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PROJECT NO. 31852

**RULEMAKING RELATING TO § PUBLIC UTILITY COMMISSION
RENEWABLE ENERGY §
AMENDMENTS § OF TEXAS**

**COMMENTS OF HORIZON WIND ENERGY ON RULEMAKING RELATING TO
RENEWABLE ENERGY AMENDMENTS**

Horizon Wind Energy LLC ("Horizon") appreciates this opportunity to provide comments to the Public Utility Commission of Texas ("Commission" or "PUC") relating to the implementation of the Senate Bill 20 Amendments to the Public Utility Regulatory Act ("PURA"). This legislation and the rulemaking effort undertaken by the Commission in this Project 31852 are extremely important to the responsible development of Texas' wind resources.

Horizon's comments focus on the following issues: 1) dispatch priority (protection from curtailment); 2) criteria relating to the financial commitment necessary to consider a particular geographic region for designation as a Competitive Renewable Energy Zone ("CREZ"); and 3) the need to insure that multiple, diverse geographic areas with exceptional attributes for wind generation are not overlooked in favor of areas where interconnection agreements can be signed or interconnection studies can be initiated because access to transmission, however limited, exists. Following Horizon's comments, suggested language has been drafted into the proposed draft of the rule for consideration by the Commission.

Questions for Comment

1. ***Financial commitments by generators.*** Proposed subsection (b)(4)(A) allows generators to indicate interest in a potential CREZ by posting of non-refundable deposits of different amounts at different stages. Are the amounts large enough to indicate a sufficient

degree of commitment by a generator to assist the commission in designating CREZs and granting certificates of convenience and necessity for transmission lines related to CREZs? If not, how large should the requirement be?

Horizon Response: Requirements for wind generators to post deposits in §25.174(b)(4) should be significant enough to guarantee that the wind developer has adequately committed to the particular project. This CREZ rule is extremely important to insure that adequate investment is made to meet the Renewable Portfolio Standards mandate such that the 10,000 MW target is met given the length of time to build transmission to wind resources, and the value these resources bring to the market both in terms of cost and environmental benefits. The Legislature wanted to be certain that the transmission expense borne by the market would result in wind resources delivering renewable energy to market. Deposits must be substantial enough to demonstrate that the parties proposing to build the project have the capability to do so and are committed to making a given project happen.

Horizon proposes the financial commitment ("FC") be no less than a \$25,000 cash deposit per megawatt ("MW") of projected installed capacity at the proposed wind facility. Of this amount the first \$150,000 cash deposit would be nonrefundable and would be used to compensate ERCOT for transmission studies related to the specific, technical challenges of integrating a large quantity of wind generation into the ERCOT grid system. Any remaining amounts would be used exclusively for the quantification of environmental and rural economic benefits and for deliberative polls.

No portion of any of the nonrefundable \$150,000 deposit should be returned to a developer unless and until any of the following occur:

1. The Commission determines that an area will not be designated as a CREZ zone;

2. A CREZ zone designation is determined by the Commission no longer to be viable as a CREZ zone for any reason; or
3. A Wind Energy Developer encounters an unanticipated problem with the development such as a regulatory or environmental issue (including but not limited to the existence of endangered or threatened species on the property determined through the voluntary wildlife siting process that cannot be accommodated) that materially impacts the economic benefits associated with the particular wind development.

A Wind Developer should be required to notify the PUCT as soon as practicable upon confirming that an environmental or regulatory impediment to development exists. Upon the occurrence of any of these conditions, the Commission would, within a reasonably short period of time, order the refunding of the otherwise nonrefundable deposit, along with any other deposits, to the impacted wind developer. In no event would the PUCT order a refund to a developer following the granting of a Certificate of Convenience and Necessity ("CCN") for a particular CREZ. This level of financial commitment would demonstrate the financial integrity of a project prior to the commitment of resources by the Commission, the Transmission and Distribution Service Provider ("TDSP"), or the Electric Reliability Council of Texas ("ERCOT").

