

PUBLIC UTILITY COMMISSION OF TEXAS

OPEN MEETING AGENDA THURSDAY, FEBRUARY 26, 2009, 9:30 A.M. Commissioners' Hearing Room 7th Floor, William B. Travis Building

The following items will be taken up first without discussion: 2, 9, 14, 15

Project No. 36535 - Open Meeting Agenda items without an associated control number.

TELECOMMUNICATIONS

1. Docket No. 35982 - Petition of Level 3 Communications, LLC for Post Interconnection Dispute Resolution with Southwestern Bell Telephone L.P. d/b/a AT&T Texas Under FTA Relating to Refusal to Negotiate Conforming Amendment Implementing Collocation Power Metering. (Motion for Reconsideration) Larry Barnes
2. Docket No. 36164; SOAH Docket No. 473-09-2277 - Application of True Wireless, LLC for Designation as an Eligible Telecommunications Carrier and Eligible Telecommunications Provider. (Preliminary Order) Laura Kennedy
3. Discussion and possible action regarding competitive telecommunications issues under the Federal Telecommunications Act of 1996 and the Public Utility Regulatory Act or proposed amendments to those acts.
4. Discussion and possible action regarding customer service issues, including but not limited to correspondence and complaint issues.
5. Infrastructure Reliability, Emergency Management, and Homeland Security matters. (Discussion and possible action) David Featherston

ELECTRIC

6. Project No. 26793 - PUC Proceeding Related to Retail Market Oversight Activities. Jess Totten
7. Project No. 23100 - PUC Market Oversight Activities. Jess Totten
8. Project No. 31600 - Transition to an ERCOT Nodal Market Design. (Discussion and possible action) Jess Totten
9. Docket No. 36324; SOAH Docket No. 473-09-0954 - Petition of Southwestern Electric Power Company for Authority to Implement Fuel Surcharge. (Final Order) John Kramer
10. Docket No. 33687 - Application of Entergy Gulf States, Inc. for Transition to Competition Plan (TTC Plan) and Appended Documents. (Discussion and possible action) John Kramer

11. Docket No. 35665 - Commission Staff's Petition for the Selection of Entities Responsible for Transmission Improvements Necessary to Deliver Renewable Energy from Competitive Renewable Energy Zones. (Discussion and possible action). Heidi Jackson
12. Docket No. 35994 - Application of Electric Transmission Texas, LLC for Regulatory Approvals Related to Installation of a Sodium Sulfur Battery at Presidio, Texas. (Discussion and possible action) Mark Hovenkamp
13. Docket No. 36412 - Application of Electric Reliability Council of Texas, Inc. (ERCOT) for Approval of a Revised Nodal Market Implementation Surcharge. (Discussion and possible action) Irene Montelongo
14. Docket No. 36607 - Agreed Notice of Violation and Settlement Agreement Relating to Eagle Energy Partners, LP's Violation of PURA § 39.151(j) and P.U.C. SUBST. R. 25.503, Relating to Failure to Adhere to ERCOT Protocol § 6.10.5.4 Concerning Load Acting as Resource Service Requirements. (Final Order) Irene Montelongo
15. Docket No. 36446 - Application of Cap Rock Energy Corporation for Approval of Purchased Power Contract. (Final Order) Irene Montelongo
16. Project No. 35768 - PUC Rulemaking Relating to Retail Electric Provider Disclosures to Customers. (Proposal for Adoption) Mick Long, Shawnee Claiborne-Pinto
17. Project No. 35769 - PUC Rulemaking Relating to Providers of Last Resort. (Discussion) Christine Wright and Scottie Aplin
18. Project No. 35767 - PUC Rulemaking Relating to the Certification of Retail Electric Providers. (Discussion and possible action) Shawnee Claiborn-Pinto and Patrick Peters
19. Project No. 34577 - Proceeding to Establish Policy Relating Excess Development in a Competitive Renewable Energy Zones. (Discussion and possible action)
20. Project No. 20970 - Plan for Implementing SB 7, SB 86, and SB 20; Plan for Implementing Other Legislation Relating to Electric Service. Jess Totten
21. Project No. 23578 - Customer Education Campaign. (Discussion and possible action) Mike Renfro
22. Discussion and possible action on electric utility reliability, electric utility restructuring, ERCOT oversight, market-development activities in areas outside of ERCOT, and electric reliability standards and organizations arising under federal law.
23. Discussion and possible action regarding customer service issues, including but not limited to correspondence and complaint issues.

