

The Public Utility Commission of Texas (commission) adopts an amendment to §25.5 relating to Definitions with changes to the proposed text as published in the October 22, 1999 *Texas Register* (24 TexReg 9136). The amendment is necessary to add new definitions and modify existing definitions in §25.5 to conform to the Public Utility Regulatory Act (PURA) as amended by Senate Bill 7, Act of May 21, 1999, 76th Legislature, Regular Session, chapter 405, 1999 Texas Session Law Service, 2543 (Vernon) (SB 7). The amendment also updates citations to the commission's rules and clarifies defined terms as necessary. This amendment is adopted under Project Number 21232.

The commission received comments on the proposed amendment from Brazos Electric Power Cooperative, Inc. (Brazos); Cap Rock Electric Cooperative, Inc. (Cap Rock); Central Power and Light Company, Southwestern Electric Power Company and West Texas Utilities Company, the Texas electric operating companies of Central and South West Corporation (collectively CSW); City of Austin doing business as Austin Energy (Austin); City of Denton, City of Garland, and Greenville Electric Utility System (collectively Cities); City Public Service of San Antonio (CPS); Entergy Gulf States, Inc. (EGSI); Pedernales Electric Cooperative, Inc. (PEC); Reliant Energy HL&P (Reliant); Southwestern Public Service Company (SPS), Texas Electric Cooperatives, Inc. (TEC); Texas-New Mexico Power Company (TNMP); Texas Public Power Association (TPPA); and TXU Electric Company (TXU).

Comments on specific definitions:

Definition of "ancillary service"

Brazos and TEC commented that the definition of "ancillary service" should be revised to conform to PURA §35.004(e) and proposed that the following language be included in the definition: "A service necessary to facilitate the transmission of electric energy including load following, standby power, backup power, reactive power and any other services the commission may determine by rule." EGSI suggested that the definition of "ancillary service" should include a non-exclusive list of examples of ancillary services that would include those services excluded from the definition of "transmission service" on or after implementation of customer choice (*i.e.*, control area services, scheduling resources, regulation services, provision of operating reserves, reactive power support, and voltage support).

The commission agrees with Brazos and TEC and has adopted the suggested language. The definition as modified is consistent with the statutory definition in PURA §35.004(e). The EGSI proposal, while similar, does not track the statutory definition as closely.

Definition of "ancillary service provider"

Cap Rock, CSW, CPS, PEC, and SPS commented that the definition of "ancillary service provider" should be amended to include electric cooperatives. EGSI proposed that the definition be amended to include a "transmission company". TXU proposed adding the sentence "The independent organization

in ERCOT may acquire generation related ancillary services on a nondiscriminatory basis on behalf of entities selling electricity at retail" to better describe the role of independent operators.

The commission agrees that the definition of ancillary service provider should include electric cooperatives. The commission concludes that a "transmission company" is a utility, so that EGSI's suggestion is unnecessary. The modification proposed by TXU appears to be a substantive provision that is not appropriate for a definition, and for this reason, it is not adopted.

Definition of "Electric Reliability Council of Texas (ERCOT)"

Reliant suggested that the definition of ERCOT be revised to indicate that ERCOT is recognized as a "power region" as that term is defined in PURA §31.002(12).

The commission finds that Reliant's suggestion is a substantive provision not appropriate for a definition.

Definition of "eligible ancillary service customer"

Cap Rock, Cities, and PEC stated that if the definition of "person" is amended to be consistent with the definition of "person" in PURA as amended by Senate Bill 7, then the term "eligible ancillary service customer" will need to be revised to include municipally-owned utilities and electric cooperatives.

The commission finds that the term should include municipally-owned utilities and electric cooperatives regardless of the definition of "person" and has modified the definition accordingly.

Definition of "eligible transmission service customer"

Cap Rock, Cities, CSW and PEC stated that electric cooperatives should be added to the definition of "eligible transmission service customer". Reliant stated that power generation companies and retail electric providers could both be eligible transmission service customers under the new provisions of Senate Bill 7 and suggested that the term be expanded to include both power generation companies and retail electric providers. TXU agreed that all three entities should be added to the definition.

The commission agrees and has revised the definition.