2. ***Prioritization of dispatch.*** Subsection §25.174(b)(4) provides for assigning dispatch priority to renewable generators located in a CREZ if they fulfill all financial requirements arising from that paragraph. Please explain why this provision is better or worse than Subsection §25.174(b)(3), which uses deposits reserved for the future purchase of congestion revenue rights. In particular, please comment on each alternative's consistency with PURA Chapter 35 and ERCOT protocols.

Horizon Answer: Horizon supports a dispatch priority approach. The dispatch priority is geared toward determining priority of wind-power versus wind-power. The use of a dispatch priority gives clear and certain protection from “piling on” without restricting open access in ERCOT. Although the use of CRRs to evaluate interest in a particular zone can be gauged by the investment in CRRs, CRRs are not likely to demonstrate actual financial commitment. Both the dispatch priority and the CRR methods would require modifications to the ERCOT Nodal Protocols, and as such Protocol revision should not bias the Commission in favor of one approach over another.

A party or parties cannot invest in enough CRRs to cover the total amount of CREZ capacity. Only a small percentage of the total CREZ capacity awarded in each zone, roughly 15% can be awarded.¹ As a result, the remaining 85% of capacity for the CREZ zone will not have adequate CRR investment to determine if all, or even half, of the capacity associated with the proposed site has the financial commitment needed to support a CREZ zone.

In the event that a CREZ is designated based on investment in CRRs, it will be very difficult to determine the value of those CRRs. Under the current award process for CRRs, market valuations are readily determined given the known impact of transactions on existing transmission interfaces. In applying the same mechanism to a CREZ, the parties would not have enough information to adequately evaluate the economic potential of the site, especially given that no transmission will have been built in some of the most attractive sites for CREZ location.

CRRs last only for a six year period, rather than for the life of the development. Most of these developments will be financed through project financing, which requires a commitment of

¹ See ERCOT Nodal Protocols §7.5.1(6)(c) relating to auction of 15% of CRRs for second year in annual CRR auction.

capital for much longer timelines, ranging anywhere from 15 to 25 years. A six year commitment is not enough to determine if the project will be able to be project financed. These CRR's cannot be valued over the life of the project and there is no way to be certain that following the first six years of the project's life, the project will not be exposed to uncertainty about future transmission curtailment.

The renewable dispatch priority approach has several benefits over any of the other approaches being considered by the Commission. It can be implemented easily and it is a simple process. Using an early run of the Security Constrained Economic Dispatch software designed for nodal implementation with offer curves that are substantially lower for wind units having dispatch priority, these wind generators will be able to access the market as intended by the CREZ rule. Moreover, the dispatch priority mechanism for renewable resources will only impact the dispatch of other renewable resources without impacting the dispatch of nonrenewable generation. Additionally, using dispatch priority will ensure that the problem of "piling on" does not occur, since those resources that would attempt to pile on would be curtailed in favor of CREZ resources. Dispatch priority using this mechanism is a known quantity and will not insert unnecessary uncertainty into the financial markets relied upon to finance these projects. Using this approach will not impact siting for other wind generation, it will only require that the economics of the transaction be taken into account.

3. ***Timeliness of completing upgrades.*** Subsection (a)(5)(E) provides that in its final CREZ order, the commission may impose reporting requirements and other measures to ensure timely completion of CCN applications and construction upgrades. What specific measures would be appropriate for the commission to consider in a final order, and should they be specified in this rule?

Horizon Answer: Horizon agrees with the Wind Coalition on this point.

4. ***Length of process.*** The proposed rule establishes deadlines for a final CREZ order, and for utilities to file a CCN application. Please identify steps in the CREZ process that can be shortened or consolidated.

Horizon Answer: Horizon substantially agrees with the comments of the Wind Coalition targeted to streamline the Certificate of Convenience and Necessity dockets that will result in a final order designating a CREZ. Horizon does not agree with the Wind Coalition comments that equate the signing of an interconnection agreement with financial commitment as stated previously herein.

