

PROJECT NO. 26359

RULEMAKING TO ADDRESS	§	PUBLIC UTILITY COMMISSION
COMPETITIVE METERING	§	
	§	OF TEXAS
	§	
	§	

**PROPOSAL FOR PUBLICATION OF NEW §25.311 AS APPROVED
AT THE JANUARY 16, 2003 OPEN MEETING**

The Public Utility Commission of Texas (commission) proposes new §25.311, relating to Competitive Metering Services. The proposed new rule will establish the parameters under which competitive metering services will be available to commercial and industrial customers beginning on January 1, 2004, as required by Public Utility Regulatory Act (PURA) §39.107(a), in areas where customer choice has been introduced. New §25.311 is the first section to be proposed in new Subchapter M, Competitive Metering. The proposed rule does not, however, excuse a utility from complying with the commission's existing metering rules. Project Number 26359 is assigned to this proceeding.

This proposed rule broadly defines metering services in order to fully open this market to competition and to provide all market participants with certainty as to those services to be provided on a competitive basis. The proposed definition of metering services encompasses services that are vital to every aspect of the sale of electricity, particularly in the competitive retail electric market. Specifically, proposed §25.311 identifies the following components of metering services: ownership, installation and removal, maintenance, testing and calibration, data collection, and data management.

The commission's goal of implementing the terms of PURA §39.107(a) to permit the competitive market to deliver all metering services must be construed in a manner consistent with the implementation of the broader transition to a competitive retail electric market. Based upon the experience of the transition to competition among retail electric providers, it is clear that the operational systems required to support full implementation of competitive metering services cannot be designed, implemented, and adequately tested in the months remaining before January 1, 2004. Therefore, the proposed definition of metering services must be accompanied by an orderly timeline that anticipates the development of the competitive market for the delivery of all metering services based upon reasonable assumptions of the time required to develop the necessary underlying market structure and associated operational support systems.

Proposed §25.311(e) specifically addresses this transition period, requiring the transmission and distribution utility to: (1) serve as the default meter owner, and (2) continue providing metering services other than ownership until the commission determines that the operational support systems in the market are adequate to allow full customer choice in metering services. To facilitate the commission's determination, proposed §25.311(e) also requires status reports on operational readiness, allows for public comment on those reports, and allows the commission to establish a pilot project for competitive metering services. While the commission may establish certain goals for the timely development of this underlying market structure, the

establishment of mandatory, artificial dates may result in delays in the development of customer choice, and should therefore be avoided at this time.

When commenting on specific subsections of the proposed rules, parties are encouraged to describe "best practice" examples of regulatory policies, and their rationale, that have been proposed or implemented successfully in other states already undergoing electric industry restructuring, if the parties believe that Texas would benefit from application of the same policies. The commission is only interested in receiving "leading edge" examples that are specifically related and directly applicable to the Texas statute, rather than broad citations to other state restructuring efforts.

In addition to comments on the proposed section, the commission requests that interested parties address the following questions:

1. Should the commission include a definition of "industrial" and "commercial" customers eligible for competitive metering services? If so, should the definition look to the type of premise receiving service, the distribution tariff under which the customer takes service, or to something else?
2. How should the rule treat mixed-use premises, such as separately-metered apartments and other premises that are usually occupied by residential customers, even though the electric service is occasionally taken by a commercial customer (e.g., the landlord)?
3. What types of customers may be included in a pilot program?

Constance T. Corona, Director, Electric Policy Analysis, has determined that for each year of the first five-year period the proposed section is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the section.

Ms. Corona has determined that for each year of the first five years the proposed section is in effect the public benefit anticipated as a result of enforcing the section will be to allow commercial and industrial retail customers to exercise choice among providers of metering services. There will be no adverse economic 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 section as proposed.

Ms. Corona has also determined that for each year of the first five years the proposed section is 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 staff will conduct a public hearing on this rulemaking under the Administrative Procedure Act, Texas Government Code §2001.029 at the commission's offices, located in the William B. Travis Building, 1701 North Congress Avenue, Austin, Texas 78701, on Thursday, March 20, 2003, at 9:30 a.m.

Comments on the proposed new section (16 copies) may be submitted to the Filing Clerk, Public Utility Commission of Texas, 1701 North Congress Avenue, PO Box 13326, Austin, Texas 78711-3326, within 30 days after publication. Reply comments may be submitted within 45 days after publication. Comments should be organized in a manner consistent with the organization of the proposed rule. The commission invites specific comments regarding the costs associated with, and benefits that will be gained by, implementation of the proposed section. The commission will consider the costs and benefits in deciding whether to adopt the section. All comments should refer to Project Number 26359.

This new section is proposed under the Public Utility Regulatory Act, Texas Utilities Code Annotated §14.002 (Vernon 1998, Supplement 2003) (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 specifically, PURA §39.107, which requires that metering services provided to commercial and industrial customers to be provided on a competitive basis beginning on January 1, 2004.

Cross Reference to Statutes: Public Utility Regulatory Act §14.002 and §39.107.

§25.311. Competitive Metering Services.