Definition of "generation assets"

Reliant commented that the term "generation assets" should be modified to insert the phrase "but not limited to" between the words "including" and "generation plants" to clarify that the list of assets is not intended to be exhaustive, but rather illustrative. For example, Reliant states that coal and lignite handling facilities are not listed but clearly fall within the definition's scope as indicated by the presently proposed list of assets.

The commission finds that the modification suggested by Reliant is unnecessary. The definition as proposed is identical to the definition in PURA §39.251(3).

Definition of "independent organization"

Cities commented that the definition of "independent organization" should be modified to add the phrase "at minimum" regarding the number of representatives from each segment of the electric market that the organization must consist of in order for it be deemed to be independent.

The commission finds that the modification suggested by Cities is unnecessary. The definition as proposed is identical to the definition in PURA §39.151(b). The PURA definition does not prohibit more than three representatives from each segment from being appointed. Three is merely the minimum required from each market sector for the board to be deemed "independent".

Definition of "person"

All commenters, except EGSI, commented on the definition of the term "person". The commenters, with the exception of CSW, SPS and TXU, generally agreed that the term should be defined as it is in PURA §11.003(14) and that failure to do so could have far reaching, and perhaps unintended, consequences. Brazos states this could result in electric cooperatives being subject to many provisions of the rules promulgated to implement Senate Bill 7, from which the Legislature expressly excluded

electric cooperatives. Cap Rock, Cities, and PEC also state that the term "person" should be changed to match the definition in PURA. Cap Rock comments that failure to do so, as an example, will result in municipally-owned utilities and electric cooperatives being included in the definition of "retail electric provider" which includes the term "person" in the definition, and that this would be inconsistent with the meaning of retail electric provider established by Senate Bill 7. Other terms listed by commenters that include the term "person" and might result in inconsistencies with PURA are "power generation company" and "affiliates". CPS and Austin commented that the definition of "person" should exclude municipal corporations, governmental subdivisions, and electric cooperatives.

TXU commented that the term should be amended to mirror PURA, but that the commission must first review all of its other substantive rules to ensure that those rules that refer to "person" and are still applicable to electric cooperatives are concurrently amended so as to remain applicable to electric cooperatives. TXU stated that such a review will be a large task and one that is outside the scope of this rulemaking and that the definition of "person" should remain unchanged until such a review can be done, so as not to free electric cooperatives from the reach of provisions that are still applicable to them.

CSW and SPS commented that the commission may wish to clarify the term "agency" as it is used in the current definition of "person" in §25.5. They stated that the term "agency" is not defined and that a number of governmental entities at various levels may consider themselves as an "agency".

The commission agrees with TXU. The definition of "person" will be amended to mirror the PURA definition after the review of all the rules in Chapter 25 for consistency with the 1999 amendments to PURA is completed. This review is being conducted under Project Number 21232, *Rule Changes to Conform Rules to the Electric Restructuring Act (Senate Bill 7)*. Until the definition is amended, including municipal corporations and electric cooperatives in the definition does not make them subject to commission authority unless such entities are otherwise subject to commission authority under law.

Definition of "planned transmission service" and "unplanned transmission service"

Cities and TXU commented that these two terms should not be deleted as proposed. Cities states that these types of service will still be requested and provided for at least two more years and that regardless of what procedures will exist in the future for obtaining firm transmission service, the current distinction between "planned transmission service" and "unplanned transmission service" is necessary for arranging for firm transmission service to serve load. TXU stated that the terms should be defined in §25.5 using the wording in §25.191(c)(1) and (c)(2) and that the terms can be eliminated from the transmission rules in a subsequent rulemaking.

The commission agrees with the commenters. The terms will be defined in §25.5 as they are defined in §25.191, except for the last sentence in (c)(1) and the last sentence in (c)(2) which are substantive provisions not appropriate for a definitions section.

Definition of "public utility or utility"

Brazos, Cap Rock, PEC, Reliant and TEC all commented that the definition of "public utility or utility" should be amended to reflect the definition in PURA §11.004.

The commission agrees and amends the term accordingly.

