

PROJECT NO. 23952

**RULEMAKING CONCERNING § PUBLIC UTILITY COMMISSION
PULSE METERING § OF TEXAS**

**ORDER ADOPTING NEW §25.129 AND AMENDMENTS TO §25.341 AND
§25.346 AS APPROVED AT THE SEPTEMBER 19, 2001 OPEN MEETING**

The Public Utility Commission of Texas (commission) adopts new §25.129, relating to Pulse Metering, and amendments to §25.341, relating to Definitions, and §25.346, relating to Separation of Electric Utility Metering and Billing Service Costs and Activities, with changes to the proposed text as published in the July 27, 2001 *Texas Register* (26 TexReg 5554). The rule and amendments are necessary to facilitate customer access to electric pulses under standard terms and conditions. The rule will allow customers and their agents to have access to pulses under standard terms and conditions set forth in the Agreement and Terms and Conditions for Pulse Metering Equipment Installation (PMEI agreement). This new section and amendments are adopted under Project Number 23952.

A public hearing on the proposed new section and amendments was held at commission offices on Tuesday, August 28, 2001 at 10:00 a.m. Representatives from American Electric Power (AEP), Automated Energy Incorporated (AEI), Frontier Associates (Frontier), State of Texas represented by the Attorney Generals Office (State), and Texas Utilities (TXU) attended the hearing and provided comments. To the extent that these comments differ from the submitted written comments, such comments are summarized herein.

The commission received written comments on the proposed new section and amendments from AEP, Joint Comments from AEI and the State of Texas (State and AEI), El Paso Electric Company (El Paso), Frontier, Reliant Energy HL&P (Reliant), and TXU.

In the preamble to the proposed rule, the commission posed the following question:

Will the proposed clarifications to the definitions of pulse metering equipment, electrical pulse, and electrical pulse service also remove any barriers that certain utilities have faced in providing customers and their authorized representatives with access to data stored within the meter?

The State and AEI understood that the purpose of the existing rule language was to ensure that the regulated utility could not use pulse from the meter to offer additional services that are properly competitive energy services, such as the kind of reformatting, analysis and response offered by AEI. The State and AEI concluded that while the competitive energy service dockets accomplished that result, unfortunately some utility's orders went further due to differing interpretations of the rule language, and these utilities concluded that the utility could not offer customers and their representatives access to pulses from the revenue meter. The State and AEI believed that neither the legislature nor the commission could possibly have intended for the same statutory and rule language to (1) allow TXU to provide a broad pulse service from the

revenue meter, (2) for Reliant to offer a more limited pulse service, and (3) for AEP to offer no pulse service. Consequently, they agreed that the rule should allow customers of every utility the right to obtain access to their own pulse data from the revenue meter.

AEP believed this question to be directed to them since they would be the only utility that would not provide pulse metering services, even to grandfathered customers after January 1, 2002. AEP commented that it believes the changes to §25.341, relating to Definitions, will allow the AEP companies to provide access to billing meter pulses without requiring them to seek an exception from the order in Docket Number 21989, *Competitive Energy Services Issues Severed from Application of Central Power and Light Company, Southwestern Electric Power Company, and West Texas Utilities Company for Approval of its Plan to Implement Business Separation as Required Under Section 39.051 of the Public Utility Regulatory Act*. That order required the company to close its pulse metering tariffs to new customers before September 1, 2000 and continue existing pulse metering services to existing customers only through January 1, 2002. AEP stated that it believed that the proposed changes to §25.341(6)(G) and §25.341(9) and (10) work together to distinguish electric pulse service from the access to the electrical pulses themselves. Further, adding the definition of pulse metering equipment and stating that it shall not be a competitive service creates an exemption for the access to such pulses for the purposes envisioned under the rule.

AEP closed its pulse metering service tariff in accordance with the commission's previous order and therefore no longer has a valid tariff for bundled service that allows for the expansion of this service to new customers through the end of 2001. AEP added in the public hearing that it planned to file a new tariff for providing pulse access that will contain fixed prices for a normal installation.

Reliant agreed with AEP that the proposed amendment to §25.341, concerning utility ownership of pulse metering equipment, will remove an important barrier to the accessibility of pulse metering service by end-use customers. Reliant was prohibited from owning pulse metering equipment as a result of the commission's order in Docket Number 21985, *Competitive Energy Services Issues Severed from Application of Reliant Energy, Incorporated Business Separation Plan Filing Package*. Reliant also noted that language should be added to the preamble stating that any preceding orders of the commission are superseded to the extent that they conflict with the provisions of the substantive rule amendments adopted in this project.

