

PROJECT NO. 45124

RULEMAKING REGARDING DC	§	
TIES PURSUANT TO SB 933,	§	
MUNICIPALLY OWNED UTILITIES	§	PUBLIC UTILITY COMMISSION
PURSUANT TO SB 776, AND NON-	§	OF TEXAS
ERCOT UTILITIES PURSUANT TO	§	
HB 1535 OF THE 84TH	§	
LEGISLATURE (R.S.);	§	
COMPETITIVE RENEWABLE	§	
ENERGY ZONES; AND	§	
TRANSMISSION SERVICE RATES	§	

STAFF STRAWMAN RULES

1 The Public Utility Commission of Texas (commission) proposes amendments to §25.101,
2 relating to criteria for Certificates of Convenience and Necessity (CCN), and §25.192, relating to
3 Transmission Service Rates. Project Number 45124 has been assigned to this proceeding. The
4 proposed amendments will make changes to the Chapter 25 Substantive Rules regarding the
5 requirement of obtaining a CCN for Direct Current (DC) ties, municipally owned utilities or a
6 municipal power agency constructing, installing, or extending transmission facilities outside of
7 its service boundaries, and certain non-Electric Reliability Council of Texas (ERCOT) utilities
8 for generating facilities. The proposed amendments will also make changes to the Chapter 25
9 Substantive Rules regarding transmission service rates.

10

11 Staff invites comments on the draft rule. In particular, Staff seeks input regarding the following
12 questions:

- 13 1. Is the definition of a “Tie Line” sufficiently broad enough to cover the intent
14 of Senate Bill 933?

- 1 2. At its October 2, 2015 Open Meeting, in discussing *ERCOT Planning and*
2 *System Costs Associated with Renewable Resources and New Large DC Ties,*
3 Project No. 42647, the Commission directed its staff to address Competitive
4 Renewable Energy Zones (CREZ) in this rulemaking. More specifically,
5 except for the addition of a second 345 kilovolt (kV) circuit on the Alibates-
6 AJ Swope-Windmill-Ogallala-Tule Canyon transmission line, the
7 Commission directed staff to draft rule amendments to the effect that no
8 further transmission projects will be authorized by the Commission under
9 Public Utility Regulatory Act §39.904(g) or *Commission Staff's Petition for*
10 *Designation of Competitive Renewable Energy Zones*, Docket No. 33672,
11 Order on Rehearing (Oct. 7, 2008) (CREZ Order). The Commission indicated
12 that it cannot authorize further transmission projects under PURA § 39.904(g)
13 or the CREZ Order. What rule amendments should staff make to effectuate
14 the Commission's directive?
- 15 3. Should amendments be made to the Commission's rules to implement House
16 Bill 1535? If so, please provide proposed amendments.
- 17 4. Should 16 Tex. Admin. Code §25.192(h) be amended to reflect an updated
18 balance for accumulated deferred federal income tax?

19 Sixteen copies of comments on the amendment may be submitted to the Filing Clerk, Public
20 Utility Commission of Texas, 1701 North Congress Avenue, P.O. Box 13326, Austin, Texas
21 78711-3326, before 3:00 p.m. on Friday, November 6, 2015. All comments should refer to
22 Project Number 45124. Comments should be organized in a manner consistent with the

1 organization of the amended rule. Where commenters wish to speak more generally, Staff
2 requests that commenters organize their comments by topic: CCNs relating to DC ties, CCNs
3 relating to municipally owned utilities, payment in lieu of ad valorem taxes, CCNs relating to
4 non-ERCOT utilities, CREZ, and transmission service rates.

5
6 Questions concerning this project should be referred to Kristin Abbott, Market Analyst,
7 Competitive Markets Division, at kristin.abbott@puc.texas.gov or (512) 936-7459, or Maria
8 Faconti, Attorney, Legal Division, at maria.faconti@puc.texas.gov or (512) 936-7235.

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1 **§25.101. Certification Criteria.**

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

5 (1) **Construction and/or extension** -- Shall not include the purchase or
6 condemnation of real property for use as facility sites or right-of-way. Acquisition
7 of right-of-way shall not be deemed to entitle an electric utility to the grant of a
8 certificate of convenience and necessity without showing that the construction
9 and/or extension is necessary for the service, accommodation, convenience, or
10 safety of the public.

11 (2) **Generating unit** -- Any electric generating facility. This section does not apply
12 to any generating unit that is less than ten megawatts and is built for experimental
13 purposes only.