Definition of "renewable energy technology"

TEC commented that the definition of "renewable energy technology" should be amended to be identical to the definition found in PURA, which would require replacing the word "solar" in the second sentence with "those that rely on energy derived directly from the sun".

The commission agrees with TEC and has revised the definition accordingly.

Definition of "tariff"

TXU commented that the term "tariff" should be amended to reflect that not just electric utilities will continue to have tariffs, but also municipally-owned utilities and electric cooperatives. Reliant commented that it is common practice for all utility tariffs to include not only "rates and charges" but also

standard form agreements and terms and conditions associated with the various classes of service, together with other relevant information.

The commission agrees with Reliant that terms and conditions of contracts are included in tariffs. The commission agrees with TXU that municipally-owned utilities and electric cooperatives are subject to the commission's rules regarding transmission service and file tariffs for transmission service. The definition has been amended to reflect the comments of Reliant and TXU.

Definition of "transmission service"

TEC and Brazos commented that the definition of "transmission service" should be revised to clarify that municipally-owned utilities and electric cooperatives are not required to provide a retail transmission or distribution service unless they have decided to offer customer choice. EGSI commented that the definition should be revised to include independent transmission companies as the owner or operator of transmission and distribution facilities used for transmission service.

The change suggested by TEC and Brazos would be a substantive provision not appropriate for the definition. The commission finds that an independent transmission company is a utility, and therefore it is not necessary to change the definition as proposed by EGSI.

Definition of "transmission service provider"

Cap Rock, PEC and TXU commented that the definition of "transmission service provider" should be amended to expressly refer to electric cooperatives.

The commission agrees and has made the change.

The commission finds that the terms "test year" and "native load customer" apply to electric cooperatives and municipally-owned utilities and has added these entities to the definitions of those two terms. All comments, including any not specifically referenced herein, were fully considered by the commission. In adopting this section, the commission makes other minor modifications for the purpose of clarifying its intent.

This amendment is adopted under the Public Utility Regulatory Act, Texas Utilities Code Annotated §14.002 (Vernon 1998) (PURA) which provides the Public Utility Commission of Texas with the authority to make and enforce rules reasonably required in the exercise of its powers and jurisdiction.

Cross Reference to Statutes: Public Utility Regulatory Act §§11.003, 14.002, 31.002, 39.151, 39.156, 39.251, 39.353, 39.354, 39.3545, and 39.904.

§25.5. Definitions.

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise:

- (1) **Above-market purchased power costs** — Wholesale demand and energy costs that a utility is obligated to pay under an existing purchased power contract to the extent the costs are greater than the purchased power market value.
- (2) **Administrative review** — A process under which an application may be approved without a formal hearing.
- (3) **Affected person** — means:
 - (A) a public utility or electric cooperative affected by an action of a regulatory authority;
 - (B) a person whose utility service or rates are affected by a proceeding before a regulatory authority; or
 - (C) a person who:
 - (i) is a competitor of a public utility with respect to a service performed by the utility; or
 - (ii) wants to enter into competition with a public utility.
- (4) **Affiliate** — means:
 - (A) a person who directly or indirectly owns or holds at least 5.0% of the voting securities of a public utility;

- (B) a person in a chain of successive ownership of at least 5.0% of the voting securities of a public utility;
 - (C) a corporation that has at least 5.0% of its voting securities owned or controlled, directly or indirectly, by a public utility;
 - (D) a corporation that has at least 5.0% of its voting securities owned or controlled, directly or indirectly, by:
 - (i) a person who directly or indirectly owns or controls at least 5.0% of the voting securities of a public utility; or
 - (ii) a person in a chain of successive ownership of at least 5.0% of the voting securities of a public utility;
 - (E) a person who is an officer or director of a public utility or of a corporation in a chain of successive ownership of at least 5.0% of the voting securities of a public utility; or
 - (F) a person determined to be an affiliate under Public Utility Regulatory Act §11.006.
- (5) **Affiliated power generation company** — A power generation company that is affiliated with or the successor in interest of an electric utility certificated to serve an area.
- (6) **Affiliated retail electric provider** — A retail electric provider that is affiliated with or the successor in interest of an electric utility certificated to serve an area.