24. Infrastructure Reliability, Emergency Management, and Homeland Security matters. (Discussion and possible action) David Featherston

ADMINISTRATIVE

25. Discussion and possible action regarding operating budget, strategic plan, appropriations request, project assignments, correspondence, staff reports, agency administrative issues, fiscal matters and personnel policy.

26. Adjournment for closed session to consider:

- a. litigation matters, pursuant to Tex. Gov't Code § 551.071(a)(1), regarding pending or contemplated litigation, including but not limited to:

AEP Texas Central Company and Cities of Corpus Christi, et al. v. PUC, No. 13-06-00311, in the 13th Court of Appeals. (Appeal of Docket No. 27035)

AEP Texas Central Company v. PUC, D-1-GN-07-001153, Travis County District Court; Steering Committee of Cities v. PUC, D-1-GN-07-001144, Travis County District Court. (Appeal of Docket No. 32758)

AEP Texas Central Company v. PUC, No. 08-0634, Texas Supreme Court. (Appeal of Docket No. 31056)

AEP Texas North Co. v. Public Utility Commission, No. GN5-02614, Travis County District Court. (Appeal of Docket No. 29703)

AEP Texas North Co. v. Public Utility Commission of Texas, No. 03-05-00644-CV, in the Third Court of Appeals. (Appeal of Docket No. 26000)

Cap Rock Energy Corp. and Pioneer Natural Resources USA, Inc. v. Public Util. Comm'n, No. 03-07-00730-CV, in the Third Court of Appeals. (Appeal of Docket No. 28813)

CenterPoint Energy Houston Electric & Texas Genco v. PUC, et al., Cause No. 08-0421, Texas Supreme Courts. (Appeal of Docket No. 29526)

Cities of Beaumont, Conroe, Groves, Nederland, Pine Forest, Port Neches, Rose City, and Silsbee v. PUC, Cause No. D-1-GV-08-000003, Travis County District Court. (Appeals of Docket No. 32710)

Cities of Corpus Christi, et al. v. Public Utility Commission, No. D-1-GV-06-000973, 201st Judicial District, Travis County District Court. (Appeal of Docket No. 31433)

Cities of Corpus, et al. v. PUC, D-1-GN-08001522, Travis County District Court. (Appeal of Docket No. 33309)

Cities of Dickinson *et al.* v. PUC, D-1-GN-07-000116, Travis County District Court (Appeal of Docket 31994)

Cities of Dickinson, Friendswood, La Marque, League City, Lewisville, and Texas City v. PUC, 03-08-00492-CV, Third Court of Appeals. (Appeal of Docket No. 33106)

City of Bryan v. PUC, D-1-GV-08-002325, Travis County District Court (Appeal of 35011)

City of El Paso and El Paso Electric Company v. Public Util. Comm'n. 03-08-00577, in the Third Court of Appeals. (Appeals of Docket No. 26194)

City of University Park v. PUC, Cause No. 03-08-00692-CV, in the Third Court of Appeals. (Appeal of Docket No. 33742)

Coastal Habitat Alliance v. Jerry Patterson in his official capacity as Commissioner of the Texas General Land Office, and Chairman Barry Smitherman and Julie Caruthers Parsley and Paul Hudson, each in their official capacity as Commissioners of the PUC, and Texas Gulf Wind LLC wholly owned by Babcock & Brown Renewable Holdings, Inc., No. A-07-CA-985-YL, U.S. District Court for the Western District of Texas, Austin Division. (Docket No. 34298)

Coastal Habitat Alliance v. PUC, Barry Smitherman, Chairman, Paul Hudson, Commissioner, and Julie C. Parsley, Commissioner, No. 03-08-00205-CV, in the Third Court of Appeals. (Appeal of Docket No. 34298)

Constellation Energy v. PUC, D-1-GN-08-001522, Travis County District Court (Appeal of Docket 33500)

FERC Docket No. ER07-956-000, Entergy Services, Inc.