The commission agrees with the State and AEI that the commission's rules were not intended to produce such a wide variation in terms of service of pulse access by utilities statewide. The commission believes the intent was to prohibit the utilities from providing services that could readily be provided by other parties. The commission determines that any manipulation or transformation is a competitive energy service. This transformation of the pulse data from raw

form can be provided by other service providers, and it is a competitive energy service; therefore, it cannot be provided by the utility.

However, until metering becomes competitive, the utility is required to own and maintain the billing meters. Therefore, the utility is the proper party to install new meters, if required, and to install pulse metering equipment at the customer's or customer's representative's request so the customer may have access to its pulse data in raw form. Where previous orders of the commission deviate from this new rule and agreement and the amendments adopted in this project, the previous orders are superseded to the extent they conflict with the provisions adopted in this project.

Comments on specific sections of the rules

§25.129, Pulse Metering

Subsection (b), Application

El Paso requested a change to subsection (b) to allow an exemption for an electric utility under the Public Utility Regulatory Act (PURA) §39.102 until the termination of its rate freeze period.

El Paso took the position that consistent with its base rate freeze under Docket Number 12700, *Application of El Paso Electric Company for Authority to Change Rates*, and its statutory

exemption under PURA §39.102(c), the commission's substantive rule §25.129 does not apply to El Paso. El Paso commented that §25.346 already states that the section "shall not apply to an electric utility under PURA §39.102(c) until the termination of its rate freeze period." El Paso suggested the addition of a sentence identical to that found in §25.346(b) be added to §25.129(b).

The State and AEI do not object to El Paso's proposal, given El Paso's unique situation at this time.

The overall purpose of this rulemaking proceeding is to continue pulse access as a regulated service offered by utilities. It is a service that has value to customers in a competitive environment but many utilities have provided the service and customers have found it beneficial in a regulated environment. El Paso failed to provide information that would show that compliance with §25.129 would cause it harm. Additionally, as part of the Stipulation parties entered into in Docket Number 12700, tariff filings, such as those for pulse metering, a special service, are not subject to the rate freeze as long as there is no increase to the Texas retail rates charged to any rate class subject to the rate freeze. Because there are significant benefits to customers in having access to pulses, the commission determines that all of Texas should have a standardized policy on pulse metering. The commission concludes that El Paso should file a tariff for the provision of pulse equipment and installation and work with staff to develop a pulse

metering installation agreement by December 15, 2001 consistent with El Paso's regulatory status.

Subsection (d), Filing requirements for tariffs

El Paso proposed that the references to "utility" be changed to "T&D Utility." The State and AEI agreed that this change was appropriate.

The commission agrees that this change is appropriate and makes the suggested change to the rule.

AEP stated in its initial comments that it did not support the requirement to file pulse metering tariffs "that contain a schedule detailing the charges." AEP stated that the agreement reached with other interested parties was to drop this language as a tariff filing requirement and to add §25.129(d)(1), which requires the utilities to file a schedule of charges calculated pursuant to each utility's approved tariffs for providing such service. The State and AEI did not agree with AEP's interpretation that interested parties had agreed that the schedule of charges need not be tariffed. The State and AEI commented that fixed prices in the tariff were necessary.

The State and AEI noted that letting the T&D utility decide the specific charges outside of a tariff proceeding would kill the market for all but the most determined customers. The State and

AEI contended that obtaining pulses from the revenue meter would be a monopoly service available only from the utility, and the rates should be published in a tariff. They further argued that if rates are not published in a tariff the only recourse for the customer or customer's representative would be to file a complaint with the commission, in each individual instance.

AEP, at the public hearing, agreed that it would file a fixed price tariff.

The commission determines that it is important to customers and new providers that access to pulses be as easy and as inexpensive as possible in order for the market for services to develop. A potential provider may choose not to offer special services to the customer if it is required to negotiate on a case-by-case basis with the utility on what the installation charges will be. Therefore, the commission determines that fixed prices published in the utility's tariff are essential. The commission makes clarifying changes to the rule.

AEP asserted that a rulemaking is not the proper forum for developing a tariff and that requiring a tariff filing in this rulemaking will create a new tariff that could be in conflict with a tariff that already exists in a TDU's Tariff for Retail Delivery Service.

The State and AEI replied that the rule would require each utility to file a tariff, which would be processed in a tariff proceeding, not as a rulemaking. The State and AEI pointed out that AEP referred to a conflict between its current tariff and the new tariff as "potential" and provided no

explanation or example. If a possible conflict did emerge, the State and AEI suggested it could be addressed in AEP's drafting of its pulse access tariff or in the tariff proceeding.

