

PROJECT NO. 30769

AMENDMENTS TO PUC SUBST. R. § PUBLIC UTILITY COMMISSION
25.472(b)(3) REGARDING PRIVACY OF §
CUSTOMER INFORMATION § OF TEXAS

PROPOSAL FOR PUBLICATION OF AN AMENDMENT TO §25.472
AS APPROVED AT THE AUGUST 18, 2005 OPEN MEETING

The Public Utility Commission of Texas (commission) proposes an amendment to §25.472(b)(3), relating to Privacy of Customer Information. The proposed amendment deletes the following language from the rule: “For industrial and commercial customers, the TDU (Transmission and Distribution Utility) or REP (Retail Electric Provider) shall not release any information of a prior occupant of the premise, if a prior occupant has designated the information as competitively sensitive.”

This rule is a competition rule subject to judicial review as specified in Public Utility Regulatory Act (PURA), Texas Utilities Code §39.001(e). Project No. 30769 is assigned to this proceeding.

The commission proposes this amendment due to the cost and the significant practical barriers that the Electric Reliability Council of Texas, Inc. (ERCOT) and other market entities would face in implementing the changes to transactions and back-office systems that would be necessary to give effect to the provision proposed for deletion.

The current REP, TDU, and ERCOT systems and transaction sets can neither relay the competitively sensitive designation nor block the automated disclosure of historical usage data that is requested through a transaction; therefore, market participants currently have very limited

abilities to prevent disclosure of historical usage information, even if an industrial or commercial customer designates its historical usage data as competitively sensitive. To honor a non-disclosure request, ERCOT, REPs and TDUs would have to revise transactions and back-office systems. This work is estimated to cost up to \$500,000 for ERCOT alone, and the new function would require additional market testing for both ERCOT and REPs. Those industrial and commercial customers seeking to ensure non-disclosure of historical usage data have the option of contracting with the future property owner or lessor to restrict disclosure, at no cost to the larger retail market.

Lauren Damen, Senior Retail Market Analyst, Electric 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.

Ms. Damen has determined that, for each year of the first five years the proposed section is in effect, the amendment will benefit the public because market participants will avoid incurring costs to revise transactions and back-office systems. There will be no adverse economic effect on small businesses or micro-businesses as a result of enforcing this section. There is no anticipated economic cost to persons who are required to comply with the section as proposed.

Ms. Damen 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 (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, October 26, 2005 at 9:00 a.m. The request for a public hearing must be received within 30 days after publication.

Initial comments on the proposed amendment shall 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 to the proposed amendment are required to be filed pursuant to §22.71(c) of this title. Reply comments shall be submitted within 45 days after publication. Comments shall be organized in a manner consistent with the organization of the proposed rule. 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 30769.

When commenting on specific subsections of the proposed 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.

This amendment is proposed under PURA §14.002, which provides the commission with the authority to make and enforce rules reasonably required in the exercise of its powers and jurisdiction. The commission also proposes this amendment pursuant to PURA §39.101, which grants the commission authority to establish protections for retail customers.

Cross Reference to Statutes: PURA §14.002 and §39.101.

§25.472. Privacy of Customer Information.

(a) (No change.)

(b) **Individual customer and premise information.**

(1)-(2) (No change.)

(3) Upon receiving authorization from a customer or applicant, a REP shall request from the TDU the monthly usage of the customer's or applicant's premise for the previous 12 months. The TDU, upon receipt of a written request or other proof of authorization, shall provide the requested information to the requesting REP or to the customer or applicant no later than three business days after the request or proof of authorization is submitted. .[]

(4)-(5) (No change.)

(c) (No change.)

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 24th DAY OF AUGUST 2005 BY THE
PUBLIC UTILITY COMMISSION OF TEXAS
ADRIANA A. GONZALES**

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