FERC Docket ER07-682-002, Entergy Services, Inc.

FERC Docket EL08-80, Oklahoma Corporation Commission.

FERC Docket No. EC09-032, Exelon Corporation.

In the Matter of ASAP Paging for Preemption of PUC Concerning Retail Rating of Local Calls to CMRS Carriers, FCC DA-04-92; WC 04-6 (Docket No. 25673)

In the Matter of Petition of Alenco Communications, Inc., Big Bend Telephone Company, Dell Telephone Cooperative, Inc., Riviera Telephone Company, Valley Telephone Cooperative, Inc., Texas Statewide Telephone Cooperative, Inc., and Texas Telephone Association for a Declaratory Ruling and for Preemption, CC Docket No. 96-45, Federal Communications Commission.

In the Matter of Review of Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers, CC Docket No. 01-338, Federal Communications Commission.

In the matter of Sprint Spectrum, L.P. Petition for Declaratory Ruling that the Kansas Corporation Commission's October 2, 2006 Order in Docket 06-GMIT-446-GIT, WC Docket Nos. 03-109, 07-138, Federal Communications Commission.

Lamb County Elec. Coop., Inc. v. Public Util. Comm'n, No. 08-1065, Texas Supreme Court. (Appeal of Docket No. 24229)

McCullough v. Public Util. Comm'n, No. 13-07-00624-CV, Court of Appeals for the Thirteenth District of Texas. (Appeal of Docket No. 29415)

Mobberley Road & 285 Partners, Ltd., BVJV Wataugua, L.P., and Duck Point Partners, Ltd. v. PUC, D-1-GN-08-000982, Travis County District Court (Appeal of 32871)

Nucor Steel v. PUC, Oncor Electric Delivery Co. and Texas Energy Future Holdings Limited Partnership, Travis County District Court, D-1-GN-08-002467. (Appeal of Docket No. 34077)

Office of Public Utility Counsel v. PUC, Cause No. 03-08-00698-CV. Third Court of Appeals. (Appeals of Docket No. 32795)

Pioneer Natural Resources USA, Inc. v. Public Util. Comm'n, No. D-1-GN-06-003805, 200th Judicial District, Travis County District Court; Pioneer Natural Resources USA, Inc. v. Public Util. Comm'n, No. D-1-GN-06-003209, 126th Judicial District, Travis County District Court. (Appeal of Docket No. 31422)

Power Resource Group, Inc. v. Public Utility Commission, No. GN5-02139, Travis County District Court. (Appeal of Docket No. 30172)

Public Utility Comm'n, et al. v. Cities of Harlingen, et al., No. 03-08-00793-CV, Third Court of Appeals (Appeal of Docket No. 33734).

Public Util. Comm'n v. Southwestern Public Service Company, 03-08-00070-CV, Court of Appeals for the Third District (Appeal of Docket 32685)

Public Utilities Board of the City of Brownsville v. PUC, Travis County District Court, D-1-GV-08-001459. (Appeal of Docket No. 34410)

Southwestern Bell Telephone, L.P. v. Current Communications of Texas, L.P., No. 06-11388 in the 162nd District Court of Dallas County, Texas.

Southwestern Elec. Power Co. v. PUC, D-1-GN-08-003771, Travis County District Court (Appeal of Docket No. 33891)

Texas Cable & Telecommunications Association v. Perry, et al., No. A-05-CV-721-LY, Western District of Texas No. A-05-CV-721; U.S. Supreme Court, No. 06-51514.