- (7) **Aggregator** — A person joining two or more customers, other than municipalities and political subdivision corporations, into a single purchasing unit to negotiate the purchase of electricity from retail electric providers. Aggregators may not sell or take title to electricity. Retail electric providers are not aggregators.
- (8) **Aggregation** — Includes the following:
- (A) the purchase of electricity from a retail electric provider, a municipally owned utility, or an electric cooperative by an electricity customer for its own use in multiple locations, provided that an electricity customer may not avoid any nonbypassable charges or fees as a result of aggregating its load; or
 - (B) the purchase of electricity by an electricity customer as part of a voluntary association of electricity customers, provided that an electricity customer may not avoid any nonbypassable charges or fees as a result of aggregating its load.
- (9) **Ancillary service** — A service necessary to facilitate the transmission of electric energy including load following, standby power, backup power, reactive power, and any other services the commission may determine by rule.
- (10) **Ancillary service provider** — An electric utility, municipally-owned utility, electric cooperative, or power generation company that provides an ancillary service or an independent system operator that provides such services.
- (11) **Base rate** — Generally, a rate designed to recover the costs of electricity other than costs recovered through a fuel factor, power cost recovery factor, or surcharge.
- (12) **Commission** — The Public Utility Commission of Texas.

- (13) **Control area** — An electric power system or combination of electric power systems to which a common automatic generation control scheme is applied in order to:
- (A) match, at all times, the power output of the generators within the electric power system(s) and capacity and energy purchased from entities outside the electric power system(s), with the load within the electric power system(s);
 - (B) maintain, within the limits of good utility practice, scheduled interchange with other control areas;
 - (C) maintain the frequency of the electric power system(s) within reasonable limits in accordance with good utility practice; and
 - (D) obtain sufficient generating capacity to maintain operating reserves in accordance with good utility practice.
- (14) **Corporation** — A domestic or foreign corporation, joint-stock company, or association, and each lessee, assignee, trustee, receiver, or other successor in interest of the corporation, company, or association, that has any of the powers or privileges of a corporation not possessed by an individual or partnership. The term does not include a municipal corporation or electric cooperative, except as expressly provided by the Public Utility Regulatory Act.
- (15) **Customer choice** — The freedom of a retail customer to purchase electric services, either individually or through voluntary aggregation with other retail customers, from the provider or providers of the customer's choice and to choose among various fuel types, energy efficiency programs, and renewable power suppliers.

- (16) **Customer class** — A group of customers with similar electric usage service characteristics (e.g., residential, commercial, industrial, sales for resale) taking service under one or more rate schedules. Qualified businesses as defined by the Texas Enterprise Zone Act, Texas Government Code, Title 10, Chapter 2303 may be considered to be a separate customer class of electric utilities.
- (17) **Demand-side management** — Activities that affect the magnitude and/or timing of customer electricity usage.
- (18) **Demand-side resource or demand-side management resource** — Activities that result in reductions in electric generation, transmission, or distribution capacity needs or reductions in energy usage or both.
- (19) **Distribution line** — A power line operated below 60,000 volts, when measured phase-to-phase.
- (20) **Distributed resource** — A generation, energy storage, or targeted demand-side resource, generally between one kilowatt and ten megawatts, located at a customer's site or near a load center, which may be connected at the distribution voltage level (60,000 volts and below), that provides advantages to the system, such as deferring the need for upgrading local distribution facilities.
- (21) **Electric cooperative** —
- (A) a corporation organized under the Texas Utilities Code, Chapter 161 or a predecessor statute to Chapter 161 and operating under that chapter;

- (B) a corporation organized as an electric cooperative in a state other than Texas that has obtained a certificate of authority to conduct affairs in the State of Texas; or
 - (C) a successor to an electric cooperative created before June 1, 1999, in accordance with a conversion plan approved by a vote of the members of the electric cooperative, regardless of whether the successor later purchases, acquires, merges with, or consolidates with other electric cooperatives.
- (22) **Electric Reliability Council of Texas (ERCOT)** — Refers to the organization and, in a geographic sense, refers to the area served by electric utilities, municipally owned utilities, and electric cooperatives that are not synchronously interconnected with electric utilities outside of the State of Texas.
- (23) **Electric utility** — Except as provided in Subchapter I, Division 1 of this Chapter, an electric utility is: A person or river authority that owns or operates for compensation in this state equipment or facilities to produce, generate, transmit, distribute, sell, or furnish electricity in this state. The term includes a lessee, trustee, or receiver of an electric utility and a recreational vehicle park owner who does not comply with Texas Utilities Code, Subchapter C, Chapter 184, with regard to the metered sale of electricity at the recreational vehicle park. The term does not include:
 - (A) a municipal corporation;
 - (B) a qualifying facility;
 - (C) a power generation company;