Horizon believes that should the Commission choose to put one or more CREZ onto a fast track, any project should be given consideration for the fast track process if it has posted the entire \$25,000 per MW deposit. A project for which a feasibility study has been completed, or an interconnection agreement has been signed, should not be given preference over a project that has posted the above-referenced deposit. As stated previously, certain areas with excellent wind attributes will not have the ability to obtain a feasibility study or sign an interconnection agreement. ERCOT has no means to model a feasibility study for a project in a location that has no transmission access. Moreover, there is no transmission line with which the development could interconnect for purposes of signing an interconnection agreement. As a result, wind projects should be considered based on the financial commitment alone, not a requirement for a feasibility study or interconnection agreement that could operate as a barrier to entry for wind developments to be located in diverse geographic regions.

5. ***Additional Modifications to the Rule.***

Horizon also recommends the following revisions to the rule be made in order to streamline the CREZ process.

a) §25.174(a): *Contested Case Proceeding for Each CREZ.*

The language in §25.174(a) which contemplates the use of a contested case for CREZ proceedings as required by PURA §39.003 should be further streamlined and every proposed CREZ, regardless of whether or not any transmission currently serves the area, should proceed through the same CREZ process. If the process is not identical for each CREZ, those geographic regions in which some transmission already exists, or some development has already occurred, would be designated more readily than those areas which are more remote, even though these more remote areas may be more efficient and attractive for maximizing generation from wind. This process should not prefer partially developed areas to undeveloped, geographically diverse areas where the financial commitments under the rule have been met, otherwise regions of Texas that are the best for wind could be overlooked.

These contested cases can be streamlined through further delineation of requirements in the rule, such as requirements for the demonstration of financial commitment through affidavit or the provision of certain financial information provided to the Commission under seal pursuant to the Commission's Standard Protective Order. The date for the contested cases and procedural schedule can also be determined by rule such that the process moves along more smoothly. The contested case could be filed within ten (10) business days of the financial commitments having been made.

b) §25.174(a)(2)(F): *Interconnection Agreements Inappropriate Indication of CREZ Interest.*

One of the criteria for the study by ERCOT of appropriate sites for CREZ location includes the review of signed interconnection agreements. Many areas that will be the best for siting a CREZ

in terms of wind attributes are locations where there is no transmission constructed with which to interconnect. Absent an existing transmission line with which to interconnect, these areas will not be ranked as highly as areas in which transmission is available for a TDSP to immediately sign an interconnection agreement. Moreover, wind developments in these more remote areas cannot be modeled or studied by ERCOT, a precondition to the signing of an interconnection agreement, because the transmission models do not physically allow it.

If the requirement for the use of signed interconnection agreements is not deleted from the rule, ERCOT will be required by rule to use the lack of signed interconnection agreements as a factor in ranking locations for designation as a CREZ, and many of the best locations which are remote and without any access to transmission, will inadvertently be ranked lower, despite the fact that many of these regions have more favorable wind attributes. A ranking based on signed interconnection agreements would lead to negative, unintended consequences including the underutilization of some of the best locations for wind production in the State.

c) §25.174(a)(3): *Incorporate Voluntary Process Approved by Texas Parks and Wildlife.*

The Texas Parks and Wildlife Department has been working with wind developers, including Horizon, and a small group of nongovernmental wildlife and environmental organizations, in an attempt to put together a voluntary process to be used by wind developers in determining and mitigating harmful impacts to fish and wildlife. These would be general, voluntary guidelines to be observed by wind developers once they are completed.

d) §25.174(a)(5)(A): *Locations for Interconnection with CREZ Transmission Facilities.*

Once a CREZ has been designated, those developments within the CREZ will be interconnecting to specific CREZ transmission facilities which, based on current projections by ERCOT, will consist of hub points. These hub points must be located in close proximity to the CREZ zone,

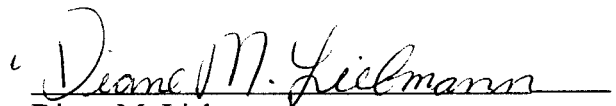
given that wind developers do not have the power of eminent domain and, despite having access to transmission on an accelerated basis, may be delayed through the need to acquire easements for interconnection across property not within the CREZ or that is not owned or leased by the particular wind developer within the CREZ.