Texas Cable & Telecommunications Association v. Public Util. Comm'n, No. D-1-GN6-001900, Travis County District Court. (SB 5)

Texas Commercial Energy, L.L.C., Case No. 03-20366-C-11, U.S. Bankruptcy Court, Southern District of Texas.

Texas Industrial Energy Consumers and Gulf Coast Coalition of Cities v. CenterPoint Energy Houston Electric, LLC, and Pub. Util. Comm'n, Texas Supreme Court, No. 08-0727. (Appeal of Docket No. 30706)

Texas Municipal Power Agency v. Public Util. Comm'n, Cause No. D-1-GN-06-002544, Travis County District Court. (Appeal of Docket No. 32084).

Texas Municipal Power Agency v. Public Util. Comm'n, Cause No. D-1-GN-07-001422, Travis County District Court; Texas Municipal Power Agency v. Public Util. Comm'n, Cause No. D-1-GN-07-001948, Travis County District Court. (Appeal of Docket No. 33550).

Texas Municipal Power Agency v. Public Util. Comm'n & City of Bryan, Cause No. GN02-00685, Travis County District Court. (Appeal of Docket No. 24418)

Texas Municipal Power Agency v. Public Util. Comm'n & City of Bryan, Cause No. GN3-00714, Travis County District Court; Texas Municipal Power Agency v. Public Util. Comm'n & City of Bryan, Cause No. GN3-01234, Travis County District Court. (Appeal of Docket 25002)

Texas Municipal Power Agency v. Public Util. Comm'n, Cause No. GN4-02490, Travis County District Court; Texas Municipal Power Agency v. Public Util. Comm'n, Cause No. GN4-02811, Travis County District Court. (Appeal of Docket No. 28937)

Texas Municipal Power Agency v. Public Util. Comm'n, GN5-02012, Travis County District Court (Appeal of Docket No. 30474)

Texas Municipal Power Agency v. Public Utility Commission, No. D-1-GN-06-002166, 353rd Judicial District, Travis, Texas; City of Garland, Texas v. Public Utility Commission, No. D-1-GV-06-001243, 261th Judicial District, Travis County, Texas; Public Utilities Board of the City of Brownsville v. Public Utility Commission, No. D-1-GN-06-002131, 98th Judicial District, Travis County District Court (Appeals of Docket No. 31540)

Texas-New Mexico Power, et. al. v. Public Util. Comm'n, No. 08-0187, Supreme Court of Texas. (Appeal of Docket No. 29206)

Texas-New Mexico Power Company v. PUC, et al., No. D-1-GN-07-003992, Travis County District Court. (Appeal of Docket 33106)

Texas New Mexico Power Company v. PUC, D-1-GN-09-000071, Travis County District Court. (Appeal of Docket No. 35038).

Utex Communications Corp. v. Public Utility Commission, et al., No. A-06-CA-567-LY, United States District Court for the Western District of Texas, Austin Division. (Docket Nos. 26381, 30459, and 32041)

- b. Consultation with its attorneys, pursuant to Tex. Gov't Code § 551.071(a)(2).
- c. Personnel matters, pursuant to Tex. Gov't Code § 551.074; discussion and decision regarding personnel matters including but not limited to the Executive Director, the Deputy Executive Director, and the Division Directors.
- d. Security matters pursuant to Tex. Gov't Code § 551.076; including matters under Project No. 24729 and other matters related to deployment, use or implementation of security personnel or devices.

Reconvene for discussion and decisions on matters considered in closed session.

Persons planning to attend this meeting who have disabilities requiring auxiliary aids or services should notify the Commission as far in advance as possible so that appropriate arrangements can be made. Requests can be made by mail, telephone or in person to the Commission's Office of Customer Protection, 1701 N. Congress Ave., Austin, Texas 78701, phone number (512) 936-7150 or (512) 936-7136 for the teletypewriter for the deaf.