

# ***PUBLIC UTILITY COMMISSION OF TEXAS***

## **OPEN MEETING AGENDA WEDNESDAY, AUGUST 3, 2011, 9:30 A.M. Commissioners' Hearing Room 7th Floor, William B. Travis Building**

The following items will be taken up first without discussion: 3, 11, 13, 16, 18, 19, 20, 21, 30  
The following items will not be taken up: 15

Project No. 39008 - Open Meeting Agenda items without an associated control number.

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### **TELECOMMUNICATIONS**

1. Docket No. 38387; SOAH Docket No. 473-10-5443 - Application of T-Mobile West Corporation for Designation as an Eligible Telecommunications Carrier (Rural) Pursuant to 47 U.S.C. § 214(e) and P.U.C. SUBST. R. 26.418. (Final Order) Katherine Lengieza-Gross
2. Docket No. 38388; SOAH Docket No. 473-10-5444 - Application of T-Mobile West Corporation for Designation as an Eligible Telecommunications Carrier (Non-Rural) Pursuant to 47 U.S.C. § 214(e) and P.U.C. SUBST. R. 26.418. (Final Order) Katherine Lengieza-Gross
3. Project No. 38040 - Rulemaking to Repeal P.U.C. SUBST. R. § 26.202. (Proposal for Adoption) Scottie Aplin and Anjuli Winker
4. Discussion and possible action regarding implementation of telecom legislation, current and projected rulemaking projects, and Commission priorities.
5. Discussion and possible action regarding competitive telecommunications issues under the Federal Telecommunications Act of 1996 and the Public Utility Regulatory Act or proposed amendments to those acts.
6. Discussion and possible action regarding customer service issues, including but not limited to correspondence and complaint issues.
7. Infrastructure Reliability, Emergency Management, and Homeland Security matters. (Discussion and possible action) David Featherston

### **ELECTRIC**

8. Project No. 26793 - PUC Proceeding Related to Retail Market Oversight Activities.
9. Project No. 23100 - PUC Market Oversight Activities.
10. Project No. 31600 - Transition to an ERCOT Nodal Market Design. (Discussion and possible action)

11. Docket No. 39541; SOAH Docket No. 473-11-7472 - Application of Southwestern Public Service Company to Amend a Certificate of Convenience and Necessity for a Combustion Turbine in Lubbock County. (Preliminary Order) Katherine Lengieza-Gross
12. Docket No. 37917; SOAH Docket No. 473-10-5401 - Application of dPi Energy, LLC for an Amendment to its Retail Electric Provider (REP) Certification, Pursuant to SUBST. R. 25.107. (Final Order) Mark Hovenkamp
13. Docket No. 38275; SOAH Docket No. 473-11-1920 - Filing of Luminant Generation Company, LLC to Establish Date to Transfer Electric Service in Compliance with Docket No. 30037. (Final Order) Mark Hovenkamp
14. Docket No. 38732; SOAH Docket No. 473-11-0494 - Petition of Commission Staff to Revoke the Retail Electric Provider Certification of TexRep6, LLC. (Final Order) Laura Kennedy
15. Docket No. 38929; SOAH Docket No. 473-11-2330 - Application of Oncor Electric Delivery Company, LLC for Authority to Change Rates. (Final Order) Katherine Lengieza-Gross and Laura Kennedy
16. Docket No. 39200; SOAH Docket No. 473-11-4572 - True-Up Compliance Filing of Entergy Texas, Inc. Concerning Schedule TTC (Transition to Competition). (Final Order) Heidi Jackson
17. Docket No. 39504 - Remand of Docket No. 29526 (Application of CenterPoint Energy Houston Electric, LLC, Reliant Energy Retail Services, LLC and Texas Genco, LP to Determine Stranded Costs and Other True-Up Balances Pursuant to PURA § 39.262). (Discussion and possible action) Larry Barnes
18. Docket No. 39290 - Application of Wood County Electric Cooperative, Inc. for Approval of Wholesale Transmission Cost of Service and Wholesale Transmission Rates. (Final Order) Irene Montelongo
19. Docket No. 39412 - Application of Exelon Corporation Pursuant to Section 39.158 of the Public Utility Regulatory Act. (Final Order) Irene Montelongo
20. Docket No. 39413 - Joint Application of Exelon Corporation and Constellation Energy Group, Inc. Pursuant to Section 39.158 of the Public Utility Regulatory Act. (Final Order) Irene Montelongo
21. Docket No. 39560 - Agreed Notice of Violation and Settlement Agreement Relating to Star Electricity, Inc. d/b/a Star Tex Power's Violation of PURA §§ 17.004 and 39.101, and P.U.C. SUBST. R. 25.473, 25.474, 25.475, 25.478, 25.479 and 25.483, Concerning Customer Protection Rules for Retail Electric Service. (Final Order) Irene Montelongo

