

**PROJECT NO. 27401**

**RULEMAKING AND PROCEEDING § PUBLIC UTILITY COMMISSION  
TO ESTABLISH SCHEDULE FOR §  
TRUE-UP PROCEEDINGS UNDER § OF TEXAS  
PURA §39.262(c) §**

**PROPOSAL FOR PUBLICATION OF AN AMENDMENT TO §25.263  
AS APPROVED AT THE MARCH 21, 2003 OPEN MEETING**

The Public Utility Commission of Texas (commission) proposes an amendment to §25.263, relating to True-Up Proceeding. The proposed amendment will implement the provisions of Public Utility Regulatory Act (PURA) §39.262, which sets forth the requirements for the final true-up of stranded costs.

The commission proposes to amend §25.263 by modifying subsection (d)(1) to establish the true-up filing schedule required by PURA §39.262(c). As more fully discussed below, the proposed schedule is based upon staff's assessment of available resources, the complexity of the true-up filings, and factors related to each filing company's specific circumstances.

The proposed true-up filing date for Centerpoint Energy Houston, LLC (Centerpoint), Reliant Energy Retail Service, LLC, and Texas Genco, LP is January 12, 2004. This date is effectively consistent with the date specified in PURA §39.262(c) as the date after which true-up filings may begin and it is also consistent with Reliant Resources, Inc.'s option, exercisable in January 2004, to purchase the shares of Texas Genco common stock owned by Centerpoint. If the timing of Centerpoint's true-up filing is different from

the date used to establish the option purchase price, Centerpoint will be exposed to uncertainty regarding full recovery of its stranded costs. Additionally, given the potential magnitude of its stranded costs, a filing date of January 12, 2004 is proposed for Centerpoint because its stranded-cost proceeding will likely be the most thoroughly litigated of all the true-up filings and, consequently, will likely require the greatest amount of resources.

For Texas-New Mexico Power Company (TNMP) and First Choice Power, Inc., the proposed true-up filing date is March 31, 2004. This date is approximately two and one-half months after Centerpoint's proposed filing date and thus allows much of the processing in that case to have been completed. TNMP has already sold its generation assets, and the apparent amount of TNMP's stranded costs is considerably smaller than that of the other companies filing for stranded-cost recovery. Additionally, some elements of the true-up proceeding will not be at issue in TNMP's filing (*e.g.*, the capacity auction true-up adjustment, potential inclusion of control premium, etc.). For these reasons, the amount of resources required for TNMP's true-up filing is not expected to be as great as that of the other stranded-cost companies.

For AEP Texas North Company and Mutual Energy WTU, LP, the proposed true-up filing date is May 28, 2004. This date is proposed because it allows a number of months to pass after the filing of the previous cases and thus allows much of the processing of those cases to have been completed. Additionally, AEP Texas North Company will not

be filing for stranded-cost recovery; the only two true-up items for AEP Texas North Company and Mutual Energy WTU, LP are the "retail clawback" calculation required by PURA §39.262(e) and the final fuel reconciliation. The expected amounts at stake for these two items, in comparison to the amounts for all true-up elements in the other companies' true-up filings, are not expected to be significant. Accordingly, the resources required for this true-up filing are not likely to be substantial.

For AEP Texas Central Company (AEP Central) and Mutual Energy CPL, LP, the proposed filing date is September 3, 2004. This relatively late filing date is essentially based upon AEP Central's specific circumstances — that is, this date reflects the fact that AEP Central has not yet definitively determined whether the market valuation of its generation assets will occur by the sale of the assets or by the issuance of stock pursuant to a stock valuation or partial stock valuation methodology. In Docket Number 27120, *Petition of Central Power and Light Company for Declaratory Order and Approval of Plan of Divestiture*, in which AEP Central (formerly Central Power and Light Company) sought a declaratory order approving its right to sell nuclear assets for purposes of stranded-cost determination, AEP Central estimated that if it uses the sale methodology, the time required for sale of all its generation assets will be approximately 18 months. Alternatively, if AEP Central ultimately uses one of the stock valuation methodologies allowed by PURA §39.262(h)(2) or (h)(3), the time required for the issuance of any stock coupled with the subsequent one-year minimum trading period will be approximately the same 18-month period required by the sale process. Simply as a practical matter,

therefore, the proposed true-up filing date for AEP Central must reflect an approximate 18-month time period because the company will not have a market valuation of its generation assets before that time. Accordingly, the proposed filing date for AEP Central and Mutual Energy CPL, LP is September 3, 2004.

Darryl Tietjen, Director of Financial Analysis, Financial Review 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.

Mr. Tietjen has also determined that for each year of the first five years the proposed section is in effect the public benefit anticipated as a result of enforcing the section will be an orderly determination of the final reconciliation of certain amounts due to the unbundled successors-in-interest of deregulated electric utilities. There will be no effects on small businesses or micro-businesses as a result of enforcing this section. There will be no economic costs to persons who are required to comply with the proposed amendment. The proposed amendment merely sets up a schedule upon which the persons required to comply will discharge existing duties under PURA §39.262.

Mr. 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 Administrative Procedure Act §2001.022.

Comments on the proposed amendment (16 copies) 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. Reply comments may be submitted within 40 days after publication. 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 27401.

This amendment is 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 §39.252, which addresses a utility's right to recover stranded costs, and PURA §39.262, which requires the commission to conduct a true-up proceeding for each investor-owned electric utility after the introduction of customer choice and which prohibits over-recovery of stranded costs.

Cross Reference to Statutes: Public Utility Regulatory Act §§14.002, 39.252 and 39.262.

**§25.263. True-up Proceeding.**

(a) – (c) (No change.)

(d) **Obligation to file a true-up proceeding.**

(1) Each TDU, its APGC, and its AREP shall jointly file ~~after January 12, 2004, on a schedule to be determined by the commission,~~ a true-up application pursuant to subsection (e) of this section according to the following schedule.

(A) Centerpoint Energy Houston, LLC, Reliant Energy Retail Service, LLC, and Texas Genco, LP — not earlier than January 12, 2004, and not later than ten days thereafter;

(B) Texas-New Mexico Power Company and First Choice Power, Inc. — not earlier than March 31, 2004, and not later than ten days thereafter;

(C) AEP Texas North Company and Mutual Energy WTU, LP — not earlier than May 28, 2004, and not later than ten days thereafter;

(D) AEP Texas Central Company and Mutual Energy CPL, LP — not earlier than September 3, 2004, and not later than ten days thereafter.

(E) Notwithstanding the schedule in subparagraphs (A) – (D) of this paragraph, the commission may allow a company, upon a showing of good cause, to file its true-up application on a different date.

(2) – (3) (No change.)

(e) – (n) (No change.)

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 21st DAY OF MARCH 2003 BY THE  
PUBLIC UTILITY COMMISSION OF TEXAS  
RHONDA G. DEMPSEY**