

**PROJECT NO. 29781**

**RULEMAKING TO AMEND P.U.C.  
SUBSTANTIVE RULE §25.93,  
QUARTERLY WHOLESALE  
ELECTRICITY TRANSACTION  
REPORTS**

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**PUBLIC UTILITY COMMISSION  
OF TEXAS**

**ORDER ADOPTING AMENDMENT TO §25.93  
AS APPROVED AT THE AUGUST 19, 2004 OPEN MEETING**

The Public Utility Commission of Texas (commission) adopts an amendment to §25.93, relating to Quarterly Wholesale Electricity Transaction Reports with no changes to the proposed text as published in the July 2, 2004 issue of the *Texas Register* (29 Tex Reg 6191). The amendment clarifies that reports filed electronically will be afforded the same treatment with respect to confidentiality as information properly filed under §22.71 of this title and will reduce certain reporting requirements. This amendment is adopted under Project Number 29781.

The commission received comments on the proposed amendment from City of Garland and City of Denton (jointly, Cities), San Antonio City Public Service (CPS), and TXU Portfolio Management (TXU). There was no request for a public hearing under the Administrative Procedures Act.

CPS and TXU supported the proposed amendment. Both said the change should reduce the compliance burden of filing Electricity Transaction Reports.

All three commenters, however, reiterated their opposition to portions of subsection (g) that were not open for amendment in this proceeding. CPS, Cities, and other parties have appealed these provisions; Cities said they reiterated their position in this proceeding to clarify that they are not waiving their objections to the provisions currently under appeal.

*Commission response*

The commission notes the support for the amendment expressed by CPS and TXU, as well as the absence of any other public comment in opposition to the proposed change. The rule is thereby amended as proposed.

The commission declines to respond to other comments regarding subsection (g) as these provisions were not open for amendment in this proceeding.

This amendment is adopted under the Public Utility Regulatory Act, Texas Utilities Code Annotated §14.002 and §14.052 (Vernon 1998, Supplement 2004) (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, including rules of practice and procedure; and specifically, PURA §39.001 which requires the commission to assure that electric services and their prices be determined by customer choices and the normal forces of competition, PURA §39.157 which requires the commission to monitor market power associated with the generation, transmission, distribution, and sale of electricity in this state; and PURA §39.001(b)(4), which requires the commission to protect the competitive process in a manner that ensures the confidentiality of competitively sensitive information during the transition to a competitive market and after the commencement of customer choice.

Cross Reference to Statutes: Public Utility Regulatory Act §§14.002, 14.052, 39.001, 39.001(b)(4), and 39.157.

**§25.93. Quarterly Wholesale Electricity Transaction Reports.**

(a)-(b) (No change.)

(c) **Definitions.** The following words and terms, when used in this section, shall have the following meanings, unless the context indicates otherwise:

- (1) **Contract** — An agreement for the wholesale provision of energy or capacity under specified prices, terms, and conditions. A contract governs the financial aspects of an electricity transaction.
- (2) **Full Report** — A Quarterly Wholesale Transaction Report that contains all information required by this rule including information that the Wholesale Seller of Electricity claims is confidential or Protected Information. If the Wholesale Seller of Electricity does not claim confidentiality or Protected Information status for any of the information in its Full Report then the Full Report will be treated as a Public Report.
- (3) **Protected information** — Information contained in a Quarterly Wholesale Electricity Transaction Report that comports with the requirements for exception from disclosure under the Texas Public Information Act (TPIA).
- (4) **Public Report** — A Quarterly Wholesale Transaction Report that contains all information required by this rule except information that the Wholesale Seller of Electricity claims is confidential or Protected Information.
- (5) **Transaction** — The provision of a specific quantity of energy or the commitment of a specific amount of generating capacity for a specific period of time from a

wholesale seller of electricity to a customer, whether pursuant to a contract, a market operated by an independent organization as defined in the Public Utility Regulatory Act §39.151(b), or any other provision of electricity or commitment of reserve capacity.

- (6) **Wholesale seller of electricity** — Any power generation company, power marketer, municipally owned utility, electric cooperative, river authority, or other entity that sells power at wholesale.

(d) (No change.)

- (e) **Filing procedures.** Wholesale sellers of electricity shall file the Quarterly Wholesale Electricity Transaction Reports using forms, templates, and procedures approved by the commission. The commission may also approve the use of forms and templates issued by federal agencies for reporting information similar to that required under this section. Reports shall be filed according to §22.71 of this title (relating to Filing of Pleadings, Documents and Other Materials) and §22.72 of this title (relating to Formal Requisites of Pleadings and Documents to be Filed with the Commission) except as specified in this subsection and subsection (g) of this section.

- (1) A Full Report shall be submitted electronically and on standard-format compact disks (two copies) without a paper hard copy.
- (2) If a Full Report is filed containing information that the Wholesale Seller of Electricity claims is confidential or is Protected Information, a Public Report shall also be submitted on standard-format compact disks (two copies).

(3) Information required under subsection (d)(2)(A) of this section along with attestations and other necessary documents shall be filed in hard copy form (two copies).

(f) (No change.)

(g) **Confidentiality.** If a Full Report contains information which the Wholesale Seller of Electricity has claimed is confidential or is Protected Information, commission employees, and its consultants, agents, and attorneys shall treat the Full Report, including the electronic submission, as confidential to the same degree as information properly submitted under §22.71(d) of this title and shall not disclose protected information except as provided in this subsection and in accordance with the provisions of the Texas Public Information Act (TPIA).

(1) - (5) (No change.)

(h) **Implementation.** The commission shall establish a detailed implementation process that includes training sessions to educate parties required to file under this section about the data required and the form in which it should be submitted, and technical workshops to permit the commission and filing parties to exchange technical systems information.

This agency hereby certifies that the rule, as adopted, has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority. It is therefore ordered by the Public Utility Commission of Texas that §25.93, relating to Quarterly Wholesale Electricity Transaction Reports, is hereby adopted with no changes to the text as proposed.

**ISSUED IN AUSTIN, TEXAS ON THE 30th DAY OF AUGUST 2004.**

**PUBLIC UTILITY COMMISSION OF TEXAS**

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**JULIE PARSLEY, COMMISSIONER**

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**PAUL HUDSON, CHAIRMAN**

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**BARRY T. SMITHERMAN, COMMISSIONER**