- (a) **Purpose.** This section establishes the terms and conditions for competitive metering services to be offered to commercial and industrial customers beginning on January 1, 2004, as required by Public Utility Regulatory Act (PURA) §39.107(a), in areas where customer choice has been introduced.
- (b) **Definitions.** The following words and terms, when used in this section, shall have the following meanings unless the context clearly indicates otherwise.
- (1) **Data management** — Includes validation, estimation, editing, extraction of billing components, and transfer of meter reading data to the settlement agent, the transmission and distribution utility, and the retail electric provider.
 - (2) **Maintenance** — Activities necessary to maintain a meter in proper working order, including failure investigation, equipment repair, and replacement.
 - (3) **Meter owner** — Entity that owns the meter necessary for the measurement of electric energy delivered to a particular location.
 - (4) **Metering services** — Activities relating to the measurement of electricity provided to a retail customer, including, but not limited to ownership, installation and removal, maintenance, testing and calibration, data collection, and data management.

- (5) **Testing** — Activities as defined in §25.124 of this title (relating to Meter Testing).
- (c) **Meter ownership.** Beginning January 1, 2004, a commercial or industrial retail customer may choose a meter owner. The meter owner may be, at the option of the retail customer:
- (1) the retail customer;
 - (2) a retail electric provider (REP);
 - (3) the transmission and distribution utility (TDU); or
 - (4) other person authorized by the customer.
- (d) **Data ownership.** The current retail customer shall own all meter data related to the premise occupied by that customer, regardless of whether the customer is the meter owner or the owner of the premise. The current retail customer shall have the right and capability, including necessary security passwords, to assign access to meter data related to the premise occupied by that customer.
- (e) **Transition period.**
- (1) **Market readiness.**
 - (A) The Electric Reliability Council of Texas (ERCOT) shall file with the commission quarterly updates on the operational readiness of support

systems necessary for the commission to authorize an entity other than the TDU to provide metering services as described in paragraph (4) of this subsection.

(B) ERCOT shall file an annual status report on the implementation of competitive metering services on September 1 of each year. No later than 30 days after ERCOT's annual filing, interested parties may file comments on the status report.

(2) **Pilot project.** The commission may establish a pilot project under which an entity other than the TDU may provide metering services as described in paragraph (4) of this subsection.

(3) **Utility ownership of meters.** A TDU shall continue to provide metering services and own all meters necessary for the measurement of electric energy to any customer that does not choose an alternative meter owner.

(4) **Other metering services.** Until otherwise authorized by the commission, a TDU shall continue to provide metering services relating to installation and removal, maintenance, testing and calibration, data collection, and data management, including the transfer of meter data to the settlement agent.

(f) **Metering equipment.**

- (1) No later than 60 days after the effective date of this section, ERCOT shall develop a process to establish, and periodically revise, a list of meters that shall be considered qualifying competitive meters for the purposes of this section.
 - (A) The first list of qualifying meters shall be adopted by ERCOT no later than 90 days after the effective date of this section.
 - (B) Each qualifying competitive meter shall meet commission-approved standards.
 - (C) Each TDU data collection system shall be compatible with each meter on the list within 90 days of the release of the list.
 - (2) Each meter shall have a unique identifier in a format determined by ERCOT.
- (g) **Conformance with metering standards.**
- (1) A meter that fails to meet commission-approved standards for accuracy shall not be placed in service or left in service. A meter found to violate these standards shall be adjusted or replaced in accordance with this subsection at the time the violation is discovered.
 - (2) Meters shall be adjusted as closely as practicable to the condition of zero error.
 - (3) If a meter owned by the TDU is found not to meet commission-approved standards for accuracy, the TDU shall install a replacement or temporary meter in accordance with its tariffs.

- (4) If a meter that is not owned by the TDU is found not to meet commission-approved standards for accuracy, the TDU shall install a temporary replacement meter. The TDU shall notify the customer and the meter owner that the meter does not meet commission-approved standards for accuracy and shall take reasonable measures to safeguard the meter until the meter owner takes possession of it. The meter owner shall be responsible for the associated charges, in accordance with the TDU's tariff.

- (h) **Testing of meters at REP request.** Costs for meter tests shall be paid by the meter owner in accordance with the TDU's tariff, except that when a request is made to test a meter that is subsequently found to meet commission-approved standards for accuracy, the cost of the meter test shall be paid by the requestor.
 - (1) A REP may request that a meter be tested in accordance with the TDU's applicable tariff.
 - (2) Upon request for a meter test by a retail customer, a REP shall request that a meter be tested in accordance with the TDU's applicable tariff.
 - (3) If the TDU suspects a meter malfunction, it shall promptly test the meter in accordance with its tariff.
 - (4) Following the completion of any meter test, the TDU shall promptly advise the REP of the date of removal of the meter, the date of the test, the result of the test, and who made the test.

- (i) **Use of meter data for billing.**
 - (1) The TDU shall have the right and capability, including necessary security passwords, to access meter data for the purpose of rendering a bill, as well as for load research purposes.
 - (2) No customer shall have the right or capability to alter the data collected by the meter for the purpose of billing.

- (j) **Competitive metering service credit.** Within 90 days of the effective date of this rule, a TDU shall file with the commission a tariff that provides a competitive metering service credit to a customer that selects a meter owner other than the TDU.

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 17th DAY OF JANUARY 2003 BY THE
PUBLIC UTILITY COMMISSION OF TEXAS
RHONDA G. DEMPSEY**