

**PROJECT NO. 41904**

**RULEMAKING PROCEEDING TO** § **PUBLIC UTILITY COMMISSION**  
**AMEND SUBSTANTIVE RULE 25.101,** §  
**RELATING TO CERTIFICATION** § **OF TEXAS**  
**CRITERIA** §

**ORDER ADOPTING AMENDMENT TO § 25.101**  
**AS APPROVED AT THE APRIL 17, 2014 OPEN MEETING**

The Public Utility Commission of Texas (commission) adopts an amendment to §25.101, relating to Certification Criteria, without changes to the proposed text as published in the January 3, 2014 issue of the *Texas Register* (39 TexReg 23). The adopted amendment clarifies the definition of a generating unit. Currently, the certification criteria do not apply to any generating unit that is less than ten megawatts that is built for experimental purposes only and not for purposes of commercial operation. Deleting the reference to commercial operation in §25.101(a)(2) will clarify that an electric utility need not apply for a certificate of convenience and necessity even if the experimental unit has some effect on commerce. Project Number 41904 is assigned to this proceeding.

The commission received no comments on the proposed amendment.

The amendment is adopted under the Public Utility Regulatory Act, Texas Utilities Code Annotated §14.002 (West 2007, Supp. 2013), 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, §37.051, which specifies the requirement to obtain a CCN and §37.053, which prescribes the requirement for a certificate of convenience and necessity from the commission.

Cross Reference to Statutes: Public Utility Regulatory Act §§14.002, 37.051, and 37.053.

**§25.101. Certification Criteria.**

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

- (1) **Construction and/or extension** -- Shall not include the purchase or condemnation of real property for use as facility sites or right-of-way. Acquisition of right-of-way shall not be deemed to entitle an electric utility to the grant of a certificate of convenience and necessity without showing that the construction and/or extension is necessary for the service, accommodation, convenience, or safety of the public.
- (2) **Generating unit** -- Any electric generating facility. This section does not apply to any generating unit that is less than ten megawatts and is built for experimental purposes only.
- (3) **Habitable structures** -- Structures normally inhabited by humans or intended to be inhabited by humans on a daily or regular basis. Habitable structures include, but are not limited to, single-family and multi-family dwellings and related structures, mobile homes, apartment buildings, commercial structures, industrial structures, business structures, churches, hospitals, nursing homes, and schools.
- (4) **Prudent avoidance** -- The limiting of exposures to electric and magnetic fields that can be avoided with reasonable investments of money and effort.

(b)-(h) (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. This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority. It is therefore ordered by the Public Utility Commission of Texas that the amendment to §25.101, relating to Certification Criteria, is hereby adopted with no changes to the text as proposed.

**SIGNED AT AUSTIN, TEXAS the 17<sup>th</sup> day of APRIL 2014.**

**PUBLIC UTILITY COMMISSION OF TEXAS**

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**DONNA L. NELSON, CHAIRMAN**

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**KENNETH W. ANDERSON, JR., COMMISSIONER**