14 (3) **Habitable structures** -- Structures normally inhabited by humans or intended to
15 be inhabited by humans on a daily or regular basis. Habitable structures include,
16 but are not limited to: single-family and multi-family dwellings and related
17 structures, mobile homes, apartment buildings, commercial structures, industrial
18 structures, business structures, churches, hospitals, nursing homes, and schools.

19 (4) **Municipal power agency (MPA)** -- Agency or group created under Section
20 37.051, Utilities Code, Title 4, Subtitle A, Chapter 163 – Joint Powers Agencies.

21 (5) **Municipal Public Entity (MPE)** -- A municipally owned utility or a municipal
22 power agency.

23 ~~(4)(6)~~ **Prudent avoidance** -- The limiting of exposures to electric and magnetic fields
24 that can be avoided with reasonable investments of money and effort.

25 (b) **Certificates of convenience and necessity for new service areas and facilities.** Except
26 for certificates granted under subsection (e) of this section, the commission may grant an
27 application and issue a certificate only if it finds that the certificate is necessary for the
28 service, accommodation, convenience, or safety of the public, and complies with the
29 statutory requirements in the Public Utility Regulatory Act (PURA) §37.056. The

1 commission may issue a certificate as applied for, or refuse to issue it, or issue it for the
2 construction of a portion of the contemplated system or facility or extension thereof, or
3 for the partial exercise only of the right or privilege. The commission shall render a
4 decision approving or denying an application for a certificate within one year of the date
5 of filing of a complete application for such a certificate, unless good cause is shown for
6 exceeding that period. A certificate, or certificate amendment, is required for the
7 following:

8 (1) **Change in service area.** Any certificate granted under this section shall not be
9 construed to vest exclusive service or property rights in and to the area
10 certificated.

11 (A) Uncontested applications: An application for a certificate under this
12 paragraph shall be approved administratively within 80 days from the date
13 of filing a complete application if:

14 (i) no motion to intervene has been filed or the application is
15 uncontested;

16 (ii) all owners of land that is affected by the change in service area and
17 all customers in the service area being changed have been given
18 direct mail notice of the application; and

19 (iii) commission staff has determined that the application is complete
20 and meets all applicable statutory criteria and filing requirements,
21 including, but not limited to, the provision of proper notice of the
22 application.

23 (B) Minor boundary changes or service area exceptions: Applications for
24 minor boundary changes or service area exceptions shall be approved
25 administratively within 45 days of the filing of the application provided
26 that:

27 (i) all utilities whose certificated service area is affected agree to the
28 change;

29 (ii) all customers within the affected area have given prior consent; and

1 (iii) commission staff has determined that the application is complete
2 and meets all applicable statutory criteria and filing requirements,
3 including, but not limited to, the provision of proper notice of the
4 application.

5 (2) **New generating unit.** A new electric generating unit constructed, owned, or
6 operated by a bundled electric utility.

7 (3) **New electric transmission line, including those to be constructed by a MPE**
8 **seeking to directly or indirectly construct, install, or extend a transmission**
9 **facility outside of its applicable boundaries. For a municipally owned utility,**
10 **the applicable boundaries are the municipal boundaries of the municipality**
11 **that owns the MOU. For a MPA, the applicable boundaries are the**
12 **municipal boundaries of the public entities participating in the MPA.** All
13 new electric transmission lines shall be reported to the commission in accordance
14 with §25.83 of this title (relating to Transmission Construction Reports).

15 (A) Need:

16 (i) Except as stated below, the following must be met for a
17 transmission line in the Electric Reliability Council of Texas
18 (ERCOT) power region. The applicant must present an economic
19 cost-benefit study that includes an analysis that shows that the
20 levelized ERCOT-wide annual production cost savings attributable
21 to the proposed project are equal to or greater than the first-year
22 annual revenue requirement of the proposed project of which the
23 transmission line is a part. Indirect costs and benefits to the
24 transmission system may be included in the cost-benefit study.
25 The commission shall give great weight to such a study if it is
26 conducted by ERCOT. This requirement for an economic cost-
27 benefit study does not apply to an application filed pursuant to
28 §25.174 of this title (relating to Competitive Renewable Energy
29 Zones) for a transmission line that is intended to serve a

1 competitive renewable energy zone. This requirement also does
2 not apply to an application for a transmission line that is necessary
3 to meet state or federal reliability standards, including: a
4 transmission line needed to interconnect a transmission service
5 customer or end-use customer; or needed due to the requirements
6 of any federal, state, county, or municipal government body or
7 agency for purposes including, but not limited to, highway
8 transportation, airport construction, public safety, or air or water
9 quality.