- (D) an exempt wholesale generator;
- (E) a power marketer;
- (F) a corporation described by Public Utility Regulatory Act §32.053 to the extent the corporation sells electricity exclusively at wholesale and not to the ultimate consumer;
- (G) an electric cooperative;
- (H) a retail electric provider;
- (I) the state of Texas or an agency of the state; or
- (J) a person not otherwise an electric utility who:
 - (i) furnishes an electric service or commodity only to itself, its employees, or its tenants as an incident of employment or tenancy, if that service or commodity is not resold to or used by others;
 - (ii) owns or operates in this state equipment or facilities to produce, generate, transmit, distribute, sell or furnish electric energy to an electric utility, if the equipment or facilities are used primarily to produce and generate electric energy for consumption by that person; or
 - (iii) owns or operates in this state a recreational vehicle park that provides metered electric service in accordance with Texas Utilities Code, Subchapter C, Chapter 184.

- (24) **Eligible ancillary service customer** — Any person, municipally-owned utility, or electric cooperative that is an eligible transmission service customer.
- (25) **Eligible transmission service customer** — A transmission service provider (for all uses of its transmission system) or any electric utility, municipally-owned utility, electric cooperative, power generation company, retail electric provider, federal power marketing agency, exempt wholesale generator, qualifying facility, power marketer, or other person whom the commission has determined to be an eligible transmission service customer.
- (26) **Exempt wholesale generator** — A person who is engaged directly or indirectly through one or more affiliates exclusively in the business of owning or operating all or part of a facility for generating electric energy and selling electric energy at wholesale who does not own a facility for the transmission of electricity, other than an essential interconnecting transmission facility necessary to effect a sale of electric energy at wholesale, and who is in compliance with the registration requirements of §25.105 of this title (relating to Registration and Reporting by Power Marketers, Exempt Wholesale Generators and Qualifying Facilities).
- (27) **Existing purchased power contract** — A purchased power contract in effect on January 1, 1999, including any amendments and revisions to that contract resulting from litigation initiated before January 1, 1999.

- (28) **Facilities** — All the plant and equipment of an electric utility, including all tangible and intangible property, without limitation, owned, operated, leased, licensed, used, controlled, or supplied for, by, or in connection with the business of an electric utility.
- (29) **Freeze period** — The period beginning on January 1, 1999, and ending on December 31, 2001.
- (30) **Generation assets** — All assets associated with the production of electricity, including generation plants, electrical interconnections of the generation plant to the transmission system, fuel contracts, fuel transportation contracts, water contracts, lands, surface or subsurface water rights, emissions-related allowances, and gas pipeline interconnections.
- (31) **Good utility practice** — Any of the practices, methods, and acts engaged in or approved by a significant portion of the electric utility industry during the relevant time period, or any of the practices, methods, and acts that, in the exercise of reasonable judgment in light of the facts known at the time the decision was made, could have been expected to accomplish the desired result at a reasonable cost consistent with good business practices, reliability, safety, and expedition. Good utility practice is not intended to be limited to the optimum practice, method, or act, to the exclusion of all others, but rather is intended to include acceptable practices, methods, and acts generally accepted in the region.
- (32) **Hearing** — Any proceeding at which evidence is taken on the merits of the matters at issue, not including prehearing conferences.

