

PROJECT NO. 39657

RULEMAKING TO IMPLEMENT SB	§	PUBLIC UTILITY COMMISSION
943, RELATING TO ELECTRIC	§	
ENERGY STORAGE EQUIPMENT OR	§	OF TEXAS
FACILITIES	§	

**PROPOSAL FOR PUBLICATION OF AMENDMENT TO §25.5 AND §25.109
AS APPROVED AT THE SEPTEMBER 1, 2011 OPEN MEETING**

The Public Utility Commission of Texas (commission) proposes amendments to §25.5, relating to Definitions, and §25.109, relating to Registration of Power Generation Companies and Self-Generators. The proposed amendments add references to energy storage equipment and facilities as required by Senate Bill 943 of the 82nd Legislature, Regular Session in 2011 (SB 943). This proposal amends §25.5 and §25.109 to address the registration, interconnection, and operation of electric energy storage equipment and facilities in Texas. Project Number 39657 is assigned to this proceeding.

Temujin Roach, Economist, Competitive Markets Division, has determined that for each year of the first five-year period the amendments are in effect, there will be no fiscal implications for state or local government as a result of enforcing or administering the amendments.

Temujin Roach has determined that for each year of the first five years the amendments are in effect, the public benefit anticipated as a result of enforcing the amendments will be compliance with SB 943. There will be no adverse economic effect on small businesses or micro-businesses as a result of enforcing the amendments. Therefore, no regulatory flexibility analysis is required. There are no economic costs to persons who are required to comply with the amendments.

Temujin Roach has also determined that for each year of the first five years the amendments are 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. The request for a public hearing must be received within 14 days after publication.

Initial comments on the proposed amendments 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 14 days after publication. Sixteen copies of comments on the proposed amendment are required to be filed pursuant to §22.71(c) of this title. Reply comments may be submitted within 24 days after publication. Comments should be organized in a manner consistent with the organization of the amended rules. All comments should refer to Project Number 39657.

These amendments are proposed under the Public Utility Regulatory Act, Texas Utilities Code Annotated §14.002 (Vernon 2007 and Supp. 2010) (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, SB 943, which amends PURA §31.002(10) and adds PURA Chapter 35, Subchapter E, which includes electric energy storage equipment or facilities

in the definition of "power generation company," and allows the owner or operator of such equipment or facilities to interconnect, obtain transmission service, and use the equipment or facilities to sell electricity or ancillary services at wholesale.

Cross Reference to Statutes: PURA §14.002 and SB 943 §1 and §2 (codified as PURA §31.002(10) and Chapter 35, Subchapter E).

§25.5 Definitions

(1) - (81) (No change.)

(82) **Power generation company (PGC)**--A person that:

(A) generates electricity that is intended to be sold at wholesale, including the owner or operator of electric energy storage equipment or facilities to which the Public Utility Regulatory Act, Chapter 35, Subchapter E applies;

(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.

(83) - (144) (No change.)

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§25.109. Registration of Power Generation Companies and Self-Generators.**(a) Application.**

- (1) A person that owns an electric generating facility, [or electric energy storage equipment or facilities to which the Public Utility Regulatory Act, Chapter 35, Subchapter E applies](#), in Texas and is either a power generation company (PGC), as defined in §25.5 of this title (relating to Definitions), or a qualifying facility (QF) as defined in §25.5 of this title, and generates electricity intended to be sold at wholesale, must register as a PGC.

(2) - (3) (No change.)

(b) - (i) (No change.)

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

**ISSUED IN AUSTIN, TEXAS ON THE 2nd DAY OF SEPTEMBER 2011 BY THE
PUBLIC UTILITY COMMISSION OF TEXAS
ADRIANA A. GONZALES**