10 (ii) For a transmission line not addressed by clause (i) of this
11 subparagraph, the commission shall consider among other factors,
12 the needs of the interconnected transmission systems to support a
13 reliable and adequate network and to facilitate robust wholesale
14 competition. The commission shall give great weight to:

15 (I) the recommendation of an organization that meets the
16 requirement of PURA §39.151; and/or

17 (II) written documentation that the transmission line is needed
18 to interconnect a transmission service customer or an end-
19 use customer.

20 (B) **Routing:** An application for a new transmission line shall address the
21 criteria in PURA §37.056(c) and considering those criteria, engineering
22 constraints, and costs, the line shall be routed to the extent reasonable to
23 moderate the impact on the affected community and landowners unless
24 grid reliability and security dictate otherwise. The following factors shall
25 be considered in the selection of the utility's alternative routes unless a
26 route is agreed to by the utility, the landowners whose property is crossed
27 by the proposed line, and owners of land that contains a habitable structure
28 within 300 feet of the centerline of a transmission project of 230 kV or

1 less, or within 500 feet of the centerline of a transmission project greater
2 than 230 kV, and otherwise conforms to the criteria in PURA §37.056(c):

3 (i) whether the routes parallel or utilize existing compatible rights-of-
4 way for electric facilities, including the use of vacant positions on
5 existing multiple-circuit transmission lines;

6 (ii) whether the routes parallel or utilize other existing compatible
7 rights-of-way, including roads, highways, railroads, or telephone
8 utility rights-of-way;

9 (iii) whether the routes parallel property lines or other natural or
10 cultural features; and

11 (iv) whether the routes conform with the policy of prudent avoidance.

12 (C) Uncontested transmission lines: An application for a certificate for a
13 transmission line shall be approved administratively within 80 days from
14 the date of filing a complete application if:

15 (i) no motion to intervene has been filed or the application is
16 uncontested; and

17 (ii) commission staff has determined that the application is complete
18 and meets all applicable statutory criteria and filing requirements,
19 including, but not limited to, the provision of proper notice of the
20 application.

21 (D) Projects deemed critical to reliability. Applications for transmission lines
22 which have been formally designated by a PURA §39.151 organization as
23 critical to the reliability of the system shall be considered by the
24 commission on an expedited basis. The commission shall render a
25 decision approving or denying an application for a certificate under this
26 subparagraph within 180 days of the date of filing a complete application
27 for such a certificate unless good cause is shown for extending that period.

28 (4) New tie line. A facility to be interconnected to the ERCOT transmission grid by a
29 person, including an electric utility or municipally owned utility, that would

1 enable additional power to be imported into or exported out of the ERCOT power
2 grid.

3
4 (c) **Projects or activities not requiring a certificate.** A certificate, or certificate
5 amendment, is not required for the following:

- 6 (1) A contiguous extension of those facilities described in PURA §37.052;
- 7 (2) A new electric high voltage switching station, or substation;
- 8 (3) The repair or reconstruction of a transmission facility due to emergencies. The
9 repair or reconstruction of a transmission facility due to emergencies shall proceed
10 without delay or prior approval of the commission and shall be reported to the
11 commission in accordance with §25.83 of this title.
- 12 (4) The construction or upgrading of distribution facilities within the electric utility's
13 service area.
- 14 (5) Routine activities associated with transmission facilities that are conducted by
15 transmission service providers. Nothing contained in the following subparagraphs
16 should be construed as a limitation of the commission's authority as set forth in
17 PURA. Any activity described in the following subparagraphs shall be reported to
18 the commission in accordance with §25.83 of this title. The commission may
19 require additional facts or call a public hearing thereon to determine whether a
20 certificate of convenience and necessity is required. Routine activities are defined
21 as follows:
- 22 (A) The modification or extension of an existing transmission line solely to
23 provide service to a substation or metering point provided that:
- 24 (i) an extension to a substation or metering point does not exceed one
25 mile; and
- 26 (ii) all landowners whose property is crossed by the transmission
27 facilities have given prior written consent.
- 28 (B) The rebuilding, replacement, or respacing of structures along an existing
29 route of the transmission line; upgrading to a higher voltage not greater

