

PROJECT NO. 29781

RULEMAKING TO AMEND P.U.C.	§	
SUBSTANTIVE RULE §25.93,	§	PUBLIC UTILITY COMMISSION
QUARTERLY WHOLESALE	§	
ELECTRICITY TRANSACTION	§	OF TEXAS
REPORTS	§	

**PROPOSAL FOR PUBLICATION OF AMENDMENT TO §25.93
AS APPROVED AT THE JUNE 18, 2004 OPEN MEETING**

The Public Utility Commission of Texas (commission) proposes an amendment to §25.93, relating to Quarterly Wholesale Electricity Transaction Reports. The proposed amendment will specify that reports filed electronically will be afforded the same treatment with respect to confidentiality as information properly filed under §22.71 of this title, and will reduce certain reporting requirements. Project Number 29781 is assigned to this proceeding.

Dr. David Hurlbut, Senior Economist, Market Oversight 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.

Dr. Hurlbut 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 enforcing the section will be less paperwork on the part of entities required to comply with this section, more efficient analysis of report data by the commission, and less physical material maintained by the commission for recordkeeping purposes. 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; compliance costs are expected to decrease as a result of this amendment. Costs savings are expected to include less staff time required to

prepare a report, less legal staff time required to comply with procedures pertaining to confidentiality, and less paper and electronic media required to file a report.

Dr. Hurlbut 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 Monday, August 9, 2004. The request for a public hearing must be received within 31 days after publication.

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 31 days after publication. Comments should be organized in a manner consistent with the organization of the rule. The commission invites specific comments regarding the costs associated with, and benefits that will be gained by, implementation of the proposed amendment. The commission will consider the costs and benefits in deciding whether to adopt the amendment. All comments should refer to Project Number 29781.

This amendment is proposed under the Public Utility Regulatory Act, Texas Utilities Code Annotated §14.002 and §14.052 (Vernon 1998, Supplement 2004) (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, including rules of practice and procedure; and specifically, PURA §39.001 which requires the commission to assure that electric services and their prices be determined by customer choices and the normal forces of competition, PURA §39.157 which requires the commission to monitor market power associated with the generation, transmission, distribution, and sale of electricity in this state; and PURA §39.001(b)(4), which requires the commission to protect the competitive process in a manner that ensures the confidentiality of competitively sensitive information during the transition to a competitive market and after the commencement of customer choice.

Cross Reference to Statutes: Public Utility Regulatory Act §§14.002, 14.052, 39.001, 39.001(b)(4), and 39.157.

§25.93. Quarterly Wholesale Electricity Transaction Reports.

(a)-(b) (No change.)

(c) **Definitions.** The following words and terms, when used in this section, shall have the following meanings, unless the context indicates otherwise:

- (1) **Contract** — An agreement for the wholesale provision of energy or capacity under specified prices, terms, and conditions. A contract governs the financial aspects of an electricity transaction.
- (2) **Full Report** — A Quarterly Wholesale Transaction Report that contains all information required by this rule including information that the Wholesale Seller of Electricity claims is confidential or Protected Information. If the Wholesale Seller of Electricity does not claim confidentiality or Protected Information status for any of the information in its Full Report then the Full Report will be treated as a Public Report.
- (3) **Protected information** — Information contained in a Quarterly Wholesale Electricity Transaction Report that comports with the requirements for exception from disclosure under the Texas Public Information Act (TPIA).
- (4) **Public Report** — A Quarterly Wholesale Transaction Report that contains all information required by this rule except information that the Wholesale Seller of Electricity claims is confidential or Protected Information.

- (5) **Transaction** — The provision of a specific quantity of energy or the commitment of a specific amount of generating capacity for a specific period of time from a wholesale seller of electricity to a customer, whether pursuant to a contract, a market operated by an independent organization as defined in the Public Utility Regulatory Act §39.151(b), or any other provision of electricity or commitment of reserve capacity.
- (6) **Wholesale seller of electricity** — Any power generation company, power marketer, municipally owned utility, electric cooperative, river authority, or other entity that sells power at wholesale.

(d) (No change.)

- (e) **Filing procedures.** Wholesale sellers of electricity shall file the Quarterly Wholesale Electricity Transaction Reports using forms, templates, and procedures approved by the commission. The commission may also approve the use of forms and templates issued by federal agencies for reporting information similar to that required under this section. Reports shall be filed according to §22.71 of this title (relating to Filing of Pleadings, Documents and Other Materials) and §22.72 of this title (relating to Formal Requisites of Pleadings and Documents to be Filed with the Commission) except as specified in this subsection and subsection (g) of this section.

- (1) A Full Report shall be submitted electronically and on standard-format compact disks (two copies) without a paper hard copy.

- (2) If a Full Report is filed containing information that the Wholesale Seller of Electricity claims is confidential or is Protected Information, a Public Report shall also be submitted on standard-format compact disks (two copies).
- (3) Information required under subsection (d)(2)(A) of this section along with attestations and other necessary documents shall be filed in hard copy form (two copies).

(f) (No change.)

- (g) **Confidentiality.** If a Full Report contains information which the Wholesale Seller of Electricity has claimed is confidential or is Protected Information, commission employees, and its consultants, agents, and attorneys shall treat the Full Report, including the electronic submission, as confidential to the same degree as information properly submitted under §22.71(d) of this title and shall not disclose protected information except as provided in this subsection and in accordance with the provisions of the Texas Public Information Act (TPIA).

(1) - (5) (No change.)

- (h) **Implementation.** The commission shall establish a detailed implementation process that includes training sessions to educate parties required to file under this section about the

data required and the form in which it should be submitted, and technical workshops to permit the commission and filing parties to exchange technical systems information.

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 18th DAY OF JUNE 2004 BY THE
PUBLIC UTILITY COMMISSION OF TEXAS
ADRIANA A. GONZALES**