

**PROJECT NO. 33253**

**RULEMAKING RELATING TO § PUBLIC UTILITY COMMISSION**  
**TRANSMISSION COST-RECOVERY §**  
**FACTOR FOR NON-ERCOT UTILITIES § OF TEXAS**

**PROPOSAL FOR PUBLICATION OF NEW §25.239**  
**AS APPROVED AT THE AUGUST 16, 2007 OPEN MEETING**

The Public Utility Commission of Texas (commission) proposes new §25.239, relating to Transmission Cost Recovery Factor for Certain Electric Utilities. The proposed new section will set forth the mechanism by which an electric utility that operates solely outside of the Electric Reliability Council of Texas (ERCOT) in areas of this state included in the Southwest Power Pool or the Western Electricity Coordinating Council and that owns or operates transmission facilities can request annual recovery of its reasonable and necessary expenditures for transmission infrastructure improvement costs and changes in wholesale transmission charges, as allowed by Public Utility Regulatory Act (PURA) §36.209. PURA §36.209, Recovery by Certain Non-ERCOT Utilities of Certain Transmission Costs, added by HB 989 of the 79th Legislature, Regular Session (2005), permits the commission, after notice and hearing, to allow an electric utility to recover on an annual basis its reasonable and necessary expenditures for transmission infrastructure improvement costs and changes in wholesale transmission charges to the electric utility under a tariff approved by a federal regulatory authority, to the extent that the costs have not otherwise been recovered. Further, PURA §36.209 specifies that the commission may allow the electric utility to recover only the costs allocable to retail customers in the state, and may not allow the electric utility to over-recover costs. Project Number 33253 is assigned to this proceeding.

Ms. Lauren Damen, Senior Retail Market Analyst, has determined that for each year of the first five-year period the proposed section is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the section.

Ms. Damen has determined that for each year of the first five years the proposed section is in effect the public benefit anticipated as a result of enforcing the section will be more timely matching between the incurrence of costs for transmission infrastructure improvement and changes in wholesale transmission charges and the recovery of those costs by certain electric utilities. Better matching costs to their recovery should provide additional incentives for utilities to make transmission investment that is needed to improve customer service and to facilitate meeting the state's renewable energy goals. There will be no adverse economic effect on small businesses or micro-businesses as a result of enforcing this section. There is no anticipated economic cost to persons who are required to comply with the section as proposed.

Ms. Damen has also determined that for each year of the first five years the proposed section 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 Tuesday, October 16, 2007, at 9:30 a.m. The request for a public hearing must be received within 31 days after publication.

Comments on the proposed new section 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 31 days after publication. Sixteen copies of comments to the proposed amendment are required to be filed. Reply comments may be submitted within 45 days after publication. 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 section. The commission will consider the costs and benefits in deciding whether to adopt the section. All comments should refer to Project Number 33253.

In addition to the proposed new language, the commission requests that parties submit comments on the following questions:

- 1) Should the commission establish a threshold for the establishment of a transmission cost recovery factor (TCRF)? If so, what should the threshold be?
- 2) Should the commission establish a threshold for revision of the TCRF in which the approved transmission charges and transmission investment costs must exceed a set amount or have decreased by a set amount for the TCRF to be revised? If so, what should that threshold be?

- 3) Should the rule specify whether increased revenue resulting from load growth should be considered in determining whether the electric utility is recovering its transmission costs? Please explain.

This new section is proposed under the Public Utility Regulatory Act, Texas Utilities Code Annotated §14.002 (Vernon 2007), 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 §36.209 which grants the commission the authority to allow certain electric utilities that operate solely outside of ERCOT, to recover on an annual basis reasonable and necessary expenditures for transmission infrastructure improvement costs and changes in wholesale transmission charges to the extent that the costs or charges have not otherwise been recovered.

Cross Reference to Statutes: Public Utility Regulatory Act §14.002 and §36.209.