22. Project No. 39622 - PUC Proceeding for a New Form for an Application for Chronic Condition or Critical Care Residential Customer Status. (Proposal for Publication of New Form) Christine Wright and Scottie Aplin
23. Project No. 38533 - PUC Review of ERCOT Budget. (Discussion and possible action) Brian Lloyd and Tom Hunter
24. Project No. 37344 - Information Related to the Entergy Regional State Committee. (Discussion and possible action)
25. Project No. 20970 - Plan for Implementing SB 7, SB 86, and SB 20; Plan for Implementing Other Legislation Relating to Electric Service.
26. Discussion and possible action regarding implementation of electric legislation, current and projected rulemaking projects, and Commission priorities.
27. Discussion and possible action on electric utility reliability; electric utility restructuring; ERCOT oversight; market-development, transmission planning, construction, and cost recovery in areas outside of ERCOT; and electric reliability standards and organizations arising under federal law.
28. Discussion and possible action regarding customer service issues, including but not limited to correspondence and complaint issues.
29. Infrastructure Reliability, Emergency Management, and Homeland Security matters. (Discussion and possible action) David Featherston

**ADMINISTRATIVE**

30. Project No. 39612 - Plan for Review of Agency Rules for Fiscal Years 2012-2015. (Proposal for Approval of Plan) Adriana Gonzales
31. Discussion and possible action regarding agency review by Sunset Advisory Commission, operating budget, strategic plan, appropriations request, project assignments, correspondence, staff reports, agency administrative issues, fiscal matters and personnel policy.
32. Adjournment for closed session to consider:
  - a. litigation matters, pursuant to Tex. Gov't Code § 551.071(a)(1), regarding pending or contemplated litigation, including but not limited to:

AEP Texas Central Company v. PUC, D-1-GN-07-001153, Travis County District Court; Steering Committee of Cities v. PUC, D-1-GN-07-001144, Travis County District Court. (Appeal of Docket No. 32758)

AEP Texas Central Company v. PUC, No. 08-0634, Texas Supreme Court. (Appeal of Docket No. 31056)

CenterPoint Energy Houston Electric & Texas Genco v. PUC, et al., Cause No. 08-0421, Texas Supreme Courts. (Appeal of Docket No. 29526)

CenterPoint Energy Houston Electric, LLC v. PUC Rulemaking Proceeding No. 37623, Cause No. 03-10-00633, Third Court of Appeals.

Cities of Beaumont, Conroe, Groves, Nederland, Pine Forest, Port Neches, Rose City, and Silsbee v. PUC, Cause No. D-1-GV-08-000003, Travis County District Court. (Appeals of Docket No. 32710)

Cities of Corpus Christi, et al. v. Public Utility Commission, No. D-1-GV-06-000973, 201st Judicial District, Travis County District Court. (Appeal of Docket No. 31433)

Cities of Corpus, et al. v. PUC, D-1-GN-08001522, Travis County District Court. (Appeal of Docket No. 33309)

Cities of Dickinson *et al.* v. PUC, D-1-GN-07-000116, Travis County District Court (Appeal of Docket No. 31994)

City of Bryan v. PUC, D-1-GV-08-002325, Travis County District Court (Appeal of Docket No. 35011)

City of El Paso and El Paso Electric Company v. Public Util. Comm'n. 03-08-00577, in the Third Court of Appeals. (Appeals of Docket No. 26194)

City of Garland v. PUC, D-1-GV-09-001199 (Consolidated), Travis County District Court (Appeal of Docket No. 35665)

City of Kerrville, Kerrville Public Utility Board, and City of Junction vs. PUC, D-1-GV-11-000324, Travis County District Court (Appeal of Docket No. 38354)