The commission determines that filing a tariff with fixed prices is essential, as discussed above. The tariffs required to be filed will not be filed under this project number but will be filed individually in tariff proceedings.

AEP stated that AEP companies no longer have a valid tariff in their respective Manual of Tariffs for bundled service that allows for the expansion of this service to new customers through the end of 2001. It proposed to solve the problem through a commission order authorizing AEP to apply its approved unbundled cost of service (UCOS) tariff to pulse access effective with the final approval of this rule.

The State and AEI stated that as long as the AEP UCOS tariff's applicability to pulse access is limited to the short interval before AEP's pulse access tariff takes effect, it does not object to allowing AEP to use its UCOS tariff. They contended that the commission order should specify that AEP is required to comply with the adopted rules and PMEI agreement, and the rules and agreement supersede inconsistent provisions of its UCOS tariff.

It appears that the portions of AEP's UCOS tariff that AEP intended to apply to pulse services are not consistent with this rule. If that is the case, the tariff should not go into effect for pulse

services. AEP's current tariff does not contain fixed prices for installation or equipment, leaving the customer to bear the transaction costs of negotiating rates for service. The current tariff allows AEP at its discretion to decide whether to provide pulse access at all. In other words, the objectives of this rulemaking proceeding may be frustrated in the AEP areas, if the proposed UCOS tariff goes into effect and is applied to pulse services. Because the tariff has been developed in a contested-case rate proceeding, the question of whether to put the tariff into effect should be resolved in the rate proceeding or the tariff-approval docket. AEP has agreed to file an appropriate tariff for pulse services in accordance with this rule.

§25.341, Definitions

Paragraph (18), Pulse Metering Equipment

TXU stated that pulses generated by pulse equipment have no "value." TXU believes the amount of energy is measured by the number of pulses; therefore, the word "value" should be replaced by the word "number" in the definition of pulse metering equipment. TXU stated that "competitive services" in the last sentence of paragraph (18) should be replaced with "competitive energy services" to be consistent with the defined term in paragraph (6). Reliant agreed with TXU's proposed changes, and the State and AEI had no objections to the changes.

The commission agrees with TXU and makes the suggested changes.

§25.346, Separation of Electric Utility Metering and Billing Service Costs and Activities

Subsection (g), Separation of transmission and distribution utility metering system service activities

Paragraph (1)(B)

TXU suggested that §24.346(g)(1)(B) should be modified to include an exception so that the utility may use the pulses for billing settlement and systems operations and planning, consistent with the commission's proposed amendment to §25.346(g)(2)(D)(ii). Reliant agreed with TXU's proposed change, and State and AEI did not object to the change.

The commission agrees that this change suggested by TXU is appropriate and consistent with §25.346(g)(2)(D)(ii).

Paragraph (2)(D)(vii)

TXU and Reliant agree that the term "requesting customer" should be changed to "entity requesting such service." TXU stated that the charges for pulse metering equipment,

installations and removal can be the responsibility of a retail electric provider or authorized representative; therefore the term "requesting customer" can be misleading. The State and AEI proposed that the language be changed to "entity executing the agreement and requesting such service" in order to conform to the PMEI agreement and to make clear who is responsible for pulse access charges. TXU stated at the public hearing that it would not oppose this change.

The commission agrees that the term "requesting customer" is not always appropriate, as the charges are actually paid by the entity executing the pulse metering equipment installation agreement. The commission modifies the rule accordingly.

Pulse Metering Equipment Installation Agreement

Reliant commented that reasonable, well-understood terms and conditions applicable to providing retail customers access to pulse metering service will also remove a potential barrier to the use of such services. Reliant supported the implementation of the terms and conditions contained in this agreement.

TXU suggested a change to clarify that this agreement is not a request for service. Reliant stated that TXU's proposed language more accurately conveys the intent of parties concerning the time frame within which utilities are to complete pulse metering installations after such requests are made by their customers.

The commission agrees that the change proposed by TXU more accurately describes the timeline for installation of pulse metering equipment and makes this section more clear. Therefore, the commission makes the change to the agreement suggested by TXU.

All comments, including any not specifically referenced herein, were fully considered by the commission. In adopting this section, the commission makes other minor modifications for the purpose of clarifying its intent.

