section applies only to an electric utility, other than a river authority, that operates solely inside the Electric Reliability Council of Texas (ERCOT).
- (b) **Filing requirements.**
- (1) Each electric utility in the ERCOT region must file for a comprehensive rate review within 48 months of the order setting rates in its most recent comprehensive rate proceeding or other proceeding in which the commission approved a settlement agreement reflecting a rate modification that allowed the electric utility to avoid the filing of such a rate case. If the date of such commission order falls within the period October 1 through April 30, the electric utility may, in order to use a calendar-year test year, extend the date of the required filing to the first business day in May after the fourth anniversary of the order. For a transmission and distribution utility, the filing must include information necessary for the review of both transmission and distribution rates.
 - (2) On a year-to-year basis, the commission shall issue an order extending the filing requirements under paragraph (1) of this subsection by one year if the following conditions are met:
 - (A) for an electric utility providing transmission-only service, the utility's most recently accepted earnings monitoring report, filed in compliance with commission rules and instructions or as adjusted by the commission to conform with the rules and instructions, shows that it is earning, on a weather-normalized basis, less than 50 basis points above the average of

the most recent commission-approved rate of return on equity for each transmission-only utility operating in ERCOT; or

- (B) for a transmission and distribution utility, the utility's most recently accepted earnings monitoring report, filed in compliance with commission rules and instructions or as adjusted by the commission to conform with the rules and instructions, shows that it is earning, on a weather-normalized basis, less than 50 basis points above the average of the most recent commission-approved rate of return on equity for each transmission and distribution utility operating in ERCOT with at least 175,000 metered customers.
 - (C) For purposes of this subsection, all utility earnings monitoring reports evaluated in earnings-report memoranda filed by commission staff are deemed accepted on the date that such memoranda are filed with the commission, unless a memorandum states explicitly otherwise or, with regard to the acceptance of the report for a specific electric utility, the commission modifies staff's conclusions pertaining to that electric utility. If necessary to achieve the purposes of this rule, commission staff may at any time issue an individual notice of acceptance for an electric utility's earnings monitoring report by filing a memorandum with the commission.
- (3) The commission may extend the scheduled filing deadline under paragraphs (1) and (2) of this subsection for one year for good cause shown or because of resource constraints of the commission.

- (4) An electric utility qualifying for an extension under paragraph (2) of this subsection shall submit notice in the same project as the filing of its most recent earnings monitoring report at least 180 days before the fourth anniversary of the order in its most recent comprehensive rate proceeding or other proceeding in which the commission approved a settlement agreement reflecting a rate modification that allowed the electric utility to avoid the filing of such a rate case.
- (5) Nothing in this section limits the commission's authority to initiate a rate proceeding at any time under this title on the basis of other criteria that the commission determines are in the public interest, including but not limited to the information provided in an electric utility's earnings monitoring report.

(c) **Transition issues for electric utilities.**

- (1) If an electric utility subject to subsection (a) of this section has a comprehensive rate proceeding pending on the effective date of this rule, the electric utility is required to file, after the commission's final order in that pending proceeding, a comprehensive rate proceeding in accordance with subsection (b)(1) of this section. If the pending proceeding is withdrawn, dismissed, or otherwise resolved without a final order, the electric utility shall be subject to the transition timelines in paragraph (2) of this subsection unless the commission orders otherwise.
- (2) All electric utilities subject to subsection (a) of this section shall make their initial filings under that subsection on or before the later of:
 - (A) 48 months from the order in the electric utility's last comprehensive rate proceeding or other proceeding in which the commission approved a

settlement agreement reflecting a rate modification that allowed the electric utility to avoid the filing of such a rate case, or such date as extended by the provisions of subsection (b)(1) of this section; or

(B) the following dates:

Texas-New Mexico Power	August 31, 2018
AEP Texas	April 1, 2019
CenterPoint Energy Houston Electric	July 1, 2019
Wind Energy Transmission Texas	October 1, 2019
Cross Texas Transmission	February 3, 2020
Sharyland Utilities LP and Sharyland Distribution Services LLC	July 1, 2020
Lone Star Transmission	September 1, 2020
Electric Transmission Texas	February 1, 2021
Oncor Electric Delivery Company	October 1, 2021

This agency 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 17th DAY OF NOVEMBER 2017 BY THE
PUBLIC UTILITY COMMISSION OF TEXAS
ADRIANA A. GONZALES**

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