

# ***PUBLIC UTILITY COMMISSION OF TEXAS***

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

The following items will be taken up first without discussion: 11, 12, 13, 15, 24, 25, 26, 27

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

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### **TELECOMMUNICATIONS**

1. Docket No. 33323 - Petition of Utex Communications Corporation for Post-Interconnection Dispute Resolution with AT&T Texas and Petition of AT&T Texas for Post-Interconnection Dispute Resolution with Utex Communications Corporation. (Motion for Rehearing/Reconsideration) Rick Akin
2. 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.
3. Project No. 36774 - Project to Track Utilities' Efforts Regarding the American Recovery and Reinvestment Act of 2009. (Discussion and possible action). Jess Totten
4. Project No. 37215 - Rulemaking Proceeding to Adopt Common Terms Related to Billing of Telecommunications Services. (Proposal for Publication) Lorenzo Nieto and Shawnee Claiborne-Pinto
5. Project No. 37089 – Report to the Legislature on the Scope of Competition in Telecommunications Markets of Texas – Interim Data Collection. (Discussion and Possible Approval). Chris Carter and Meena Thomas
6. Discussion and possible action regarding customer service issues, including but not limited to correspondence and complaint issues.
7. Infrastructure Reliability, Emergency Management, and Homeland Security matters. (Discussion and possible action) David Featherston

### **ELECTRIC**

8. Project No. 26793 - PUC Proceeding Related to Retail Market Oversight Activities. Jess Totten
9. Project No. 23100 - PUC Market Oversight Activities. Jess Totten
10. Project No. 31600 - Transition to an ERCOT Nodal Market Design. (Discussion and possible action) Jess Totten

11. Docket No. 36958; SOAH Docket No. 473-09-4793 - Application of Oncor Electric Delivery Company, LLC for 2010 Energy Efficiency Cost Recovery Factor. (Preliminary Order) Davida Dwyer
12. Docket No. 36961; SOAH Docket No. 473-09-5194 - Application of Southwestern Electric Power Company to Adjust Energy Efficiency Cost Recovery Factor and Related Relief. (Preliminary Order) Davida Dwyer
13. Docket No. 36966; SOAH Docket No. 473-09-3974 - Application of Southwestern Electric Power Company for Authority to Revise Fixed Fuel Factors. (Final Order) Mark Hovenkamp
14. Docket No. 35717; SOAH Docket No. 473-08-3681 - Application of Oncor Electric Delivery Company, LLC for Authority to Change Rates. (Final Order) Larry Barnes
15. Docket No. 37086; SOAH Docket No. 473-09-4676 - Application of El Paso Electric Company for Authority to Decrease Fuel Factor. (Final Order) Larry Barnes
16. Docket No. 36782 - Petition of East Texas Electric Cooperative, Inc. for Declaratory Ruling and Brief in Support of Petition. (Motion for Rehearing) John Kramer
17. 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. (Nunc Pro Tunc). Heidi Jackson
18. Docket No. 36851 - Application of the Electric Reliability Council of Texas, Inc. for Approval of a Revised Nodal Market Implementation Surcharge. (Discussion and possible action) John Kramer
19. Docket No. 33687 - Entergy Texas, Inc.'s Transition to Competition Plan. (Discussion and possible action) John Kramer
20. Docket No. 36918 - Application of CenterPoint Energy Houston Electric, LLC for Determination of Hurricane Restoration Costs. (Discussion and possible action) Heidi Jackson
21. Docket No. 36931 - Application of Entergy Texas, Inc. for Determination of 2008 System Restoration Costs. (Discussion and possible action) Laura Kennedy
22. Docket No. 36555 - Application of Exelon Corporation, Exelon Xchange, and Exelon Generation Company, LLC Pursuant to Section 39.158 of the Public Utility Regulatory Act. (Discussion and possible action) Davida Dwyer
23. Docket No. 36802 - Proceeding to Sequence Certificate of Convenience and Necessity Applications for the Subsequent Projects for the Competitive Renewable Energy Zones. (Final Order) Andrew Kang