This new section and amendments are adopted under the Public Utility Regulatory Act, Texas Utilities Code Annotated §14.002 (Vernon 1998, Supplement 2001) (PURA), which provides the commission with the authority to make and enforce rules reasonably required in the exercise of its powers and jurisdiction; §17.001, which requires the commission to establish rules to protect retail customers from fraudulent, unfair, misleading, deceptive or anticompetitive practices; §31.001, which requires the commission to formulate rules, policies, and principles and apply them to protect the public interest in a more competitive marketplace; §39.102, which provides that retail customers in the state shall have customer choice on and after January 1, 2002; §39.104, which provides that the commission may prescribe terms and conditions it considers necessary to prohibit anticompetitive practices and encourage customer choice under the customer choice pilot projects; §39.051, which grants the commission authority to request each electric utility to unbundle in a manner consistent with PURA §39.157(d); §39.107, which

provides that metering services should be provided by the transmission and distribution utility; and §39.201, which grants the commission authority to request electric utilities' supporting cost data for determination of nonbypassable delivery charges.

Cross Reference to Statutes: Public Utility Regulatory Act §14.002, 17.001, 31.001, 39.051, 39.102, 39.104, 39.107, and 39.201.

§25.129. Pulse Metering.

- (a) **Purpose.** The purpose of this section is to facilitate customer access to electrical pulse (pulse) as defined in §25.341 of this title (relating to Definitions) under terms and conditions specified in subsection (c) of this section.
- (b) **Application.** This section applies to transmission and distribution (T&D) utilities, except river authorities. Each T&D utility shall provide access to pulse from the revenue meter and shall provide pulse access in accordance with an Agreement and Terms and Conditions for Pulse Metering Equipment Installation (PMEI agreement), as approved by the commission for all requesting customers.
- (c) **Commission approved pulse metering agreement.** Each T&D utility shall provide pulse metering equipment pursuant to the PMEI agreement as approved by the commission.
- (d) **Filing requirements for tariffs.** No later than 15 days after the effective date of this section, each T&D utility that does not have a tariff that contains a schedule detailing the charges for providing pulse metering equipment, installation and replacement and, if offered, equipment maintenance shall file a tariff or tariffs containing a schedule detailing the charges for providing pulse metering equipment, installation, and replacement and, if

offered, equipment maintenance. The tariff shall conform to the commission rules and the PMEI agreement. Concurrent with the tariff filing in this section, each T&D utility that does not have an approved tariff that contains a schedule detailing the charges for providing pulse metering equipment, installation and, if offered, equipment maintenance shall submit all supporting data for the charges. No later than 15 days after the effective date of this section, each utility shall submit the PMEI agreement as described in subsection (c) of this section and approved by the commission.

§25.341. Definitions.

The following words and terms, when used in Division I of this subchapter (relating to Unbundling and Market Power), shall have the following meanings, unless the context clearly indicates otherwise:

- (1) **Above market purchased power costs** — Wholesale demand and energy costs that a utility is obligated to pay under an existing purchased power contract to the extent the costs are greater than the purchased power market value.
- (2) **Affected utilities** — A person or river authority that owns or operates for compensation in this state equipment or facilities to produce, generate, transmit, distribute, sell, or furnish electricity in this state. The term includes a lessee, trustee, or receiver of an electric utility and a recreational vehicle park owner who does not comply with the Texas Utilities Code, Chapter 184, Subchapter C, with regard to the metered sale of electricity at the recreational vehicle park.

The term does not include:

- (A) a municipal corporation;
- (B) a qualifying facility;
- (C) a power generation company;
- (D) an exempt wholesale generator;
- (E) a power marketer;

- (F) a corporation described by the Public Utility Regulatory Act (PURA) §32.053 to the extent the corporation sells electricity exclusively at wholesale and not to the ultimate consumer;
- (G) an electric cooperative;
- (H) a retail electric provider;
- (I) this state or an agency of this state; or
- (J) a person not otherwise an electric utility who:
 - (i) furnishes an electric service or commodity only to itself, its employees, or its tenants as an incident of employment or tenancy, if that service or commodity is not resold to or used by others;
 - (ii) owns or operates in this state equipment or facilities to produce, generate, transmit, distribute, sell, or furnish electric energy to an electric utility, if the equipment or facilities are used primarily to produce and generate electric energy for consumption by that person; or
 - (iii) owns or operates in this state a recreational vehicle park that provides metered electric service in accordance with Texas Utilities Code, Chapter 184, Subchapter C.

- (3) **Advanced metering** — Includes any metering equipment or services that are not transmission and distribution utility metering system services as defined in this section.
- (4) **Additional retail billing services** — Retail billing services necessary for the provision of services as prescribed under PURA §39.107(e) but not included in the definition of transmission and distribution utility billing system services under this section.
- (5) **Competition transition charge (CTC)** — Any non-bypassable charge that recovers the positive excess of the net book value of generation assets over the market value of the assets, taking into account all of the electric utility's generation assets, any above market purchased power costs, and any deferred debit related to a utility's discontinuance of the application of Statement of Financial Accounting Standards Number 71 ("Accounting for the Effects of Certain Types of Regulation") for generation-related assets if required by the provisions of PURA, Chapter 39. For purposes of PURA §39.262, book value shall be established as of December 31, 2001, or the date a market value is established through a market valuation method under PURA §39.262(h), whichever is earlier, and shall include stranded costs incurred under PURA §39.263. Competition transition charges also include the transition charges established pursuant to PURA §39.302(7) unless the context indicates otherwise.