- 1 than 230 kV; bundling of conductors or reconductoring of an existing
2 transmission facility, provided that:
- 3 (i) no additional right-of-way is required; or
4 (ii) if additional right-of-way is required, all landowners of property
5 crossed by the electric facilities have given prior written consent.
- 6 (C) The installation, on an existing transmission line, of an additional circuit
7 not previously certificated, provided that:
- 8 (i) the additional circuit is not greater than 230 kV; and
9 (ii) all landowners whose property is crossed by the transmission
10 facilities have given prior written consent.
- 11 (D) The relocation of all or part of an existing transmission facility due to a
12 request for relocation, provided that:
- 13 (i) the relocation is to be done at the expense of the requesting party;
14 and
15 (ii) the relocation is solely on a right-of-way provided by the
16 requesting party.
- 17 (E) The relocation or alteration of all or part of an existing transmission
18 facility to avoid or eliminate existing or impending encroachments,
19 provided that all landowners of property crossed by the electric facilities
20 have given prior written consent.
- 21 (F) The relocation, alteration, or reconstruction of a transmission facility due
22 to the requirements of any federal, state, county, or municipal
23 governmental body or agency for purposes including, but not limited to,
24 highway transportation, airport construction, public safety, or air and water
25 quality, provided that:
- 26 (i) all landowners of property crossed by the electric facilities have
27 given prior written consent; and
28 (ii) the relocation, alteration, or reconstruction is responsive to the
29 governmental request.

1 (6) Upgrades to an existing transmission line by an MPE that do not require any
2 additional land, right-of-way, easement, or other property not owned by the MOU;

3 or

4 (7) The construction, installation, or extension of a transmission facility by an MPE
5 that is entirely located not more than 10 miles outside of a MOU's certificated
6 service area that occurs before September 1, 2021.

7
8 (d) **Standards of construction and operation.** In determining standard practice, the
9 commission shall be guided by the provisions of the American National Standards
10 Institute, Incorporated, the National Electrical Safety Code, and such other codes and
11 standards that are generally accepted by the industry, except as modified by this
12 commission or by municipal regulations within their jurisdiction. Each electric utility
13 shall construct, install, operate, and maintain its plant, structures, equipment, and lines in
14 accordance with these standards, and in such manner to best accommodate the public, and
15 to prevent interference with service furnished by other public utilities insofar as practical.

16 (1) The standards of construction shall apply to, but are not limited to, the
17 construction of any new electric transmission facilities, rebuilding, upgrading, or
18 relocation of existing electric transmission facilities.

19 (2) For electric transmission line construction requiring the acquisition of new rights-
20 of-way, electric utilities must include in the easement agreement, at a minimum, a
21 provision prohibiting the new construction of any above-ground structures within
22 the right-of-way. New construction of structures shall not include necessary
23 repairs to existing structures, farm or livestock facilities, storage barns, hunting
24 structures, small personal storage sheds, or similar structures. Utilities may
25 negotiate appropriate exceptions in instances where the electric utility is subject to
26 a restrictive agreement being granted by a governmental agency or within the
27 constraints of an industrial site. Any exception to this paragraph must meet all
28 applicable requirements of the National Electrical Safety Code.

1 (3) Measures shall be applied when appropriate to mitigate the adverse impacts of the
2 construction of any new electric transmission facilities, and the rebuilding,
3 upgrading, or relocation of existing electric transmission facilities. Mitigation
4 measures shall be adapted to the specifics of each project and may include such
5 requirements as:

6 (A) selective clearing of the right-of-way to minimize the amount of flora and
7 fauna disturbed;

8 (B) implementation of erosion control measures;

9 (C) reclamation of construction sites with native species of grasses, forbs, and
10 shrubs; and

11 (D) returning site to its original contours and grades.

12
13 (e) **Certificates of convenience and necessity for existing service areas and facilities.** For
14 purposes of granting these certificates for those facilities and areas in which an electric
15 utility was providing service on September 1, 1975, or was actively engaged in the
16 construction, installation, extension, improvement of, or addition to any facility actually
17 used or to be used in providing electric utility service on September 1, 1975, unless found
18 by the commission to be otherwise, the following provisions shall prevail for certification
19 purposes:

20 (1) The electrical generation facilities and service area boundary of an electric utility
21 having such facilities in place or being actively engaged in the construction,
22 installation, extension, improvement of, or addition to such facilities or the
23 electric utility's system as of September 1, 1975, shall be limited, unless otherwise
24 provided, to the facilities and real property on which the facilities were actually
25 located, used, or dedicated as of September 1, 1975.

