

section. The commission will consider the costs and benefits in deciding whether to adopt the section. All comments should refer to Project Number 27826.

Matthew Troxle, Senior Retail Market Analyst, Electric Division, 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.

Mr. Troxle 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 increased competitiveness in the wholesale market through increased availability of generation and increased liquidity. 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.

Mr. Troxle 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 §2001.022.

This amendment is proposed under the Public Utility Regulatory Act, Texas Utilities Code Annotated §14.002 (Vernon 1998, Supplement 2003) (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. The commission also proposes this amendment pursuant to PURA §39.153, which grants the commission authority to establish rules that define the scope of the capacity entitlements to be auctioned, and the procedures for the auctions.

Cross Reference to Statutes: Public Utility Regulatory Act §§14.002, 31.002, 39.153, 39.201, and 39.262.

§25.381. Capacity Auctions.

(a)-(g) (No change.)

(h) **Auction process.**

(1) **Timing issues.**

(A) **Frequency of auctions.**

(i) Auction dates. Capacity auctions shall begin on March 10, July 10, September 10, and November 10 of each year, except in 2003, when the September 10, auction will be held on October 7, 2003. If the date for an auction start falls on a weekend or banking holiday, then that auction shall begin on the first business day after the weekend or banking holiday.

(ii)-(iii) (No change.)

(B) (No change.)

(2) (No change.)

(3) **Term of auctioned capacity.**

(A) (No change.)

(B) Schedule of subsequent auctions.

(i)-(ii) (No change.)

(iii) The auction in September of a year will auction:

(I) Approximately 30% of the entitlements as the one-year strips for the next year; ~~and~~

(II) Approximately 20% of the entitlements as discrete months for each of the 12 calendar months of the next year; ~~and~~

(III) In 2003, approximately 20% of the entitlements as two one-year strips, with the strips auctioned jointly (the 12 months of 2004 and 2005).

(iv)-(v)(No change.)

(vi) The commission will periodically evaluate the need to sell one-year and two-year strips and make appropriate adjustments to the terms of the auctions. In June of 2003, an evaluation will be made by the commission as to the need for another set of two-year strips (the 24 months of 2004 through 2005). If such term is deemed to be necessary, the next set of two-year strips will be auctioned in September of 2003. If such term is not deemed to be necessary, then subsequent auctions will auction 50% of entitlements over one-year strips and 50% of the entitlements as discrete months.

(C) (No change.)

(4)-(8) (No change.)

(i)-(m) (No change.)

~~(n) — This section, as adopted, becomes effective on August 1, 2002.~~

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

**ISSUED IN AUSTIN, TEXAS ON THE 22nd DAY OF MAY 2003 BY THE
PUBLIC UTILITY COMMISSION OF TEXAS
RHONDA G. DEMPSEY**