- (6) **Competitive energy services** — Customer energy services business activities which are capable of being provided on a competitive basis in the retail market. Examples of competitive energy services include, but are not limited to the marketing, sale, design, construction, installation, or retrofit, financing, operation and maintenance, warranty and repair of, or consulting with respect to:
- (A) energy-consuming, customer-premise equipment;
 - (B) the provision of energy efficiency and control of dispatchable load management services;
 - (C) the provision of technical assistance relating to any customer-premises process or device that consumes electricity, including energy audits;
 - (D) customer or facility specific energy efficiency, energy conservation, power quality and reliability equipment and related diagnostic services;
 - (E) the provision of anything of value other than tariffed services to trade groups, builders, developers, financial institutions, architects and engineers, landlords, and other persons involved in making decisions relating to investments in energy-consuming equipment or buildings on behalf of the ultimate retail electricity customer;
 - (F) customer-premises transformation equipment, power-generation equipment and related services;
 - (G) the provision of information relating to customer usage other than as required for the rendering of a monthly electric bill, including electrical

pulse service, provided however that the provision of access to pulses from a meter used to measure electric service for billing in accordance with §25.129 of this title (relating to Pulse Metering), shall not be considered a competitive energy service;

- (H) communications services related to any energy service not essential for the retail sale of electricity;
- (I) home and property security services;
- (J) non-roadway, outdoor security lighting, except for the provision of service until January 1, 2002 to customers that were receiving such service on September 1, 2000;
- (K) building or facility design and related engineering services, including building shell construction, renovation or improvement, or analysis and design of energy-related industrial processes;
- (L) hedging and risk management services;
- (M) propane and other energy-based services;
- (N) retail marketing, selling, demonstration, and merchant activities;
- (O) facilities operations and management;
- (P) controls and other premises energy management systems, environmental control systems, and related services;
- (Q) premise energy or fuel storage facilities;
- (R) performance contracting (commercial, institutional and industrial);

- (S) indoor air quality products (including, but not limited to air filtration, electronic and electrostatic filters, and humidifiers);
 - (T) duct sealing and duct cleaning;
 - (U) air balancing;
 - (V) customer-premise metering equipment and related services other than as required for the measurement of electric energy necessary for the rendering of a monthly electric bill; and
 - (W) other activities identified by the commission.
- (7) **Discretionary service** — Service that is related to, but not essential to, the transmission and distribution of electricity from the point of interconnection of a generation source or third-party electric grid facilities, to the point of interconnection with a retail customer or other third party facilities.
- (8) **Distribution** — For purposes of §25.344(g)(2)(C) of this title (relating to Cost Separation Proceedings), distribution relates to system and discretionary services associated with facilities below 60 kilovolts necessary to transform and move electricity from the point of interconnection of a generation source or third party electric grid facilities, to the point of interconnection with a retail customer or other third party facilities, and related processes necessary to perform such transformation and movement. Distribution does not include activities related to transmission and distribution utility billing services, additional billing services,

transmission and distribution utility metering services, and transmission and distribution customer services as defined by this section.

- (9) **Electrical pulse (or pulse)** — The impulses or signals generated by pulse metering equipment, indicating a finite value, such as energy, registered at a point of delivery as defined in the Tariff for Retail Delivery Service.
- (10) **Electrical pulse service** — Use of pulses for any purpose other than for billing, settlement, and system operations and planning.
- (11) **Electronic data interchange** — The computer application to computer application exchange of business information in a standard format.
- (12) **Energy service** — As defined in §25.223 of this title (relating to Unbundling of Energy Service).
- (13) **Existing purchased power contract** — A purchased power contract in effect on January 1, 1999, including any amendments and revisions to that contract resulting from litigation initiated before January 1, 1999.
- (14) **Generation** — For purpose of §25.344(g)(2)(A) of this title, generation includes assets, activities and processes necessary and related to the production of electricity for sale. Generation begins with the acquisition of fuels and their conversion to electricity and ends where the generation company's facilities tie into the facilities of the transmission and distribution system.
- (15) **Generation assets** — All assets associated with the production of electricity, including generation plants, electrical interconnections of the generation plant to

the transmission system, fuel contracts, fuel transportation contracts, water contracts, lands, surface or subsurface water rights, emissions-related allowances, and gas pipeline interconnections.

