

PROJECT NO. 37475

RULEMAKING FOR UTILITY § PUBLIC UTILITY COMMISSION
INFRASTRUCTURE STORM §
HARDENING § OF TEXAS

PROPOSAL FOR PUBLICATION OF NEW §25.95
AS APPROVED AT THE JANUARY 29, 2010 OPEN MEETING

The Public Utility Commission of Texas (commission) proposes new §25.95, relating to Electric Utility Infrastructure Storm Hardening. The rule will require each electric utility to file a storm hardening report with the commission that includes the utility's storm hardening plans and goals over a five -year period and shall be updated every five years, beginning January 1, 2010. In addition, the rule will require each electric utility to report by May 1 of each year on any material revisions to the report and summarize its progress in implementing its storm hardening plans and achieving its storm hardening goals. Project Number 37475 is assigned to this proceeding.

Regina Chapline, Infrastructure Policy Analyst in the Infrastructure and Reliability Division, has determined that for each year of the first five-year period the rule is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the rule.

Ms. Chapline has determined that for each year of the first five years the rule is in effect the public benefit anticipated as a result of enforcing the rule will be to ensure the provision of safe, continuous, and adequate electric transmission and distribution service for operational as well as emergency purposes; the cost-effective strengthening of utility systems to increase the ability of transmission and distribution facilities to withstand extreme weather conditions; and the minimization of restoration times, restoration costs, and outages to end-use customers associated

with extreme weather conditions. There will be no adverse economic effect on small businesses or micro-businesses as a result of enforcing the rule. Therefore, no regulatory flexibility analysis is required. There may be a relatively small economic cost to persons who are required to comply with the rule as proposed, but the commission is unable to quantify that cost.

Ms. Chapline has also determined that for each year of the first five years the rule 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.

Initial comments on the rule may be submitted by March 15, 2010 (30 days after publication). Reply comments may be submitted by March 29, 2010 (45 days after publication). Comments may be submitted to the Filing Clerk, Public Utility Commission of Texas, 1701 North Congress Avenue, P.O. Box 13326, Austin, Texas 78711-3326. Sixteen copies of comments are required to be filed pursuant to §22.71(c) of this title. Comments should be organized in a manner consistent with the organization of the rules. The commission invites specific comments regarding the costs associated with, and benefits that will be gained by, implementation of the rule. The commission will consider the costs and benefits in deciding whether to adopt the rule. All comments should refer to Project Number 37475.

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, March 15, 2010. A request for a public hearing must be filed by March 15, 2010 (30 days after publication).

This new section is proposed under the Public Utility Regulatory Act, Texas Utilities Code Annotated §14.002 (Vernon 2007 and Supp. 2009) (PURA), which provides the commission with the authority to make and enforce rules reasonably required in the exercise of its powers and jurisdiction; and specifically, PURA §14.001, which gives the commission the general power to regulate and supervise the business of each public utility; §14.003, which gives the commission the power to require a public utility to file a report relating to the public utility; §37.151(2), which requires that an electric utility provide continuous and adequate service in its certificated service area; §38.001, which requires that an electric utility furnish service, instrumentalities, and facilities that are safe, adequate, efficient, and reasonable; and §38.005, which requires the commission to implement service quality and reliability standards relating to the delivery of electricity to retail customers by electric utilities.

Cross Reference to Statutes: Public Utility Regulatory Act §§ 14.001, 14.002, 14.003, 37.151(2), 38.001, and 38.005.

§25.95. Electric Utility Infrastructure Storm Hardening.

- (a) **Purpose.** This section is intended to ensure the provision of safe, continuous, and adequate electric transmission and distribution service for operational as well as emergency purposes; the cost-effective strengthening of utility systems to increase the ability of transmission and distribution facilities to withstand extreme weather conditions; and the minimization of restoration times, restoration costs, and outages to end-use **customers associated with extreme weather conditions.**
- (b) **Application.** This rule applies to all electric utilities.
- (c) **Reports.** By July 1, 2010, a utility shall file with the commission a detailed summary of its Storm Hardening Report. The report shall include the utility's storm hardening plans and goals over a five-year period beginning January 1, 2010 and shall be updated at least every five years. By May 1 of each year after the initial report, a utility shall report on any material revisions to the report and shall summarize its progress in implementing its storm hardening plans and achieving its storm hardening goals. A full copy of the report shall be provided to the commission or commission staff upon request.
- (d) **Information to be included.** Contents of the Storm Hardening Report shall include, at a minimum, the utility's:
- (1) Storm Hardening Plan that shall include annual budget levels, projected expenditures, and the total amount allocated in rates related to storm hardening. The storm hardening plan shall also include a description of the construction standards, policies, procedures, and practices employed to enhance the reliability

- of utility systems, including overhead and underground transmission and distribution facilities;
- (2) Vegetation Management Plan for distribution facilities, including a tree pruning methodology and pruning cycle, hazard tree identification and mitigation plans, and customer education and notification practices related to vegetation management;
 - (3) Infrastructure improvement plans based on smart grid concepts that provide enhanced outage resilience, faster outage restoration, and/or grid self-healing;
 - (4) Plans and procedures to enhance post storm damage assessment to include enhanced data collection methods for damaged poles and fallen trees;
 - (5) Pole construction standards, pole attachment policies, and pole testing schedule;
 - (6) Distribution feeder inspection schedule;
 - (7) Plans and procedures to enhance the reliability of overhead and underground transmission and distribution facilities through the use of transmission and distribution automation;
 - (8) Plans and procedures to comply with the most recent National Electric Safety Code (NESC) wind loading standards in hurricane prone areas for new construction and rebuilds;
 - (9) Plans and procedures to review new construction and rebuilds to determine whether they should be built to NESC Grade B (or equivalent) standards;
 - (10) Plans and procedures to develop a damage/outage prediction model;
 - (11) For electric utilities, a copy of the Infrastructure Improvement and Maintenance Report required by §25.94 of this title (relating to the Report on Infrastructure

Improvement and Maintenance); and

- (12) Plans and procedures for use of structures owned by other entities in the provision of transmission or distribution service, such as poles owned by telecommunications utilities.
- (e) **Disputes.** Commission staff may initiate a proceeding for the commission to determine whether a utility's Storm Hardening Report achieves the purpose of this section as stated in subsection (a) of this section. In addition, an interested entity may request that the commission initiate a proceeding to determine whether a utility's Storm Hardening Report achieves the purpose of this section as stated in subsection (a) of this section.

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 29th DAY OF JANUARY 2010 BY THE
PUBLIC UTILITY COMMISSION OF TEXAS
ADRIANA A. GONZALES**