26 (2) The transmission facilities and service area boundary of an electric utility having
27 such facilities in place or being actively engaged in the construction, installation,
28 extension, improvement of, or addition to such facilities or the electric utility's
29 system as of September 1, 1975, shall be, unless otherwise provided, the facilities

1 and a corridor extending 100 feet on either side of said transmission facilities in
2 place, used or dedicated as of September 1, 1975.

- 3 (3) The facilities and service area boundary for the following types of electric utilities
4 providing distribution or collection service to any area, or actively engaged in the
5 construction, installation, extension, improvement of, or addition to such facilities
6 or the electric utility's system as of September 1, 1975, shall be limited, unless
7 otherwise found by the commission, to the facilities and the area which lie within
8 200 feet of any point along a distribution line, which is specifically deemed to
9 include service drop lines, for electrical utilities.

- 10
11 (f) **Transferability of certificates.** Any certificate granted under this section is not
12 transferable without approval of the commission and shall continue in force until further
13 order of the commission.

- 14
15 (g) **Certification forms.** All applications for certificates of convenience and necessity shall
16 be filed on commission-prescribed forms so that the granting of certificates, both
17 contested and uncontested, may be expedited. Forms may be obtained from Central
18 Records.

- 19
20 (h) **Commission authority.** Nothing in this section is intended to limit the commission's
21 authority to recommend or direct the construction of transmission under PURA §§35.005,
22 36.008, or 39.203(e).

1 **§25.192. Transmission Service Rates.**

2
3 (a)-(b) (No change.)

4
5 (c) **Transmission cost of service.** The transmission cost of service for each TSP shall be
6 based on the expenses in Federal Energy Regulatory Commission (FERC) expense
7 accounts 560-573 (or accounts with similar contents or amounts functionalized to the
8 transmission function) plus the depreciation, federal income tax, and other associated
9 taxes, and the commission-allowed rate of return based on FERC plant accounts 350-359
10 (or accounts with similar contents or amounts functionalized to the transmission
11 function), less accumulated depreciation and accumulated deferred federal income taxes,
12 as applicable.

13 (1) The following facilities are deemed to be transmission facilities:

14 (A) power lines, substations, reactive devices, and associated facilities,
15 operated at 60 kilovolts or above, including radial lines operated at or
16 above 60 kilovolts, except the step-up transformers and a protective device
17 associated with the interconnection from a generating station to the
18 transmission network;

19 (B) substation facilities on the high side of the transformer, in a substation
20 where power is transformed from a voltage higher than 60 kilovolts to a
21 voltage lower than 60 kilovolts;

22 (C) the portion of the direct-current interconnections with areas outside of the
23 ERCOT region (DC ties) that are owned by a TSP in the ERCOT region,
24 including those portions of the DC tie that operate at a voltage lower than
25 60 kilovolts; and

26 (D) capacitors and other reactive devices that are operated at a voltage below
27 60 kilovolts, if they are located in a distribution substation, the load at the
28 substation has a power factor in excess of 0.95 as measured or calculated
29 at the distribution voltage level without the reactive devices, and the

1 reactive devices are controlled by an operator or automatically switched in
2 response to transmission voltage.

3 (E) As used in subparagraphs (A) - (D) of this paragraph, reactive devices do
4 not include generating facilities.

5 (2) For municipal utilities, river authorities, and electric cooperatives, the commission
6 may permit the use of the cash flow method or other reasonable alternative
7 methods of determining the annual transmission revenue requirement, including
8 the return element of the revenue requirement, consistent with the rate actions of
9 the rate-setting authority for a municipal utility.

10 (3) For municipal utilities, river authorities, and electric cooperatives, the return may
11 be determined based on the TSP's actual debt service and a reasonable coverage
12 ratio. In determining a reasonable coverage ratio, the commission will consider
13 the coverage ratios required in the TSP's bond indentures or ordinances and the
14 most recent rate action of the rate-setting authority for the TSP.