- (16) **Market value** — For non-nuclear assets and certain nuclear assets, the value the assets would have if bought and sold in a bona fide third-party transaction or transactions on the open market under PURA §39.262(h) or, for certain nuclear assets, as described by PURA §39.262(i), the value determined under the method provided by that subsection.
- (17) **Power generation company** — A person that:
- (A) generates electricity that is intended to be sold at wholesale;
 - (B) does not own a transmission or distribution facility in this state other than an essential interconnecting facility, a facility not dedicated to public use, or a facility otherwise excluded from the definition of "electric utility" under PURA §31.002(6); and
 - (C) does not have a certificated service area, although its affiliated electric utility or transmission and distribution utility may have a certificated service area.
- (18) **Pulse metering equipment** — Any device, mechanical or electronic, connected to a meter, used to measure electric service for billing, which initiates pulses, the number of which are proportional to the quantity being measured, and which may include external protection devices. Pulse metering equipment

shall be considered advanced metering equipment that shall be owned, installed, operated, and maintained by a transmission and distribution utility and such ownership, installation, operation and maintenance shall not be a competitive energy services.

- (19) **Purchased power market value** — The value of demand and energy bought and sold in a bona fide third-party transaction or transactions on the open market and determined by using the weighted average costs of the highest three offers from the market for purchase of the demand and energy available under the existing purchased power contracts.
- (20) **Retail electric provider** — A person that sells electric energy to retail customers in this state. A retail electric provider may not own or operate generation assets.
- (21) **Retail stranded costs** — Part of net stranded cost associated with the provision of retail service.
- (22) **Standard meter** — The minimum metering device necessary to obtain the billing determinants required by the transmission and distribution utility's tariff schedule to determine an end-use customer's charges for transmission and distribution service.
- (23) **Stranded costs** — The positive excess of the net book value of generation assets over the market value of the assets, taking into account all of the electric utility's generation assets, any above market purchased power costs, and any

deferred debit related to a utility's discontinuance of the application of Statement of Financial Accounting Standards Number 71 ("Accounting for the Effects of Certain Types of Regulation") for generation-related assets if required by the provisions of PURA, Chapter 39. For purposes of PURA §39.262, book value shall be established as of December 31, 2001, or the date a market value is established through a market valuation method under PURA §39.262(h), whichever is earlier, and shall include stranded costs incurred under PURA §39.263.

- (24) **Stranded cost charges** — Competition transition charges as defined in this section and transition charges established pursuant to PURA §39.302(7).
- (25) **System service** — Service that is essential to the transmission and distribution of electricity from the point of interconnection of a generation source or third-party electric grid facility, to the point of interconnection with a retail customer or other third party facility. System services include, but are not limited to, the following:
 - (A) the regulation and control of electricity in the transmission and distribution system;
 - (B) planning, design, construction, operation, maintenance, repair, retirement, or replacement of transmission and distribution facilities, equipment, and protective devices;
 - (C) transmission and distribution system voltage and power continuity;

- (D) response to electric delivery problems, including outages, interruptions, and voltage variations, and restoration of service in a timely manner;
 - (E) commission-approved public education and safety communication activities specific to transmission and distribution that do not preferentially benefit the utility's affiliate(s);
 - (F) transmission and distribution utility standard metering and billing services as defined by this section;
 - (G) commission-approved administration of energy savings incentive programs in a market-neutral, nondiscriminatory manner, through standard offer programs or limited, targeted market transformation programs; and
 - (H) line safety, including tree trimming.
- (26) **Transmission** — For purposes of §25.344(g)(2)(B) of this title, transmission relates to system and discretionary services associated with facilities at or above 60 kilovolts necessary to transform and move electricity from the point of interconnection of a generation source or third party electric grid facilities, to the point of interconnection with distribution, retail customer or other third party facilities, and related processes necessary to perform such transformation and movement. Transmission does not include activities related to transmission and distribution utility billing system services, additional billing services, transmission

and distribution utility metering system services, and transmission and distribution utility customer services as defined by this section.