City Public Service Board of San Antonio v. Public Util. Comm'n, Cause No. GNO-002343, Travis County District Court. (Appeal of Docket No. 22055)

Constellation Energy v. PUC, No. 03-09-00417-CV, in the Third Court of Appeals (Appeal of Docket No. 33500)

Entergy Texas, Inc. v. Barry T. Smitherman, Donna L. Nelson, and Kenneth W. Anderson, Case No. A-09-CA-0183-LY, United States District Court for the Western District of Texas (Appeal of Docket No. 35269)

Entergy Texas, Inc. v. PUCT, Cause No. D-1-GN-09-000816, Travis County District Court, 126<sup>th</sup> District (Appeal of Docket No. 35269)

Anticipated Proceedings before FERC by Southern Cross Transmission LLC and Pattern Power Marketing LLC Concerning DC Ties to Texas

FERC Docket No. ER10-2748, Entergy Services, Inc.

FERC Docket No. ER09-1224, Entergy Services, Inc.

FERC Docket No. ER09-636-000, Entergy Services, Inc.

FERC Docket No. ER07-683, Entergy Services, Inc.

FERC Docket No. ER07-956-000, Entergy Services, Inc.

FERC Docket No. ER09-833-000, Entergy Services, Inc.

FERC Docket No. ER07-682-002, Entergy Services, Inc.

FERC Docket No. ER11-1923, Entergy Services, Inc.

FERC Docket No. ER10-1069, Southwest Power Pool, Inc.

FERC Docket No. EL10-22-000, Tres Amigas, LLC

FERC Docket No. EL10-396-000, Tres Amigas, LLC

FERC Docket No. EL00-66-013 and EL95-33-009, Louisiana Public Service Commission and the City Council of New Orleans

FERC Docket No. EL09-77-000, JD Wind 1, LLC, JD Wind 2, LLC, JD Wind 3, LLC, JD Wind 4, LLC, JD Wind 5, LLC, JD Wind 6, LLC

FERC Docket No. EL11-34-000, Petition for Declaratory Order and Request for Shortened Notice Period and for Expedited Treatment of the Midwest Independent Transmission System Operator, Inc.

Harris County Hospital District v. PUC, Cause No. D-1-GN-09-002116, Travis County District Court (Docket No. 34332)

In the Matter of ASAP Paging for Preemption of PUC Concerning Retail Rating of Local Calls to CMRS Carriers, FCC DA-04-92; WC 04-6 (Docket No. 25673)

In the Matter of Petition of Alenco Communications, Inc., Big Bend Telephone Company, Dell Telephone Cooperative, Inc., Riviera Telephone Company, Valley Telephone Cooperative, Inc., Texas Statewide Telephone Cooperative, Inc., and Texas Telephone Association for a Declaratory Ruling and for Preemption, CC Docket No. 96-45, Federal Communications Commission

In the Matter of Review of Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers, CC Docket No. 01-338, Federal Communications Commission

In the Matter of Sprint Spectrum, L.P. Petition for Declaratory Ruling that the Kansas Corporation Commission's October 2, 2006 Order in Docket 06-GMIT-446-GIT, WC Docket Nos. 03-109, 07-138, Federal Communications Commission

In the Matter of UTEX Communications Corp., Pursuant to Section 252(e)(5) of the Communications Act, for Preemption of the Jurisdiction of the Public Utility Commission of Texas Regarding Interconnection Disputes with AT&T Texas, FCC DA-09-1643, WC 09-134 (Docket No. 26381)

JD Wind 1, LLC, JD Wind 2, LLC, et al. v. PUC, Cause No. D-1-GV-08-001459, Travis County District Court (Docket No. 34442)

JD Wind 1, LLC, JD Wind 2, LLC, JD Wind 3, LLC, JD Wind 4, LLC, JD Wind 5, LLC and JD Wind 6, LLC, et al. v. PUC, Cause No. A09CA917SS, Federal District Court (Docket No. 34442).

McCullough v. Public Util. Comm'n, No. 13-07-00624-CV, Court of Appeals for the Thirteenth District of Texas. (Appeal of Docket No. 29415)

Mobberley Road & 285 Partners, Ltd., BVJV Wataugua, L.P., and Duck Point Partners, Ltd. v. PUC, D-1-GN-08-000982, Travis County District Court (Appeal of Docket No. 32871)

Nucor Steel v. PUC, Oncor Electric Delivery Co. and Texas Energy Future Holdings Limited Partnership, Travis County District Court, D-1-GN-08-002467. (Appeal of Docket No. 34077)

Occidental Permian Ltd. v. Federal Energy Regulatory Commission, Cause No. 10-1381, DC Circuit Court of Appeals.