- (33) **Independent organization** — An independent system operator or other person that is sufficiently independent of any producer or seller of electricity that its decisions will not be unduly influenced by any producer or seller. An entity will be deemed to be independent if it is governed by a board that has three representatives from each segment of the electric market, with the consumer segment being represented by one residential customer, one commercial customer, and one industrial retail customer.
- (34) **Independent system operator** — An entity supervising the collective transmission facilities of a power region that is charged with non-discriminatory coordination of market transactions, systemwide transmission planning, and network reliability.
- (35) **License** — The whole or part of any commission permit, certificate, approval, registration, or similar form of permission required by law.
- (36) **Licensing** — The commission process respecting the granting, denial, renewal, revocation, suspension, annulment, withdrawal, or amendment of a license.
- (37) **Market power mitigation plan** — A written proposal by an electric utility or a power generation company for reducing its ownership and control of installed generation capacity as required by the Public Utility Regulatory Act §39.154.
- (38) **Market value** — For nonnuclear assets and certain nuclear assets, the value the assets would have if bought and sold in a bona fide third-party transaction or transactions on the open market under the Public Utility Regulatory Act (PURA) §39.262(h) or, for certain nuclear assets, as described by PURA §39.262(i), the value determined under the method provided by that subsection.

- (39) **Municipality** — A city, incorporated village, or town, existing, created, or organized under the general, home rule, or special laws of the state.
- (40) **Municipally-owned utility** — Any utility owned, operated, and controlled by a municipality or by a nonprofit corporation whose directors are appointed by one or more municipalities.
- (41) **Native load customer** — A wholesale or retail customer on whose behalf an electric utility, electric cooperative, or municipally-owned utility, by statute, franchise, regulatory requirement, or contract, has an obligation to construct and operate its system to meet in a reliable manner the electric needs of the customer.
- (42) **Person** — Any natural person, partnership, municipal corporation, cooperative corporation, corporation, association, governmental subdivision, or public or private organization of any character other than an agency.
- (43) **Planned resources** — Generation resources owned, controlled, or purchased by a transmission customer, and designated as planned resources for the purpose of serving load.
- (44) **Planned transmission service** — A service that permits a transmission service customer to use the transmission service providers' transmission systems for the delivery of power from planned resources to loads on the same basis as the transmission service providers use their transmission systems to reliably serve their native load customers.

- (45) **Pleading** — A written document submitted by a party, or a person seeking to participate in a proceeding, setting forth allegations of fact, claims, requests for relief, legal argument, and/or other matters relating to a proceeding.
- (46) **Power cost recovery factor** — A charge or credit that reflects an increase or decrease in purchased power costs not in base rates.
- (47) **Power generation company** — A person that:
- (A) generates electricity that is intended to be sold at wholesale;
 - (B) does not own a transmission or distribution facility in this state, other than an essential interconnecting facility, a facility not dedicated to public use, or a facility otherwise excluded from the definition of "electric utility" under this section; and
 - (C) does not have a certificated service area, although its affiliated electric utility or transmission and distribution utility may have a certificated service area.
- (48) **Power marketer** — A person who becomes an owner of electric energy in this state for the purpose of selling the electric energy at wholesale; does not own generation, transmission, or distribution facilities in this state; does not have a certificated service area; and who is in compliance with the registration requirements of §25.105 of this title (relating to Registration and Reporting by Power Marketers, Exempt Wholesale Generators and Qualifying Facilities).
- (49) **Power region** — A contiguous geographical area which is a distinct region of the North American Electric Reliability Council.

- (50) **Pre-existing transmission contract** — A contract for transmission or wheeling services that took effect prior to March 4, 1996.
- (51) **Premises** — A tract of land or real estate including buildings and other appurtenances thereon.
- (52) **Proceeding** — A hearing, investigation, inquiry, or other procedure for finding facts or making a decision. The term includes a denial of relief or dismissal of a complaint. It may be rulemaking or nonrulemaking; rate setting or non-rate setting.
- (53) **Public utility or utility** — means an electric utility as that term is defined in this section, or a public utility or utility as those terms are defined in the Public Utility Regulatory Act §51.002.
- (54) **Public Utility Regulatory Act (PURA)** —The enabling statute for the Public Utility Commission of Texas, located in the Texas Utilities Code Annotated, §§11.001 - 64.158, (Vernon 1999).
- (55) **Purchased power market value** — The value of demand and energy bought and sold in a bona fide third-party transaction or transactions on the open market and determined by using the weighted average costs of the highest three offers from the market for purchase of the demand and energy available under the existing purchased power contracts.
- (56) **Qualifying cogenerator** — The meaning as assigned this term by 16 U.S.C. §796(18)(C). A qualifying cogenerator that provides electricity to the purchaser of the

cogenerator's thermal output is not for that reason considered to be a retail electric provider or a power generation company.