- (27) **Transmission and distribution utility** — A person or river authority that owns or operates for compensation in this state equipment or facilities to transmit or distribute electricity, except for facilities necessary to interconnect a generation facility with the transmission or distribution network, a facility not dedicated to public use, or a facility otherwise excluded from the definition of "electric utility" under PURA §31.002(6), in a qualifying power region certified under PURA §39.152, but does not include a municipally owned utility or an electric cooperative.
- (28) **Transmission and distribution utility billing system services** — Services related to the production and remittance of a bill to a retail electric provider for the transmission and distribution charges applicable to the retail electric provider's customers as prescribed by PURA §39.107(d), and billing for wholesale transmission service to entities that qualify for such service. Transmission and distribution utility billing system services may include, but are not limited to, the following:
- (A) generation of billing charges by application of rates to customer's meter readings, as applicable;
 - (B) presentation of charges to retail electric providers for the actual services provided and the rendering of bills;

- (C) extension of credit to and collection of payments from retail electric providers;
 - (D) disbursement of funds collected;
 - (E) customer account data management;
 - (F) customer care and call center activities related to billing inquiries from retail electric providers;
 - (G) administrative activities necessary to maintain retail electric provider billing accounts;
 - (H) an operating billing system; and
 - (I) error investigation and resolution.
- (29) **Transmission and distribution utility customer service** — For purposes of §25.344(g)(2)(G) of this title, transmission and distribution customer service relates to system and discretionary services associated with the utility's energy efficiency programs, demand-side management programs, public safety advertising, tariff administration, economic development programs, community support, advertising, customer education activities, and any other customer services.
- (30) **Transmission and distribution utility metering system services** — Services that relate to the installation, maintenance, and polling of an end-use customer's standard meter. Transmission and distribution utility metering system services may include, but are not limited to, the following:

- (A) ownership of standard meter equipment and meter parts;
- (B) storage of standard meters and meter parts not in service;
- (C) measurement or estimation of the electricity consumed or demanded by a retail electric consumer during a specified period limited to the customer usage necessary for the rendering of a monthly electric bill;
- (D) meter calibration and testing;
- (E) meter reading, including non-interval, interval, and remote meter reading;
- (F) individual customer outage detection and usage monitoring;
- (G) theft detection and prevention;
- (H) customer account maintenance;
- (I) installation or removal of metering equipment;
- (J) an operating metering system; and
- (K) error investigation and re-reads.

§25.346. Separation of Electric Utility Metering and Billing Service Costs and Activities.

- (a) **Purpose.** The purpose of this section is to identify and separate electric utility metering and billing service activities and costs for the purposes of unbundling.
- (b) **Application.** This section shall apply to electric utilities as defined in Public Utility Regulatory Act (PURA) §31.002. This section shall not apply to an electric utility under PURA §39.102(c) until the termination of its rate freeze period.
- (c) **Separation of transmission and distribution utility billing system service costs.**
- (1) Transmission and distribution billing system services shall include costs related to the billing services described in §25.341(28) of this title (relating to Definitions).
- (2) Charges for transmission and distribution billing system services shall not include any additional capital costs, operation and maintenance expenses, and any other expenses associated with billing services as prescribed by PURA §39.107(e).
- (d) **Separation of transmission and distribution utility billing system service activities.**

- (1) Transmission and distribution utility billing system services as described in §25.341(28) of this title shall be provided by the transmission and distribution utility.
 - (2) The transmission and distribution utility may provide additional retail billing services pursuant to PURA §39.107(e).
 - (3) Additional retail billing services pursuant to PURA §39.107(e) shall be provided on an unbundled discretionary basis pursuant to a commission-approved embedded cost-based tariff.
 - (4) The transmission and distribution utility may not directly bill an end-use retail customer for services that the transmission and distribution utility provides except when the billing is incidental to providing retail billing services at the request of a retail electric provider pursuant to PURA §39.107(e).
- (e) **Uncollectibles and customer deposits.**
- (1) The retail electric provider is responsible for retail customer uncollectibles and deposits.
 - (2) For the purposes of functional cost separation in §25.344 of this title (relating to Cost Separation Proceedings), retail customer uncollectibles and deposits shall be assigned to the unregulated function, as prescribed by §25.344(g)(2)(I) of this title.

- (f) **Separation of transmission and distribution utility metering system service costs.** Transmission and distribution utility metering system services shall include costs related to the metering services as defined in §25.341(30) of this title.
- (g) **Separation of transmission and distribution utility metering system service activities.**
- (1) **Metering services before the introduction of customer choice.**
- (A) Affected utilities shall continue to provide metering services pursuant to commission rules and regulations provided that affected utilities do not engage in the provision of competitive energy services as defined by §25.341(6) of this title and prescribed by §25.343 of this title (relating to Competitive Energy Services).
- (B) Affected utilities may continue to use metering equipment installed, operated, and maintained by the affected utility prior to the effective date of this section, but may not use the information gained from its provision of the meter or metering services as defined in §25.341(6)(G) of this title except as permitted in §25.341(10) of this title.
- (C) When requested by the end-use customer, an affected utility shall charge the end-use customer the incremental cost for the replacement of an end-use customer's meter with an advanced meter owned, operated, and maintained by the affected utility.

