

PROJECT NO. 23952

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

**PROPOSAL FOR PUBLICATION AS APPROVED AT THE
JULY 12, 2001 OPEN MEETING**

The Public Utility Commission of Texas (commission) proposes 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. The proposed new rule and amendments will facilitate customer access to pulse under standard terms and conditions. Project Number 23952 has been assigned to this proceeding.

The proposed rule is intended to incorporate a standard Agreement and Terms and Conditions for Pulse Metering Equipment Installation (PMEI agreement) which contains the terms and conditions for access to pulse. The PMEI agreement may be obtained from the commission's Central Records Division under Project Number 23952 or from the commission's website at www.puc.state.tx.us/rules/rulemake/23952/23952.cfm.

Shawnee Claiborn-Pinto, Electric Industry Analyst, Electric Division, has determined that for each year of the first five-year period the proposed sections are in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the sections.

Shawnee Claiborn-Pinto has determined that for each year of the first five years the proposed sections are in effect the public benefit anticipated as a result of enforcing the sections will be that customers will have access to pulses so that they can control consumption, plan for electric payments, and detect problems with their equipment that are resulting in abnormal consumption. Pulse output information will give customers more detailed information to use when selecting a retail electric provider, resulting in benefits to competition. There will be no anticipated adverse effect on small businesses or micro-businesses as a result of enforcing this section. There is no anticipated economic cost to persons who are required to comply with the sections as proposed.

Shawnee Claiborn-Pinto has also determined that for each year of the first five years the proposed sections are in effect there should be no effect on a local economy, and therefore no local employment impact statement is required under Administrative Procedure Act §2001.022.

The commission seeks comments on the proposed rule and pulse metering agreement from interested persons. Comments should be organized in a manner consistent with the organization of the proposed rule and PMEI agreement.

In addition to comments on specific subsections of the proposed rules, the commission requests that parties specifically address the following issue:

Question 1: 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 a meter?

The commission staff will conduct a public hearing on this rulemaking under Government Code §2001.029 at the commission's offices, located in the William B. Travis Building, 1701 North Congress Avenue, Austin, Texas 78701, on Tuesday, August 28, 2001 at 10:00 a.m. in the Commissioners' Hearing Room on the seventh floor.

Comments on the proposed new rule and amendments (16 copies) may be submitted to the Filing Clerk, Public Utility Commission of Texas, 1701 North Congress Avenue, P.O. Box 13326, Austin, Texas 78711-3326, within 20 days. Reply comments may be submitted within 30 days after publication. The commission invites specific comments regarding the costs associated with, and benefits that will be gained by, implementation of the proposed sections. The commission will consider the costs and benefits in deciding whether to adopt the sections. All comments should refer to Project Number 23952.

This new section and amendments are proposed under the Public Utility Regulatory Act, Texas Utilities Code Annotated §14.002 (Vernon 1998, Supplement 2001) (PURA), which provides the Public Utility Commission with the authority to make and enforce rules reasonably required

in the exercise of its powers and jurisdiction and PURA §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; §39.201, which grants the commission authority to request from 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 shall file a tariff or tariffs for providing pulse metering equipment, installation, and replacement and if offered equipment maintenance. Concurrent with the tariff filing in this section, each

utility shall submit a schedule detailing the charges for pulse metering equipment, installation, and replacement and if offered equipment maintenance, and all supporting cost 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) - (5) (No change.)

(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) - (F) (No change.)

(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, shall not be considered a competitive energy service;

(H) - (W) (No change.)

(7) - (8) (No change.)

- (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) ~~(9)~~ **Electronic data interchange** — The computer application to computer application exchange of business information in a standard format.
- (12) ~~(10)~~ **Energy service** — As defined in §25.223 of this title (relating to Unbundling of Energy Service).
- (13) ~~(11)~~ **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) ~~(12)~~ **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) ~~(13)~~ **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)~~(14) **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)~~(15) **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 value 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 service.

~~(19)~~(16) **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)~~(17) **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)~~(18) **Retail stranded costs** — Part of net stranded cost associated with the provision of retail service.

~~(22)~~(19) **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)~~(20) **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)~~(21) **Stranded Cost Charges** — Competition transition charges as defined in this section and transition charges established pursuant to PURA §39.302(7).

~~(25)~~(22) **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)~~(23) **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)~~(24) **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)~~(25) **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)~~~~(26)~~ **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)~~~~(27)~~ **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) - (b) (No change.)

(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)–§25.341(25)~~ of this title (relating to Definitions).

(2) (No change.)

(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)§25.341(25)~~ of this title shall be provided by the transmission and distribution utility.

(2) - (4) (No change.)

(e) (No change.)

- (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)~~~~§25.341(27)~~ of this title ~~(relating to Definitions)~~.
- (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 ~~(relating to Definitions)~~ 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 ~~(relating to Definitions)~~.
- (C) (No change.)
- (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)~~~~§25.341(27)~~ 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 ~~(relating to Definitions)~~ and prescribed by §25.343 of this title ~~(relating to Competitive Energy Services)~~.

(A)-(C) (No change.)

(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 ~~(relating to Competitive Energy Services)~~.
- (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~~(relating to Definitions)~~.
- (iii - vi) (No change.)

- (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 requesting customer.

(h) - (i) (No change.)

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

**ISSUED IN AUSTIN, TEXAS ON THE 13th DAY OF JULY 2001 BY THE
PUBLIC UTILITY COMMISSION OF TEXAS
RHONDA G. DEMPSEY**