e) §25.174(d)(3): *Oversubscription of Capacity in CREZ Based on Financial Commitment.*

In the event that there are more entities demonstrating Financial Commitment for a CREZ than the CREZ transmission facilities will allow, a blind bid process should be used to determine the successful wind developments. In the event that transmission upgrades are feasible, the Commission may also require the expansion of transmission facilities to the CREZ to accommodate the additional Financial Commitment to the zone.

Horizon appreciates the Commission's consideration of its comments to the rule and the attached, proposed red-lined language.

Respectfully Submitted,



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ATTORNEYS FOR HORIZON WIND
ENERGY

§25.174. Competitive Renewable Energy Zones.

(a) **Designation of competitive renewable energy zones.** The designation of Competitive Renewable Energy Zones (CREZs) pursuant to Public Utility Regulatory Act (PURA) §39.904(g) shall be made through a contested-case proceeding initiated by commission staff, for which the commission shall establish a procedural schedule. The commission shall consider the need for proceedings to determine CREZs in 2006 and in subsequent years as deemed necessary by the commission. Each geographic location to be considered for CREZ designation will be required to meet the same requirements and make the same showing in a contested case relating to CREZ designation. Confidential, competitively sensitive or proprietary information relating to a specific wind development that is required to be provided may be provided pursuant to the Standard Protective Order.

(1) Commission staff shall initiate a contested case proceeding within five working days of receiving the information required by paragraph (2) of this subsection. Any interested entity that participates in the contested case may nominate a region for CREZ designation. An entity may submit any evidence it deems appropriate in support of its nomination, but it shall include information prescribed in paragraph (2)(A)-(C) of this subsection.

(2) By December 1, 2006, the Electric Reliability Council of Texas (ERCOT) shall provide to the commission a study of the wind energy production potential statewide, and of the transmission constraints that are most likely to limit the deliverability of electricity from wind energy resources. ERCOT may consult

with other regional transmission organizations, independent organizations, independent system operators, or utilities in its analysis of regions of Texas outside the ERCOT power region. At a minimum, the study submitted by ERCOT shall include:

- (A) A map and geographic descriptions of regions that can reasonably accommodate at least 1,000 MW of new wind-powered generation resources;
 - (B) An estimate of the generating capacity in megawatts (MW) and annual production potential in megawatt-hours (MWh) that may be reasonably expected for each region;
 - (C) A description of the transmission system upgrades necessary to provide transmission service to the region, a preliminary estimate of the cost, and identification of the utility or utilities whose existing transmission facilities would be directly affected;
 - (D) An analysis of potential zone combinations;
 - (E) An estimate of the additional ancillary service capacity required to maintain system reliability; and
 - (F) The amount of wind-powered generating capacity already in service in the zone, ~~the amount not in service but for which interconnection agreements have been signed, and the amount under study but for which no interconnection agreements have been signed.~~
- (3) The Texas Department of Parks and Wildlife may provide to the Commission an analysis of fish and wildlife habitat resources that may be affected by renewable

energy development in any candidate CREZ zone, and may submit recommendations for mitigating harmful impacts on fish and wildlife and habitat.

(a) Texas Parks and Wildlife, wind industry and other stakeholders should seek to adopt voluntary guidelines for avoidance and minimization of impacts to fish and wildlife resources. These voluntary guidelines will be established by the Executive Director of TPWD in consultation with the appropriate parties with relevant expertise, or an Advisory Committee appointed by the TPWD that will include members of wind industry and the environmental community with expertise in wildlife and fisheries. The voluntary guidelines may:

(i) include standards for pre and post construction monitoring and reporting of data;

(ii) address biological sensitivity of the area;

(iii) address voluntary compensatory mitigation; and

(iv) be updated or revised in accordance with periodic CREZ updates, pursuant to commission proceedings.

