

**PROJECT NO. 40601**

**PUC PROCEEDING TO MODIFY                    §        PUBLIC UTILITY COMMISSION  
REQUIREMENTS FOR PGC                    §  
REGISTRATION AND REPORTING            §    OF TEXAS**

**PROPOSAL FOR PUBLICATION OF AMENDMENT TO §25.109  
AS APPROVED AT THE SEPTEMBER 13, 2012 OPEN MEETING**

The Public Utility Commission of Texas (commission) proposes amendments to §25.109, relating to Registration of Power Generation Companies and Self-Generators. The proposed amendment will clarify the registration procedure for power generation companies and self-generators. Project Number 40601 is assigned to this proceeding.

Jennifer Hubbs, Infrastructure Policy Analyst, 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.

Ms. Hubbs 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 a more streamlined procedure for generating companies to register. There will be no adverse economic effect on small businesses or micro-businesses as a result of enforcing this 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.

Ms. Hubbs 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 on Friday, November 16, 2012. The request for a public hearing must be received within 30 days after publication by Monday, October 29, 2012.

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 30 days after publication by Monday, October 29, 2012. 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 45 days after publication by Tuesday, November 13, 2012. Comments should be organized in a manner consistent with the organization of the proposed 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 40601.

This amendment is proposed under the Public Utility Regulatory Act, Texas Utilities Code Annotated §14.002 (West 2007 and Supp. 2012) (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, PURA §39.351 which requires the commission to register power generation companies and grants the commission authority to collect information on generation facilities.

Cross Reference to Statutes: Public Utility Regulatory Act §14.002 and §39.351.

**§25.109. Registration of Power Generation Companies and Self-Generators.****(a) Application.**

(1) - (2) (No change.)

(3) A person that becomes subject to this section after September 1, 2000 must register on or before the first date of generating electricity.

(b) – (c) (No change.)

**(d) Registration requirements for power generation companies and self-generators.** To register as a power generation company or self-generator, a person shall provide all of the following information:

- (1) A description of the location of the facility used to generate electricity;
- (2) A description of the types of services provided by the registering party that pertain to the generation of electricity;
- (3) For any application filed with the Federal Energy Regulatory Commission (FERC) after the effective date of this section, copies of any information, excluding responses to interrogatories, that was filed in connection with the FERC registration, and any order issued by the FERC pursuant thereto. Such registrations shall include, for example, determination of exempt wholesale generator (EWG) or QF status; and
- (4) Any information requested on the commission-prescribed form.

(e) **Registration procedures.** The following procedures apply to the registration of PGCs and self-generators.

- (1) Registration shall be made by completing the commission-prescribed form, which shall be verified by oath or affirmation and signed by an owner, partner, or officer of the registering party. Registration forms may be obtained from the Central Records division of the Public Utility Commission of Texas during normal business hours, or from the commission's Internet site. Each registering party shall file its registration form with the commission's Filing Clerk in accordance with the commission's procedural rules, Chapter 22, Subchapter E of this title (relating to Pleadings and Other Documents).
- (2) The commission staff shall review the submitted form for completeness. Within 15 business days of receipt of an incomplete form, the commission staff shall notify the registering party in writing of the deficiencies in the request. The registering party shall have ten business days from the issuance of the notification to cure the deficiencies. If the deficiencies are not cured within ten business days, the staff will notify the registering party that the registration request is rejected without prejudice.
- (3) The registering party may designate answers or documents that it believes to contain proprietary or confidential information. Information designated as proprietary or confidential will be treated in accordance with the standard protective order issued by the commission applicable to registration information for PGCs and self-generators.

(f) **Post-registration requirements for power generation companies and self-generators.**

PGCs and self-generators shall report any change in the information provided on the registration form within 45 days of the change. PGCs shall comply with the reporting requirements of §25.91 of this title (relating to Generating Capacity Reports).

(g) **Suspension and revocation of power generation company registration and administrative penalty.** Pursuant to PURA §39.356, registrations of PGCs pursuant to

this section are subject to suspension and revocation for significant violations of PURA or rules adopted by the commission. The commission may also impose an administrative penalty for a significant violation at its discretion. Significant violations may include the following:

- (1) Failure to comply with the reliability standards and operational criteria duly established by the independent organization that is certified by the commission;
- (2) For a PGC operating in the Electric Reliability Council of Texas (ERCOT), failure to observe all scheduling, operating, planning, reliability, and settlement policies, rules, guidelines, and procedures established by the independent system operator in ERCOT;
- (3) Providing false or misleading information to the commission;
- (4) Engaging in fraudulent, unfair, misleading, deceptive or anti-competitive practices;
- (5) A pattern of failure to meet the conditions of this section, other commission rules, regulations or orders;

- (6) Suspension or revocation of a registration, certification, or license by any state or federal authority;
- (7) Failure to operate within the applicable legal parameters established by PURA §39.351; and
- (8) Failure to respond to commission inquiries or customer complaints in a timely fashion.

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 13<sup>th</sup> DAY OF SEPTEMBER 2012 BY THE  
PUBLIC UTILITY COMMISSION OF TEXAS  
ADRIANA A. GONZALES**

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