15 (4) A municipally owned utility that is required to apply for a certificate of
16 convenience and necessity to construct, install, or extend a transmission facility
17 within ERCOT pursuant to §25.101, of this title, is entitled to recover, through the
18 utility's wholesale transmission rates, reasonable payments made to a taxing entity
19 in lieu of ad valorem taxes on that transmission facility, provided that:

20 (A) The utility enters into a written agreement with the governing body of the
21 taxing entity related to the payments;

22 (B) The amount paid is the same as the amount the utility would have to pay to
23 the taxing entity on that transmission facility if the facility were subject to
24 ad valorem taxation;

25 (C) The governing body of the taxing entity is not the governing body of the
26 utility; and

27 (D) The utility provides the commission with a copy of the written agreement
28 and any other information the commission considers necessary in relation
29 to the agreement.

1 ~~(4)~~(5) The commission may adopt rate-filing requirements that provide additional details
2 concerning the costs that may be included in the transmission costs and how such
3 costs should be reported in a proceeding to establish transmission rates.
4

5 (d) **Billing units.** No later than December 1 of each year, ERCOT shall determine and file
6 with the commission the current year's average 4CP demand for each DSP, or the DSP's
7 agent for transmission service billing purposes, as appropriate, excluding the portion of
8 coincident peak demand attributable to wholesale storage load. This demand shall be
9 used to bill transmission service for the next year. The ERCOT average 4CP demand
10 shall be the sum of the coincident peak of all of the ERCOT DSPs, excluding the portion
11 of coincident peak demand attributable to wholesale storage load, for the four intervals
12 coincident with ERCOT system peak for the months of June, July, August, and
13 September, divided by four. As used in this section, a DSP's average 4CP demand is
14 determined from the total demand, coincident with the ERCOT 4CP, of all customers
15 connected to a DSP, including load served at transmission voltage, but excluding the load
16 of wholesale storage entities. The measurement of the coincident peak shall be in
17 accordance with commission-approved ERCOT protocols.
18

19 (e) **Transmission rates for exports from ERCOT.** Transmission service charges for
20 exports of power from ERCOT will be assessed to transmission service customers for
21 transmission service within the boundaries of the ERCOT region, in accordance with this
22 section and the ERCOT protocols.

23 (1) A transmission service customer shall be assessed a transmission service charge
24 by each TSP for the use of the ERCOT transmission system in exporting power
25 from ERCOT based on the megawatts that are actually exported, the duration of
26 the transaction and the rates established under subsections (c) and (d) of this
27 section. Billing intervals shall consist of a year, month, week, day, or hour.

28 (2) The monthly on-peak transmission rate will be one-fourth the TSP's annual rate,
29 and the monthly off-peak transmission rate will be one-twelfth its annual rate.

1 The peak period used to determine the applicable transmission rate for such
2 transactions shall be the months of June, July, August, and September.

3 (3) The DSP or an entity scheduling the export of power over a DC tie is solely
4 responsible to ~~the each~~ TSP for payment of transmission service charges under
5 this subsection.

6 ~~(4) A transmission service customer's charges for use of the ERCOT transmission~~
7 ~~system for export purposes on a monthly basis shall not exceed the annual~~
8 ~~transmission charge for the transaction.~~

9
10 (f) **Transmission revenue.** In establishing the transmission service rates for each TSP,
11 Rrevenue from the transmission of electric energy out of the ERCOT region over the DC
12 ties ~~that is properly~~ recovered under subsection (e) of this section shall be credited ~~to all~~
13 ~~transmission service customers~~ as a reduction in the transmission cost of service for the
14 TSPs ~~that receive the revenue~~.

15
16 (g) **Revision of transmission rates.** Each TSP in the ERCOT region shall periodically
17 revise its transmission service rates to reflect changes in the cost of providing such
18 services. Any request for a change in transmission rates shall comply with the filing
19 requirements established by the commission under this section.

20
21 (h) **Interim Update of Transmission rates.**

22 (1) **Frequency.** Each TSP in the ERCOT region may apply to update its transmission
23 rates on an interim basis not more than ~~once~~ twice per calendar year to reflect
24 changes in its invested capital. ~~Upon the effective date of an amendment to~~
25 ~~§25.193 pursuant to an order in Project Number 37909, Rulemaking Proceeding~~
26 ~~to Amend P.U.C. Subst. R. 25.193, Relating to Distribution Service Provider~~
27 ~~Transmission Cost Recovery factors (TCRF), that allows a distribution service~~
28 ~~provider to recover, through its transmission cost recovery factor, all transmission~~
29 ~~costs charged to the distribution service provider by TSPs, each TSP in the~~