- (57) **Qualifying facility** — A qualifying cogenerator or qualifying small power producer.
- (58) **Qualifying small power producer** — The meaning as assigned this term by 16 U.S.C. §796(17)(D).
- (59) **Rate** -A compensation, tariff, charge, fare, toll, rental, or classification that is directly or indirectly demanded, observed, charged, or collected by an electric utility for a service, product, or commodity described in the definition of electric utility in this section and a rule, practice, or contract affecting the compensation, tariff, charge, fare, toll, rental, or classification that must be approved by a regulatory authority.
- (60) **Rate class** — A group of customers taking electric service under the same rate schedule.
- (61) **Rate year** — The 12-month period beginning with the first date that rates become effective. The first date that rates become effective may include, but is not limited to, the effective date for bonded rates or the effective date for interim or temporary rates.
- (62) **Ratemaking proceeding** — A proceeding in which a rate may be changed.
- (63) **Regulatory authority** — In accordance with the context where it is found, either the commission or the governing body of a municipality.
- (64) **Renewable energy technology** — Any technology that exclusively relies on an energy source that is naturally regenerated over a short time and derived directly from the sun, indirectly from the sun or from moving water or other natural movements and

mechanisms of the environment. Renewable energy technologies include those that rely on energy derived directly from the sun, on wind, geothermal, hydroelectric, wave, or tidal energy, or on biomass or biomass-based waste products, including landfill gas. A renewable energy technology does not rely on energy resources derived from fossil fuels, waste products from fossil fuels, or waste products from inorganic sources.

- (65) **Renewable resource** — A resource that relies on renewable energy technology.
- (66) **Retail customer** — The separately metered end-use customer who purchases and ultimately consumes electricity.
- (67) **Retail electric provider** — A person that sells electric energy to retail customers in this state. A retail electric provider may not own or operate generation assets.
- (68) **Retail stranded costs** — That part of net stranded cost associated with the provision of retail service.
- (69) **Rule** — A statement of general applicability that implements, interprets, or prescribes law or policy, or describes the procedure or practice requirements of the commission. The term includes the amendment or repeal of a prior rule, but does not include statements concerning only the internal management or organization of the commission and not affecting private rights or procedures.
- (70) **Rulemaking proceeding** — A proceeding conducted pursuant to the Administrative Procedure Act, Texas Government Code, §§2001.021 - 2001.037 to adopt, amend, or repeal a commission rule.

- (71) **Separately metered** — Metered by an individual meter that is used to measure electric energy consumption by a retail customer and for which the customer is directly billed by a utility, retail electric provider, electric cooperative, or municipally owned utility.
- (72) **Service** — Has its broadest and most inclusive meaning. The term includes any act performed, anything supplied, and any facilities used or supplied by an electric utility in the performance of its duties under the Public Utility Regulatory Act to its patrons, employees, other public utilities or electric utilities, an electric cooperative, and the public. The term also includes the interchange of facilities between two or more public utilities or electric utilities.
- (73) **Spanish-speaking person** — A person who speaks any dialect of the Spanish language exclusively or as their primary language.
- (74) **Stranded cost** — The positive excess of the net book value of generation assets over the market value of the assets, taking into account all of the electric utility's generation assets, any above-market purchased power costs, and any deferred debit related to a utility's discontinuance of the application of Statement of Financial Accounting Standards Number 71 ("Accounting for the Effect of Certain Types of Regulation") for generation-related assets if required by the provisions of the Public Utility Regulatory Act, Chapter 39. For purposes of §39.262, book value shall be established as of December 31, 2001, or the date a market value is established through a market

valuation method under §39.262(h), whichever is earlier, and shall include stranded costs incurred under §39.263.