24. Docket No. 36865 – Application of Cross Texas Transmission, LLC for Approval of its Code of Conduct and Organizational Structure. (Final Order) Andrew Kang
25. Docket No. 36932 - Application of Grayson-Collin Electric Cooperative, Inc. to Amend its Certificate of Convenience and Necessity for an Electric Service Area Exception within Grayson County, Texas. (Final Order) Sonya Batchelor
26. Docket No. 36790 - Application of South Texas Electric Cooperative, Inc. for Sale, Transfer, or Merger of Magic Valley Electric Cooperative, Inc. (Final Order) Irene Montelongo
27. Docket No. 37022 - Application of Brazos Electric Power Cooperative, Inc. for Interim Update of Wholesale Transmission Rates Pursuant to P.U.C. SUBST. R. 25.192(g)(1). (Final Order) Irene Montelongo
28. Docket No. 37133 - Agreed Notice of Violation and Settlement Agreement Relating to Direct Energy, LP's Violation of PURA § 17.004(b) and P.U.C. SUBST. R. 25.479(b)(1); Relating to the Issuance and Format of Bills. (Final Order) Irene Montelongo
29. Project No. 37142 - Petition of State Representative Sylvester Turner, AARP, One Voice Texas, Texas Legal Services Center, Texas Ratepayers' Organization to Save Energy for Adoption of Emergency Disconnection Rule (Second Petition). (Discussion and possible action)
30. Project No. 36987 - Rulemaking Proceeding to Amend Procedural Rules § 22.52(a), § 22.75(d), § 22.104(b). (Proposal for Adoption) Andres Medrano and Brian Almon
31. Project No. 37070 - Rulemaking Proceeding to Adopt Common Terms Used in Billing Telecommunications and Electric Customers. (Proposal for Publication) Lorenzo Nieto and Shawnee Claiborn-Pinto
32. Project No. 37214 - Rulemaking to Implement Changes to Customer Disclosures as Required HB 1822. (Proposal for Publication) Lorenzo Nieto and Shawnee Claiborne-Pinto
33. Project No. 37228 - Review of Chapter 25 - Substantive Rules Applicable to Electric Service Providers (Subchapters H-J) Pursuant to the Administrative Act PURA §2001.039. (Proposal for Publication) Jess Totten and Adriana Gonzales
34. Project No. 36375 – Cost-Benefit Analysis of the Deployment of Utility Infrastructure Upgrades and Storm Hardening. (Discussion and possible action) David Featherston
35. Project No. 20970 - Plan for Implementing SB 7, SB 86, and SB 20; Plan for Implementing Other Legislation Relating to Electric Service. Jess Totten
36. Project No. 23578 - Customer Education Campaign. (Discussion and possible action) Mike Renfro

37. 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.
38. Discussion and possible action regarding customer service issues, including but not limited to correspondence and complaint issues.
39. Competitive Renewable Energy Zone (CREZ) Issues and Reports. (Discussion and possible action) David Featherston and Brian Almon
40. Infrastructure Reliability, Emergency Management, and Homeland Security matters. (Discussion and possible action) David Featherston

#### ADMINISTRATIVE

41. Discussion and possible action regarding operating budget, strategic plan, appropriations request, project assignments, correspondence, staff reports, agency administrative issues, fiscal matters and personnel policy.
42. 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. 09-0181, Texas Supreme Court (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)

Entergy Texas, Inc. v. Barry T. Smitherman, Donna L. Nelson, and Kenneth W. Anderson, Case No. A-09-CA-0183-LY, United States District Court for the Western District of Texas (Appeal of Docket No. 25269)

Entergy Texas, Inc. v. PUCT, Cause No. D-1-GN-09-000816, Travis County District Court, 126<sup>th</sup> District (Appeal of Docket No. 25269)

FERC Docket No. ER09-636-000, Entergy Services, Inc.

FERC Docket No. ER07-683, Entergy Services, Inc.

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

FERC Docket No. ER09-833-000, 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 UTEX Communications Corporation, Pursuant to Section 252(e)(5) of the Communications Act, for Preemption of the Jurisdiction of the Public Utility Commission of Texas Regarding Interconnection Disputes with AT&T Texas; Federal Communications Commission

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

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, 200<sup>th</sup> Judicial District, Travis County District Court; Pioneer Natural Resources USA, Inc. v. Public Util. Comm'n, No. D-1-GN-06-003209, 126<sup>th</sup> 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 162<sup>nd</sup> District Court of Dallas County, Texas

Southwestern Elec. Power Co. v. PUC, D-1-GN-08-003771, Travis County District Court and Texas Industrial Energy Consumers v. Public Utility Commission, D-1-003894, 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. 09-50313, Fifth Circuit Court of Appeals (Docket No. 30459, 26381, 32041, 33323)

- 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.*