

CHAPTER 25. SUBSTANTIVE RULES APPLICABLE TO ELECTRIC SERVICE PROVIDERS

Subchapter D. RECORDS, REPORTS, AND OTHER REQUIRED INFORMATION.

§25.93. Quarterly Wholesale Electricity Transaction Reports.

- (a) **Purpose.** The purposes of this section are to:
- (1) Deter market power abuses and anticompetitive behavior by increasing wholesale market transparency with respect to bilateral contracts for delivery of electricity; and
 - (2) Improve the commission's ability to investigate allegations of market power abuse and anticompetitive behavior that may arise with respect to the wholesale electricity market.
- (b) **Application.**
- (1) This section applies to any person, municipally owned utility, electric cooperative and river authority that owns electric generation facilities and offers electricity for sale in this state. This section also applies to power marketers as defined in §25.5 of this title (relating to Definitions).
 - (2) This section applies to all wholesale transactions for the sale of electricity that begin or terminate in Texas, or occur entirely within Texas, including areas of the state not served by the Electric Reliability Council of Texas (ERCOT).
- (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) **Quarterly Wholesale Electricity Transaction Reports.**
- (1) Wholesale sellers of electricity shall report to the commission information related to all wholesale electricity transactions with a point of delivery or point of receipt in Texas, including intermediate transactions involving electricity generated in Texas or electricity ultimately delivered to customers in Texas. Reports shall be submitted quarterly and shall be due not later than 45 days after the last day of the quarter for which transactions are being reported.

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- (2) Reports shall provide contact information for the reporting entity, information on each wholesale electricity contract, and information on each transaction of electricity from the reporting entity to another party.
 - (A) Contact information shall include company name, address, telephone number, and facsimile machine number, if available; name, position, and telephone number of person attesting to the report; and the time period covered by the report.
 - (B) Each wholesale seller of electricity must file information on each contract for electricity that is in effect during the reporting period, including those that will continue to be in effect past the end of the reporting period. Information shall include the name of purchaser, contract execution and termination dates, time period over which the contract is in effect, product type, price, and applicable information about where the power was generated, delivered, and received.
 - (C) Each wholesale seller of electricity must file information on each transaction. Information shall include the time period over which the transaction was conducted; applicable information about where the power was generated, delivered, and received; product name; transaction quantity; price; total transaction charges; and cross-reference to a contract reported under subparagraph (B) of this paragraph. If the period of a transaction extends over more than one reporting period, each report shall include only the portion of the transaction that occurred during the reporting period.
 - (D) Reporting parties may aggregate the following types of transactions:
 - (i) A municipally owned utility may aggregate data on the portion of its generation that it used to serve its native load. The aggregated number should be in total MWh for the reporting quarter, and need not include price.
 - (ii) A generation cooperative may aggregate data on cost-based sales to a distribution cooperative. The aggregated number should be in total MWh sold to each distribution cooperative for the reporting quarter, and need not include price.
 - (iii) A river authority may aggregate data on cost-based sales to a wholesale customer. The aggregated number should be in total MWh sold to each wholesale customer for the reporting quarter, and need not include price.
 - (iv) A qualifying facility may aggregate data on sales of electricity to a wholesale customer. The aggregated number should be in total MWh sold to each wholesale customer for the reporting quarter, and need not include price.
 - (v) Any reporting entity may aggregate data on sales of electricity or capacity to an independent system operator for balancing energy service, ancillary capacity services, or other services required by the independent system operator. This subparagraph includes sales by an entity that is qualified to sell the reporting entity's capacity and electricity to the independent system operator. The aggregated number should be in total MWh provided under each type of service for the reporting quarter, and need not include price.

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- (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) **Additional information.** If during an investigation of market power abuse the commission determines that it needs contract and transaction information not included in the quarterly report, it may require any person or entity subject to this section to provide such additional information.
- (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) If the commission receives from a member of the Texas Legislature a request for protected information contained in a report, the commission shall provide the information to the requestor pursuant to the provisions of Texas Government Code Annotated §552.008. If permitted by the requesting member of the Texas Legislature the commission shall notify the reporting entity of the request, the identity of the requestor, and the substance of the request.
 - (2) If the commission receives a written request for protected information, the commission, through its General Counsel's office, shall make a good faith effort to provide notice of the request to the affected reporting entity within three business days of receipt of the request. If the reporting entity objects to the release of the information, the General Counsel's office shall offer to facilitate an informal resolution between the requestor and the reporting entity in conformance with Texas Government Code §552.222. If informal resolution of an information request is not possible, the General Counsel's office will process the request in accordance with the TPIA.
 - (3) In the absence of a request for information, if the commission staff seeks to release protected information, the commission may determine the validity of the asserted claim of confidentiality through a contested-case proceeding. In a contested case proceeding conducted by the commission pursuant to this subsection, the staff and the entity that provided the information to the commission will have an opportunity to present information or comment to the commission on whether the information is subject to protection from disclosure under the TPIA.
 - (4) Any person who asserts a claim of confidentiality with respect to the information must, at a minimum, state in writing the specific reasons why the information is subject to protection from public disclosure and provide legal authority in support of such assertion.

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- (5) Except as otherwise provided in paragraph (1) of this subsection, if either the commission or the attorney general determines that the disclosure of protected information is permitted, the commission shall provide notice to the reporting entity at least three business days prior to the disclosure of the protected information or, in the case of a valid and enforceable order of a state or federal court of competent jurisdiction specifically requiring disclosure of protected information earlier than within three business days, prior to such disclosure.
- (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.