(b) These guidelines are to take effect January 2008. Projects that may be developed prior to this date are encouraged to contact TPWD for recommendations.

- (4) In determining whether to designate an area as a CREZ and the number of CREZs to designate, the commission shall consider:
- (A) whether renewable energy resources and suitable land areas are sufficient to develop generating capacity from renewable energy technologies;
 - (B) the cost of constructing transmission capacity necessary to deliver to electric customers the electric output from renewable energy resources in the candidate zone;

- (C) the benefits of renewable energy produced in the candidate zone;
 - (D) the level of financial commitment by developers of renewable energy resources;
 - (E) coordination with TPWD prior to the enactment of the voluntary guidelines or compliance with the TPWD voluntary guidelines; and
 - (EF) any other factors considered appropriate by the commission as provided by PURA.
- (5) The commission shall issue a final order within six months of the initiation by commission staff of a CREZ proceeding, unless it finds good cause to extend the deadline. For each new CREZ it orders, the commission shall specify:
- (A) locations where renewable energy resources may connect to CREZ transmission facilities which shall be sited in close proximity to wind developments within the CREZ so as to limit the amount of additional transmission easements required to be obtained to interconnect with the CREZ transmission facilities;
 - (B) any necessary transmission upgrades inside the CREZ;
 - (C) the minimum generating capacity from renewable energy resources that the CREZ may accommodate and, if appropriate, the maximum generating capacity from renewable energy resources that the CREZ may accommodate;
 - (D) any necessary transmission upgrades outside the CREZ;

- (E) the entities responsible for the transmission upgrades, and any reporting requirements and other appropriate measures to ensure that the entities complete the ordered upgrades in a timely manner; and
- (F) any other requirement considered appropriate by the commission.

(b) **Level of financial commitment by generators.**

- (1) A renewable energy developer's existing renewable energy resources, for planned renewable energy resources, ~~signed interconnection agreements and executed leasing agreements with landowners in a proposed CREZ~~ are examples of indications of financial commitment by developers to the CREZ. The provision of documentation demonstrating that the wind developer is coordinating with the TPWD and adhering to the voluntary siting guidelines as detailed in §25.174(a)(3)(a), above, shall also be considered.
- (2) A non-utility entity's commitment to build and own transmission facilities dedicated to delivering the output of renewable energy resources in a proposed CREZ to the transmission system of an electric utility or a transmission utility in Texas or a deposit or payment to secure or fund the construction of such transmission facilities by an electric utility or a transmission utility to deliver the output of a renewable generation project in Texas is an indication of the entity's financial commitment to the CREZ.
- (3) To demonstrate a financial commitment for an area as a proposed CREZ for which transmission service would be provided by an ERCOT utility, a developer may deposit funds with ERCOT toward the future purchase of congestion revenue

rights (CRRs) that would be created in the event that the commission selects that region as a CREZ.

- (A) After the commission establishes the date for a proceeding to determine CREZs, ERCOT shall conduct an open season of not less than 60 days for accepting deposits for the purchase of CRRs . After the close of the open season, ERCOT shall report to the commission the total deposits for each candidate zone. A developer of renewable energy resources submitting a deposit shall specify a potential CREZ or a county, and shall state the developer's anticipated development level in megawatts of renewable energy capacity.
- (B) Deposited amounts, including accrued interest, may be applied towards the purchase of point-to-point CRRs for the export of electricity from a renewable energy resource in the CREZ for which the funds were deposited, and shall be used for no other purpose. CRRs may be of any type and any duration, as long as the source point for the CRR is a renewable energy resource in the CREZ. Ownership of an account is transferable and may be traded, assigned or pledged as security or collateral, but the deposits are not refundable except as provided in subparagraph (E) of this paragraph.
- (C) A deposit pursuant to this paragraph does not entitle the developer to any CRRs. A developer making a deposit shall comply with all requirements set forth in the ERCOT protocols in order to purchase CRRs.

