

**PROJECT NO. 39537**

<b>RULEMAKING PROCEEDING TO</b>	<b>§</b>	<b>PUBLIC UTILITY COMMISSION</b>
<b>IMPLEMENT HB 971, RELATING TO</b>	<b>§</b>	
<b>ECONOMIC CRITERIA FOR A</b>	<b>§</b>	<b>OF TEXAS</b>
<b>CERTIFICATE OF CONVENIENCE</b>	<b>§</b>	
<b>AND NECESSITY FOR AN ELECTRIC</b>	<b>§</b>	
<b>TRANSMISSION PROJECT</b>	<b>§</b>	

**PROPOSAL FOR PUBLICATION OF AMENDMENT TO §25.101  
AS APPROVED AT THE SEPTEMBER 1, 2011 OPEN MEETING**

The Public Utility Commission of Texas (commission) proposes an amendment to §25.101, relating to Certification Criteria. The proposed amendment would implement House Bill 971 of the 82nd Legislature, Regular Session in 2011 (HB 971), which requires the commission to establish criteria to use in evaluating a certificate of convenience and necessity for an electric transmission project that serves the Electric Reliability Council of Texas (ERCOT) power region, that is not necessary to meet state or federal reliability standards, and that does not serve a competitive renewable energy zone. The criteria must include a comparison of the estimated cost of the transmission project and the estimated cost savings that may result from the transmission project. Project Number 39537 is assigned to this proceeding.

Mike Lee, Engineer, Infrastructure and Reliability Division, has determined that for each year of the first five-year period the proposed amendment is in effect, there will be no fiscal implications for state or local government as a result of enforcing or administering the amendment.

Mr. Lee has determined that for each year of the first five years the proposed amendment is in effect, the public benefit anticipated as a result of enforcing the amendment will be compliance

with HB 971. There will be no adverse economic effect on small businesses or micro-businesses as a result of enforcing the amendment. Therefore, no regulatory flexibility analysis is required. There is no anticipated economic cost to persons who are required to comply with the amendment as proposed.

Mr. Lee has also determined that for each year of the first five years the proposed amendment 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. The request for a public hearing must be received within 20 days after publication.

Initial comments on the proposed amendment 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 20 days after publication. Sixteen copies of comments to the proposed amendment are required to be filed pursuant to §22.71(c) of this title. Reply comments may be submitted within 31 days after publication. Comments should be organized in a manner consistent with the organization of the amended rule. All comments should refer to Project Number 39537.

The commission also requests comments on the following questions:

1. Should the commission, consistent with ERCOT Nodal Protocols, Section 3.11.2(6), find a need for a transmission project if the levelized ERCOT-wide annual generator revenue reduction attributable to the project is equal to or greater than the first-year annual revenue requirement for the project?
2. When comparing the projected levelized ERCOT-wide annual production cost savings or levelized ERCOT-wide annual generator revenue reduction attributable to a transmission project to the first-year annual revenue requirement for the project, as described in ERCOT Nodal Protocols, Sections 3.11.2(4)-(6), should the commission adopt a minimum ratio of the production cost savings or generator revenue reduction to the first-year annual revenue requirement that is higher than ratio currently required by ERCOT? Should the ratio be different when comparing the production cost savings than when comparing the generator revenue reduction?

This amendment is 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, HB 971, Section 2, codified as PURA §37.056(d), which requires the commission to establish criteria for granting a certificate for a transmission project that serves the ERCOT power region, that is not necessary to meet state or federal reliability standards, and that does not serve a competitive renewable energy zone. The criteria must include a comparison of the estimated cost of the transmission project and the estimated cost savings that may result from the transmission project.

Cross Reference to Statutes: Public Utility Regulatory Act §14.002 and HB 971, Section 2, codified as PURA §37.056(d).

**§25.101. Certification Criteria.**

- (a) (No change.)
- (b) **Certificates of convenience and necessity for new service areas and facilities.** Except for certificates granted under subsection (e) of this section, the commission may grant an application and issue a certificate only if it finds that the certificate is necessary for the service, accommodation, convenience, or safety of the public, and complies with the statutory requirements in the Public Utility Regulatory Act (PURA) §37.056. The commission may issue a certificate as applied for, or refuse to issue it, or issue it for the construction of a portion of the contemplated system or facility or extension thereof, or for the partial exercise only of the right or privilege. The commission shall render a decision approving or denying an application for a certificate within one year of the date of filing of a complete application for such a certificate, unless good cause is shown for exceeding that period. A certificate, or certificate amendment, is required for the following:
  - (1) – (2) (No change.)
  - (3) New electric transmission line. All new electric transmission lines shall be reported to the commission in accordance with §25.83 of this title (relating to Transmission Construction Reports).
    - (A) Need:
      - (i) The following must be met for a transmission line in the Electric Reliability Council of Texas (ERCOT) power region that is not necessary to meet state or federal reliability standards, is not intended to serve a competitive renewable energy zone, or is not

needed to interconnect a transmission service customer or an end-use customer. The applicant must present an economic cost-benefit study that shows that the levelized ERCOT-wide annual production cost savings attributable to the proposed project is equal to or greater than the first-year annual revenue requirement of the proposed project of which the transmission line is a part. For a project where the levelized ERCOT-wide annual production cost savings attributable to the proposed project are not equal to or greater than the first-year annual revenue requirement for the proposed project, the applicant must present an economic cost benefit study that shows that the levelized ERCOT-wide annual generator revenue reduction attributable to the proposed project is equal to or greater than the first-year annual revenue requirement for the proposed project. The commission shall give great weight to a recommendation from ERCOT for the proposed transmission project and any study by ERCOT supporting the recommendation using the cost-benefit comparisons described in this clause. The study must have been completed no more than 18 months before the application for the transmission line was filed with the commission.

- (ii) For a transmission line not addressed by clause (i) of this subparagraph, the commission shall consider among other factors, the needs of the interconnected transmission systems to support a

reliable and adequate network and to facilitate robust wholesale competition. The commission shall give great weight to:

- (I) the recommendation of an organization that meets the requirement of PURA §39.151; and/or
- (II) written documentation that the transmission line is needed to interconnect a transmission service customer or an end-use customer.

(B) - (D) (No change.)

(c) – (g) (No change.)

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 9th DAY OF SEPTEMBER 2011 BY THE  
PUBLIC UTILITY COMMISSION OF TEXAS  
ADRIANA A. GONZALES**

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