Oncor Electric Delivery Company LLC v. Dallas Area Rapid Transit and Fort Worth Transportation Authority, No. 11-0079, Supreme Court of Texas

Pioneer Natural Resources USA, Inc. v. Public Util. Comm'n, No. D-1-GN-06-003805, 200<sup>th</sup> Judicial District, Travis County District Court; Pioneer Natural Resources USA, Inc. v. Public Util. Comm'n, No. D-1-GN-06-003209, 126<sup>th</sup> Judicial District, Travis County District Court. (Appeal of Docket No. 31422)

Power Resource Group, Inc. v. Public Utility Commission, No. GN5-02139, Travis County District Court. (Appeal of Docket No. 30172)

Public Utility Commission v. State Telephone Texas Corporation, No. D-1-GN10-001980, in the 201<sup>st</sup> District Court of Travis County, Texas (Enforcement of Docket No. 36991 Order)

Public Utility Comm'n, et al. v. Cities of Harlingen, et al., No. 03-08-00793-CV, Third Court of Appeals (Appeal of Docket No. 33734)

Public Utilities Board of the City of Brownsville v. PUC, Travis County District Court, D-1-GV-08-001459. (Appeal of Docket No. 34410)

Southwest Power Pool, Inc., ER 10-1069.

Southwestern Bell Telephone, L.P. v. Current Communications of Texas, L.P., No. 06-11388 in the 162<sup>nd</sup> District Court of Dallas County, Texas

Southwestern Electric Power Company. v. PUC, 07-10-00108-CV, 7<sup>th</sup> Court of Appeals (Appeal of Docket No. 33891)

Talk America, Inc. and Orjiakor N. Isiogu et al. v. Michigan Bell Telephone Company, Nos. 10-313 and 10-329, U.S. Supreme Court

Texas Cable & Telecommunications Association v. Perry, et al., No. A-05-CV-721-LY, Western District of Texas No. A-05-CV-721; U.S. Supreme Court, No. 06-51514

Texas Cable & Telecommunications Association v. Public Util. Comm'n, No. D-1-GN6-001900, Travis County District Court. (SB 5)

Texas Commercial Energy, L.L.C., Case No. 03-20366-C-11, U.S. Bankruptcy Court, Southern District of Texas

Texas Industrial Energy Consumers and Gulf Coast Coalition of Cities v. CenterPoint Energy Houston Electric, LLC, and Pub. Util. Comm'n, Texas Supreme Court, No. 08-0727. (Appeal of Docket No. 30706)

Texas-New Mexico Power, et. al. v. Public Util. Comm'n, No. 08-0187, Supreme Court of Texas. (Appeal of Docket No. 29206)

Texas New Mexico Power Company v. PUC, D-1-GN-09-000071, Travis County District Court. (Appeal of Docket No. 35038)

Utex Communications Corp. v. Public Utility Commission, et al., No. 09-50313, Fifth Circuit Court of Appeals (Docket No. 30459, 26381, 32041, 33323)

Utex Communications Corp., WC Docket No. 09-134 (Docket No. 26381, Petition for Adoption)

- b. Consultation with its attorneys, pursuant to Tex. Gov't Code § 551.071(a)(2).
- c. Personnel matters, pursuant to Tex. Gov't Code § 551.074; discussion and decision regarding personnel matters including but not limited to the Executive Director, the Deputy Executive Director, and the Division Directors.
- d. Security matters pursuant to Tex. Gov't Code § 551.076; including matters under Project No. 24729 and other matters related to deployment, use or implementation of security personnel or devices.

Reconvene for discussion and decisions on matters considered in closed session.

*Persons planning to attend this meeting who have disabilities requiring auxiliary aids or services should notify the Commission as far in advance as possible so that appropriate arrangements can be made. Requests can be made by mail, telephone or in person to the Commission's Office of Customer Protection, 1701 N. Congress Ave., Austin, Texas 78701, phone number (512) 936-7150 or (512) 936-7136 for the teletypewriter for the deaf.*