

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

**Subchapter O. UNBUNDLING AND MARKET POWER.**

**DIVISION 4. OTHER MARKET POWER ISSUES.**

**§25.401. Share of Installed Generation Capacity.**

- (a) **Application.** The provisions of this section apply to power generation companies.
- (b) **Share of installed generation capacity.** The percentage share of installed generation capacity for a power generation company will be determined by dividing the installed generation capacity owned and controlled by the power generation company in, or capable of delivering electricity to, a power region by the total installed generation capacity located in, or capable of delivering electricity to, the power region.
- (c) **Capacity ratings.** For purposes of this section, generating unit capacity ratings shall be consistent with §25.91(f) of this title (relating to Generating Capacity Reports). The commission may revise reported capacity ratings if they are found to be incorrect.
- (d) **Installed generation capacity of a power generation company.**
  - (1) In determining the percentage shares of installed generation capacity under the PURA §39.154, the commission shall combine capacity owned and controlled by a power generation company and any entity that is affiliated with that power generation company within the power region, reduced by the installed generation capacity of those facilities that are made subject to capacity auctions under PURA §39.153(a) and (d).
  - (2) In determining the percentage shares of installed generation capacity, the commission shall increase the installed generation capacity owned and controlled by a power generation company by the transmission import capability that is available for importing electricity during the summer peak season into the power region from generating facilities that are owned by the power generation company or an affiliate in another power region.
  - (3) In determining the percentage shares of installed generation capacity owned and controlled by a power generation company under PURA §39.154 and §39.156, the commission shall, for purposes of calculating the numerator, reduce the installed generation capacity owned and controlled by that power generation company by the installed generation capacity of any "grandfathered facility" within an ozone nonattainment area as of September 1, 1999, for which that power generation company has commenced complying or made a binding commitment to comply with PURA §39.264. This paragraph applies only to a power generation company that is affiliated with an electric utility that owned and controlled more than 27% of the installed generation capacity in the power region on January 1, 1999. The commission will consider a permit application to the Texas Natural Resource Conservation Commission (TNRCC) to be adequate evidence that the power generation company has commenced complying or made a binding commitment to comply with PURA §39.264. However, the commission will review the progress that has been made on achieving an approved an TNRCC permit, when it reviews and updates market share percentages, and if adequate progress has not been made, the commission may choose to include the grandfathered capacity in the numerator.
- (e) **Total installed generation.** The total installed generation will consist of the installed generation capacity that is located in, or capable of delivering electricity to, a power region.
  - (1) Installed generation capacity will include all potentially marketable electric generation capacity. Except as provided in paragraph (2) of this subsection, installed generation capacity will include:

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**§25.401(e)(1) continued**

- (A) generating facilities that are connected with a transmission or distribution system;
  - (B) generating facilities used to generate electricity for consumption by the person owning or controlling the facility;
  - (C) generating facilities that will be connected with a transmission or distribution system and operating within 12 months; and
  - (D) generating facilities that are located on the boundary between two power regions and are able to deliver electricity directly into either power region, except that the capacity of such facility shall be allocated between the power regions based on the share of its total electric energy that the facility sold in each power region during the preceding year.
- (2) Installed generation capacity will not include generating facilities that have a nameplate rating equal to or less than 1 megawatt (MW).
- (3) The amount of installed generation capacity that is capable of delivering electricity to a power region will be determined by:
- (A) the import transmission capacity during the summer peak period of the alternating current transmission interconnections between the power region at issue and other power regions; and
  - (B) the import capacity during the summer peak period of the reliable direct current interconnections between the power region at issue and other power regions.