(2) **Metering services on and after the introduction of customer choice until metering services become competitive.** On the introduction of customer choice in a service area, metering services as described by §25.341(30) of this title for the area shall continue to be provided by the transmission and distribution utility affiliate of the electric utility that was serving the area before the introduction of customer choice provided that the affected utility does not engage in the provision of competitive energy services as defined by §25.341(6) of this title and prescribed by §25.343 of this title.

(A) Standard meter.

- (i) The standard meter shall be owned, installed, and maintained by the transmission and distribution utility except as prescribed by PURA §39.107(a) and PURA §39.107(b).
- (ii) The transmission and distribution utility shall bill a retail electric provider for non-bypassable charges based upon the measurements obtained from each end-use customer's standard meter.
- (iii) If the retail electric provider requests the replacement of the standard meter with an advanced meter, the transmission and distribution utility shall charge the retail electric provider the incremental cost for the replacement of the standard meter with

an advanced meter owned, operated, and maintained by the transmission and distribution utility.

- (iv) Without authorization from the retail electric provider, the transmission and distribution utility's use of advanced meter data shall be limited to that energy usage information necessary for the calculation of transmission and distribution charges in accordance with that end-use customer's transmission and distribution rate schedule.
- (B) Meter reading. Nothing in this section precludes the retail electric provider from accessing the transmission and distribution utility's standard meter for the purposes of determining an end-use customer's energy usage.
- (C) End-use customer meters. Nothing in this section precludes the end-use customer or the retail electric provider from owning, installing, and maintaining metering equipment on the customer-premise side of the standard meter.
- (D) Advanced metering services.
 - (i) The transmission and distribution utility shall not provide any advanced metering equipment or service that is deemed a competitive energy service under §25.343 of this title.

- (ii) Affected utilities may continue to use metering equipment installed, operated, and maintained by the affected utility consistent with the effective date established under paragraph (1)(B) of this subsection, but may not use the information gained from its provision of the meter or metering services as defined in §25.341(6)(G) of this title, except as permitted in §25.341(10) of this title.
- (iii) Without authorization from the retail electric provider, the transmission and distribution utility shall not use any advanced metering data except as prescribed by subparagraph (A)(iv) of this paragraph.
- (iv) The installation of advanced metering equipment on the transmission and distribution utility's standard meter must be performed by transmission and distribution utility personnel or by contractors under the supervision of the utility.
- (v) For services relating to clause (iv) of this subparagraph, the transmission and distribution utility's charges to the retail electric provider for the installation and removal of any advanced metering equipment shall be reasonable and non-discriminatory and made pursuant to a commission-approved embedded cost based tariff. Unless authorized by clause (ii) of this

subparagraph or by the commission, the advanced metering equipment shall not be provided by the transmission and distribution utility.

(vi) Advanced metering equipment provided to the transmission and distribution utility for installation onto the standard meter shall meet all current industry safety standards and performance codes consistent with §25.121 of this title (relating to Meter Requirements).

(vii) All advanced metering services and related costs shall be borne by the retail electric provider, except for charges for pulse metering equipment, installation and removal which shall be borne by the entity executing the pulse metering equipment installation agreement.

(h) **Competitive energy services.**

(1) Nothing in this section is intended to affect the provision of competitive energy services, including those that require access to the customer's meter.

(2) An affected utility shall not provide any service that is deemed a competitive energy service under §25.341(6) of this title except as provided under §25.343(d)(1) of this title.

(i) **Electronic data interchange.**

- (1) **Standards.** All transmission and distribution utilities, retail electric providers, power generation companies, power marketers, and electric utilities shall transmit data in accordance with standards and procedures adopted by the commission.
- (2) **Settlement.** All transmission and distribution utilities, retail electric providers, power generation companies, power marketers, and electric utilities shall abide by the settlement procedures adopted by the commission.
- (3) **Costs.** Transmission and distribution utilities shall be allowed to recover such costs as prudently incurred in abiding by this subsection, to the extent not collected elsewhere, such as through the ERCOT-ISO fee.

This agency hereby certifies that the rules, as adopted, have 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 §§25.129, relating to Pulse Metering, 25.341, relating to Definitions, and 25.346, relating to Separation of Electric Utility Metering and Billing Service Costs and Activities are hereby adopted with changes to the text as proposed.

ISSUED IN AUSTIN, TEXAS ON THE 28th DAY OF SEPTEMBER 2001.

PUBLIC UTILITY COMMISSION OF TEXAS

Chairman Max Yzaguirre

Commissioner Brett A. Perlman

Commissioner Rebecca Klein