**§25.239. Transmission Cost Recovery Factor for Certain Electric Utilities**

- (a) **Application.** The provisions of this section apply to an electric utility that operates solely outside of the Electric Reliability Council of Texas in areas of Texas included in the Southwest Power Pool or the Western Electricity Coordinating Council and that owns or operates transmission facilities.
- (b) **Definitions.**
- (1) **Approved transmission charges (ATC)** — Wholesale transmission charges approved by a federal regulatory authority that are not being recovered through the electric utility's other retail or wholesale rates and that are appropriately allocated to Texas retail customers. The charges may relate to the use of transmission facilities owned and operated by another transmission service provider or regional transmission organization, including administrative fees but not including dispatch fees, congestion charges, costs incurred to hedge congestion charges, or ancillary service charges.
- (2) **Transmission invested costs (TIC)** — The investment costs to the electric utility associated with new transmission facilities and upgrading transmission facilities.
- (c) **Recovery authorized.** The commission, after notice and hearing, may allow an electric utility to recover its reasonable and necessary costs for transmission infrastructure improvement and changes in wholesale transmission charges to the electric utility under a tariff approved by a federal regulatory authority to the extent that the costs or charges

have not otherwise been recovered and are incurred after December 31, 2005. Any such recovery shall be made through the use of a transmission cost recovery factor (TCRF) approved by an order of the commission. The TCRF shall be calculated pursuant to subsection (d) of this section. If a utility has not had a base rate proceeding with a final order issued after December 2005, the utility shall not be eligible for recovery under this provision without first obtaining a final order in a base rate proceeding.

- (d) **Transmission cost recovery factor (TCRF).** The TCRF shall be determined by the following formula.

$\text{TCRF} = \frac{\text{RR} * \text{ClassALLOC}}{\text{BD}}$	
Where:	TCRF = transmission cost recovery factor in dollars per unit, for billing each customer class.
	RR = transmission cost recovery factor revenue requirement, calculated pursuant to subsection (e).
	ClassALLOC = the customer class allocation factor used to allocate the transmission revenue requirement in the electric utility's last rate case.
	BD = each customer class's annual billing determinant (kilowatt-hour, kilowatt, or kilovolt-ampere) for the previous calendar year.

- (e) **Transmission cost recovery factor revenue requirement (RR).** For an electric utility subject to this section, the transmission cost recovery factor revenue requirement (RR) shall be calculated by using the following formula:

$\text{RR} = [\text{revreq} + \text{ATC}] * \text{ALLOC}$
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Where:	<p>revreqt = the sum of the return on TIC, net of accumulated depreciation and associated accumulated deferred income taxes, plus investment-related expenses such as income taxes, other associated taxes, depreciation, and transmission-related miscellaneous revenue credits, but not including operation and maintenance expenses or administrative expenses. The return on TIC shall be calculated by multiplying the TIC by the utility's weighted-average cost of capital (WACC) as established for the utility in a final commission order in a rate proceeding, provided that the order was filed within three years prior to the initiation of the TCRF docket. Otherwise, a proxy WACC shall be used, with a cost of equity of 10%; and the capital structure and cost of debt as reported in the utility's most recent Earnings Monitoring Report filed pursuant to §25.73 of this title (relating to Financial and Operating Reports), adjusted for known and measurable changes.</p>
	<p>Transmission Invested Costs (TIC) is defined in paragraph (b)(2).</p>
	<p>Approved Transmission Charges (ATC) is defined in paragraph (b)(1).</p>
	<p>ALLOC = the utility's Texas retail allocation of transmission revenue requirements, as established in the utility's most recent commission rate case.</p>

- (f) **Setting and updating the TCRF.** An electric utility that is subject to this section may file an application to set or amend a TCRF in a general base rate case for the utility or a separate proceeding for that purpose. The commission staff may also file an application to amend a TCRF. An electric utility may not apply to amend its TCRF more frequently than once each calendar year. In a docket in which the TCRF is amended, the commission may order the refund of any previous over-recovery, but the commission shall not order the surcharge of any under-recovery. An over-recovery shall be considered to have occurred if the revenues from the TCRF were greater than the costs that the TCRF was intended to recover.
- (g) **TCRF forms.** The commission may develop forms for TCRF applications and for monitoring the revenues from a TCRF. If the commission develops and approves such forms, an electric utility shall use the forms as required by the instructions accompanying the form.

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 16<sup>th</sup> DAY OF AUGUST 2007 BY THE  
PUBLIC UTILITY COMMISSION OF TEXAS  
ADRIANA A. GONZALES**

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