- (75) **Submetering** — Metering of electricity consumption on the customer side of the point at which the electric utility meters electricity consumption for billing purposes.
- (76) **Supply-side resource** — A resource, including a storage device, that provides electricity from fuels or renewable resources.
- (77) **Tariff** — The schedule of a utility, municipally-owned utility, or electric cooperative containing all rates and charges stated separately by type of service, the rules and regulations of the utility, and any contracts that affect rates, charges, terms or conditions of service.
- (78) **Tenant** — A person who is entitled to occupy a dwelling unit to the exclusion of others and who is obligated to pay for the occupancy under a written or oral rental agreement.
- (79) **Test year** — The most recent 12 months for which operating data for an electric utility, electric cooperative, or municipally-owned utility are available and shall commence with a calendar quarter or a fiscal year quarter.
- (80) **Transmission and distribution utility** — A person or river authority that owns, or operates for compensation in this state equipment or facilities to transmit or distribute electricity, except for facilities necessary to interconnect a generation facility with the transmission or distribution network, a facility not dedicated to public use, or a facility otherwise excluded from the definition of "electric utility" under this section, in a

qualifying power region certified under the Public Utility Regulatory Act (PURA)

§39.152, but does not include a municipally owned utility or an electric cooperative.

- (81) **Transmission facilities study** — An engineering study conducted by a transmission service provider subsequent to a system security study to determine the required modifications to its transmission system, including the detailed costs and scheduled completion date for such modifications, that will be required to provide a requested transmission service.
- (82) **Transmission interconnection agreement** — An agreement that sets forth requirements for physical connection or other terms relating to electrical connection between an eligible transmission service customer and a transmission service provider, including contracts or tariffs for transmission service that include provisions for interconnection. Transmission service providers must have such an agreement with all transmission service providers to whom they are physically connected.
- (83) **Transmission line** — A power line that is operated at 60,000 volts or above, when measured phase-to-phase.
- (84) **Transmission losses** — Energy losses resulting from the transmission of power.
- (85) **Transmission service** — Service that allows a transmission service customer to use the transmission and distribution facilities of electric utilities, electric cooperatives and municipally owned utilities to efficiently and economically utilize generation resources to reliably serve its loads and to deliver power to another transmission customer. Includes construction or enlargement of facilities, transmission over distribution facilities, control

area services, scheduling resources, regulation services, reactive power support, voltage control, provision of operating reserves, and any other associated electrical service the commission determines appropriate, except that, on and after the implementation of customer choice, control area services, scheduling resources, regulation services, provision of operating reserves, and reactive power support, voltage control and other services provided by generation resources are not "transmission service".

- (86) **Transmission service customer** — A transmission customer receiving transmission service. Where consistent with the context, "transmission service customer" includes an eligible transmission service customer seeking transmission service.
- (87) **Transmission service provider** — An electric utility, municipally-owned utility, or electric cooperative that owns or operates facilities used for the transmission of electricity and provides transmission service.
- (88) **Transmission system** — The transmission facilities at or above 60 kilovolts owned, controlled, operated, or supported by a transmission provider or transmission customer that are used to provide transmission service.
- (89) **Transmission system security study** — An assessment by a transmission service provider of the adequacy of the transmission system to accommodate a request for transmission service and whether any costs are anticipated in order to provide transmission service.
- (90) **Transmission upgrade** — A modification or addition to transmission facilities owned or operated by a transmission service provider.

- (91) **Unplanned resources** — Generation resources owned, controlled or purchased by the transmission customer that have not been designated as planned resources.
- (92) **Unplanned transmission service** — A service that permits a transmission service customer to use the transmission service providers' transmission systems to deliver energy to its loads from resources that have not been designated as the transmission service customer's planned resources.

This agency hereby certifies that the rule, as adopted, has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority. It is therefore ordered by the Public Utility Commission of Texas that rule §25.5 relating to Definitions is hereby adopted with changes to the text as proposed.

ISSUED IN AUSTIN, TEXAS ON THE 2nd DAY OF FEBRUARY 2000.

PUBLIC UTILITY COMMISSION OF TEXAS

Chairman Pat Wood, III

Commissioner Judy Walsh

Commissioner Brett A. Perlman