1 ~~ERCOT region may apply to update its transmission rates on an interim basis not~~
2 ~~more than twice per calendar year to reflect changes in its invested capital.~~ If the
3 TSP elects to update its transmission rates, the new rates shall reflect the addition
4 and retirement of transmission facilities properly recorded in FERC plant accounts
5 350-359 and include appropriate depreciation, federal income tax and other
6 associated taxes, and the commission-authorized rate of return on such facilities
7 as well as changes in loads and transmission revenues consistent with the
8 proposed rates and properly recovered under subsection (e) of this section. If the
9 TSP does not have a commission-authorized rate of return, an appropriate rate of
10 return shall be used.

11 (2) **Reconciliation.** An update of transmission rates under paragraph (1) of this
12 subsection shall be subject to reconciliation at the next complete review of the
13 TSP's transmission cost of service, at which time the commission shall review the
14 costs of the interim transmission plant additions to determine if they were
15 reasonable and necessary. Any amounts resulting from an update that are found to
16 have been unreasonable or unnecessary, plus the corresponding return and taxes,
17 shall be refunded with carrying costs determined as follows: for the time period
18 beginning with the date on which over-recovery is determined to have begun to
19 the effective date of the TSP's rates set in that complete review of the TSP's
20 transmission cost of service, carrying costs shall be calculated using the same rate
21 of return that was applied to the transmission investments included in the update.
22 For the time period beginning with the effective date of the TSP's rates set in that
23 complete review of the TSP's transmission cost of service, carrying costs shall be
24 calculated using the TSP's rate of return authorized in that complete review.

25 (3) **Future consideration of effect on TSP's financial risk and rate of return.** For
26 a TSP that has increased its rates pursuant to paragraph (1) of this subsection, the
27 commission may, in setting rates in the next complete review of the TSP's
28 transmission cost of service, expressly consider the effects of reduced regulatory

1 lag resulting from the interim updates to the TSP's rates and the concomitant
2 impact on the TSP's financial risk and rate of return.

3 (4) **Commission processing of application.** The commission shall process an
4 application filed pursuant to paragraph (1) of this subsection in the following
5 manner.

6 (A) **Notice and intervention deadline.** The applicant shall provide notice of
7 its application to all parties in the applicant's last complete review of the
8 applicant's transmission cost of service and all of the distribution service
9 providers listed in the last docket in which the commission set the annual
10 transmission service charges for the Electric Reliability Council of Texas.
11 The intervention deadline shall be 21 days from the date service of notice
12 is completed.

13 (B) **Sufficiency of application.** A motion to find an application materially
14 deficient shall be filed no later than 21 days after an application is filed.
15 The motion shall be served on the applicant by hand delivery, facsimile
16 transmission, or overnight courier delivery, or by e-mail if agreed to by the
17 applicant or ordered by the presiding officer. The motion shall specify the
18 nature of the deficiency and the relevant portions of the application, and
19 cite the particular requirement with which the application is alleged not to
20 comply. The applicant's response to a motion to find an application
21 materially deficient shall be filed no later than five working days after such
22 motion is received. If within ten working days after the deadline for filing
23 a motion to find an application materially deficient, the presiding officer
24 has not filed a written order concluding that material deficiencies exist in
25 the application, the application is deemed sufficient.

26 (C) **Review of application.** A proceeding initiated pursuant to paragraph (1)
27 of this subsection is eligible for disposition pursuant to §22.35(b)(1) of
28 this title (relating to Informal Disposition). If the requirements of §22.35
29 of this title are met, the presiding officer shall issue a notice of approval

1 within 60 days of the date a materially sufficient application is filed unless
2 good cause exists to extend this deadline or the presiding officer
3 determines that the proceeding should be considered by the commission.

- 4 (5) **Filing Schedule.** The commission may prescribe a schedule for providers of
5 transmission services to file proceedings to revise the rates for such services.
- 6 (6) **DSP's right to pass through changes in wholesale rates.** A DSP may
7 expeditiously pass through to its customers changes in wholesale transmission
8 rates approved by the commission, pursuant to §25.193 of this title (relating to
9 Distribution Service Provider Transmission Cost Recovery Factors (TCRF)).
- 10 (7) **Reporting requirements.** TSPs shall file reports that will permit the commission
11 to monitor their transmission costs and revenues, in accordance with any filing
12 requirements and schedules prescribed by the commission.