- (D) A two-year CRR for a CREZ shall convert to a six-year CRR if the CRR is purchased with funds deposited pursuant to this paragraph, and if the deposit specified the CREZ included in the area served by the CREZ.
- (E) Any funds deposited pursuant to this paragraph shall be refunded to the developer making the deposit, with the exception of the nonrefundable \$150,000 amount, with accrued interest if: 1) the commission does not designate the associated region as a CREZ once the proceeding to determine CREZs is completed; ~~or~~ 2) the commission notifies the utilities that are identified to construct transmission facilities related to a CREZ to discontinue planning related to filing an application for a certificate of convenience and necessity for such transmission facilities; or 3) a regulatory or environmental issue (including but not limited to the existence of endangered or threatened species on the property determined through the voluntary wildlife siting process that cannot be accommodated) that materially impacts the economic benefits associated with the particular wind development is discovered and the wind developer notifies the Commission prior to the final order being issued in the relevant CREZ Certificate of Convenience and Necessity proceeding. The commission shall order a refund of the refundable portion of the deposit upon demonstration by the developer that it has completed construction of renewable energy resources in the CREZ at or in excess of the anticipated development level specified at the time the deposit was made.

- (4) In addition to the financial commitments reflected in paragraphs (1)-(3) of this subsection, a renewable energy developer may ~~commit to a progressive financial commitment~~ make a financial commitment (PFC) ~~schedule of potentially three stages of progressively increasing deposits of money to demonstrate interest in developing a specific quantity of renewable generation capacity associated with a specific candidate CREZ. Renewable energy capacity that completes a PFC schedule and is placed in commercial operation will receive a dispatch priority for operating in the CREZ to be specified in the CREZ determination order. All PFC deposits will be made to ERCOT.~~

(A) ~~The commission will order a refund of the Stage Two and Stage Three PFC deposits in the event the candidate CREZ is not designated as a CREZ, the certificates of convenience and necessity applications relating to a CREZ are denied, the developer's project is limited pursuant to subsection (d)(3) of this section, or after the developer has completed construction of renewable energy resources in the CREZ in proportion to the MW of commercial renewable resource to which they are assigned.~~

(AB) ~~Stage One PFC deposits of \$100 per MW of interest will be made in any open season conducted pursuant to subsection (b)(3)(A) of this section. Stage One PFC deposits received from wind developers are non-refundable and will be used to support studies as directed by the commission of technical, economic, environmental and customer-related issues relevant to wind power development. A Financial Commitment of no less than \$25,000 per MW will be required for each MW of interest~~

will be made in any open season conducted pursuant to subsection (b)(3)(A). The first \$150,000 of this amount will not be refundable and will be utilized to cover ERCOT transmission study costs related specifically to the technical challenges of integrating a large quantity of wind generation into the ERCOT grid system. Any remaining amounts would be used exclusively for the quantification of environmental and rural economic benefits, deliberative polls and to assist with efforts associated with the voluntary siting process set forth in subsection (a)(3)(a).

(C) The dispatch priority shall be developed by ERCOT in a manner that insures renewable resources without such priority are considered for curtailment before those with dispatch priority, while at the same time not changing the dispatch of non-renewable resources in a material way. The dispatch priority methodology developed by ERCOT shall also insure that similarly situated renewable resources with a dispatch priority share equitably in any curtailment that may be required of resources with a dispatch priority. ERCOT shall use the dispatch priority determined for renewable resources as a schedule input to the real time system security determination.

~~(B) Stage Two PFC additional deposits of \$2,000 per MW of interest, limited to the MW of interest established by each developer in its Stage One PFC deposit, will be made in any open season conducted pursuant to subsection (d)(1) of this section.~~

~~(C) Stage three PFC additional deposits of \$4,000 per MW of construction commitment interest, limited to the MW of interest established by each developer in its Stage Two PFC deposits, will be made in any open season conducted pursuant to subsection (d)(4) of this section.~~

