

**CHAPTER 25. SUBSTANTIVE RULES APPLICABLE TO ELECTRIC SERVICE PROVIDERS.**

**Subchapter J. COSTS, RATES AND TARIFFS.**

**§25.235. Fuel Costs — General.**

- (a) **Purpose.** The commission will set an electric utility's rates at a level that will permit the electric utility a reasonable opportunity to earn a reasonable return on its invested capital and to recover its reasonable and necessary expenses, including the cost of fuel and purchased power. The commission recognizes in this connection that it is in the interests of both electric utilities and their ratepayers to adjust charges in a timely manner to account for changes in certain fuel and purchased-power costs. Pursuant to the Public Utility Regulatory Act (PURA) §36.203 this section establishes a procedure for setting and revising fuel factors and a procedure for regularly reviewing the reasonableness of the fuel expenses recovered through fuel factors.
- (b) **Notice of fuel proceedings.** In addition to the notice required by the Administrative Procedure Act (APA) to be given by the commission, the electric utility is required to give notice of a fuel proceeding at the time the petition is filed.
- (1) **Method of notice.** Notice of fuel proceedings will be given by the electric utility as follows:
- (A) Notice in all proceedings involving refunds, surcharges, or a proposal to change the fuel factor, shall be by one-time publication in a newspaper having general circulation in each county of the service area of the electric utility or by individual notice to each customer and by individual notice to parties that participated in the electric utility's prior fuel reconciliation proceeding;
- (B) Notice in all reconciliation proceedings shall be by publication once each week for two consecutive weeks in a newspaper having general circulation in each county of the service area of the electric utility and by individual notice to each customer and to parties that participated in the electric utility's prior fuel reconciliation proceeding.
- (2) **Contents of notice.**
- (A) All notices required by this section shall provide the following information:
- (i) the date the petition was filed;
- (ii) a general description of the customers, customer classes, and territories affected by the petition;
- (iii) the relief requested;
- (iv) the statement, "Persons with questions or who want more information on this petition may contact (utility name) at (utility address) or call (utility toll-free telephone number) during normal business hours. A complete copy of this petition is available for inspection at the address listed above"; and
- (v) the statement, "Persons who wish to formally participate in this proceeding , or who wish to express their comments concerning this petition should contact the Public Utility Commission of Texas, Office of Customer Protection, P.O. Box 13326, Austin, Texas 78711-3326, or call (512) 936-7120 or toll-free at (888) 782-8477. Hearing and speech-impaired individuals with text telephones (TTY) may call (512) 936-7136 or use Relay Texas (toll-free) 1-800-735-2989."
- (B) Notices to revise fuel factors must also state the proposed fuel factors by type of voltage and the period for which the proposed fuel factors are expected to be in effect.
- (C) Notices to revise fuel factors, to refund, or to surcharge must contain the statement that, "these changes will be subject to final review by the commission in the electric utility's next reconciliation," unless, in the case of refunds or surcharges, the change is a result of a reconciliation proceeding.
- (D) Notices to reconcile fuel expenses must also state the period for which final reconciliation is sought.

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**§25.235(b) continued**

- (3) **Proof of notice may be demonstrated by appropriate affidavit.** In fuel proceedings initiated by a person other than an electric utility, the notice required in this subsection must be provided in accordance with a schedule ordered by the presiding officer.
- (c) **Reports; confidentiality of information.** Matters related to submitting reports and confidential information will be handled as follows:
- (1) The commission will monitor each electric utility's actual and projected fuel-related costs and revenues on a monthly basis. Each electric utility shall maintain and provide to the commission, in a format specified by the commission, monthly reports containing all information required to monitor monthly fuel-related costs and revenues, including generation mix, fuel consumption, fuel costs, purchased power quantities and costs, and system and off-system sales revenues.
- (2) Contracts for the purchase of fuel, fuel storage, fuel transportation, fuel processing, or power are discoverable in fuel proceedings, subject to appropriate confidentiality agreements or protective orders.
- (3) The electric utility shall prepare a confidentiality disclosure agreement to be included as part of the fuel reconciliation petition. The format for the agreement shall be the same as that contained in the commission approved rate filing package. In addition to the agreement itself, Attachment 1 of the agreement shall present a complete listing of the information required to be filed which the electric utility alleges is confidential. Upon request and execution of the confidentiality agreement, the electric utility shall provide any information which it alleges is confidential. If the electric utility fails to file a confidentiality agreement, the deadline for a commission final order in the case is tolled until a protective order is entered or a confidentiality agreement is filed. Use of the confidentiality disclosure agreement does not constitute a finding that any information is proprietary and/or confidential under law, or alter the burden of proof on that issue. The form of agreement contained in the commission approved rate filing package does not bind the examiner or the commission to accept the language of the agreement in the consideration of any subsequent protective order that may be entered.
- (4) A party that cannot view a confidential document without receiving advantage as a competitor or bidder may hire outside counsel and consultants to view the document subject to a protective order.