(c) **Plan to develop transmission capacity.**

- (1) No later than one year after an order by the commission designating a CREZ, the utility or utilities providing transmission service in or to a CREZ shall file applications for all required certificates of convenience and necessity (CCNs) for transmission facilities identified by the commission in accordance with subsection (a)(5)(B) and (D) of this section that are necessary to deliver to electric customers the electric output from renewable energy technologies in the CREZ, subject to the provisions of subsection (d) of this section. The commission may allow additional time for a utility to file an application upon a showing of good cause by the utility. The commission may establish a filing schedule if a CREZ order requires numerous CCN applications.
- (2) A CCN application for a transmission project intended to serve a CREZ need not address the criteria in PURA §37.056(c)(1) and (2), except as provided in subsection (d)(4) of this section.
- (3) If an ERCOT utility receives a request to connect a non-renewable generation facility to transmission facilities approved under this section, the utility shall presume for the purpose of planning that the CREZ transmission facilities are fully utilized by renewable generation facilities. Transmission service to new non-renewable generation facilities provided by an ERCOT utility shall be in

addition to any CREZ transmission facilities ordered under this section, and shall be governed by §§25.191 through 25.203 of this title (relating to Open-Access Transmission Service within the Electric Reliability Council of Texas).

(d) **Requests for transmission interconnection service from ERCOT utilities.**

(1) As part of, or following the issuance of an order determining a CREZ for which transmission interconnection service would be provided by an ERCOT utility, the commission may establish an open season for developers of renewable energy facilities to request transmission interconnection service from points within the CREZ. To request transmission interconnection service under this paragraph, the developer shall notify the commission of its request, specifying the level in megawatts of renewable capacity and location of generation and transmission facilities it plans to construct and demonstrate that it has initiated the process for requesting such service by complying with §25.198(c)(1) of this title (relating to Initiating Transmission Service).

(2) If at the end of the open season the aggregate level of renewable ~~energy capacity~~ for which transmission interconnection service is requested for a CREZ exceeds the minimum level of renewable capacity specified in the CREZ order, the commission shall notify the utilities identified to provide the transmission interconnection service to proceed with planning for the filing of the CCN application related to the additional facilities needed to provide the transmission interconnection service. If the aggregate level of renewable energy for which transmission interconnection service is requested for a CREZ does not equal or exceed the minimum level of renewable capacity specified in the CREZ order, the

commission may notify the utilities identified to provide the transmission interconnection service to discontinue the planning related to the filing of the CCN application and not to file the application.

- (3) If the aggregate level of renewable energy for which transmission interconnection service is requested for a CREZ exceeds the maximum level of renewable capacity specified in the CREZ order, the commission may initiate a proceeding to limit interconnection to the transmission system in the CREZ to a level of renewable resources that is not in excess of the maximum and to identify the developers whose projects may interconnect to the transmission system in the CREZ. Priority in interconnecting to the transmission system shall be based on financial commitments of the developers, in accordance with subsection (b) of this section. In determining such priority, the commission may also consider the progress that a developer has made in obtaining the transmission interconnection studies required only if all competing sites have some access to transmission such that all sites are capable of requesting and obtaining transmission studies, otherwise efforts to obtain transmission interconnection agreements for a new generator interconnection as indications of financial commitment shall not be considered. In the event a FC has been made for a particular candidate zone, such FC shall be given first priority. In the event the FCs made for a particular candidate zone exceed the capacity of the transmission facilities, a blind bid process shall be used until such time as the FC amounts are within the capability of the transmission facilities to serve the CREZ developments. In the alternative,

the Commission may require expansion of the proposed transmission infrastructure.

(4) During the CCN proceeding for the approval of transmission facilities to provide transmission service from a CREZ, the commission may establish an open season for developers of renewable energy facilities to request interconnection agreements for transmission service from points within the CREZ. A developer that requests an interconnection agreement shall comply with the deposit requirement in §25.195(c) of this title. If the aggregate level of renewable energy for which interconnection agreements are requested for a CREZ does not equal or exceed the minimum level of renewable capacity specified in the CREZ order, the commission may deny the CCN application on the basis that there is not a need for the facilities.