



Control Number: 39518



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**PROJECT NO. 39518**

**RULEMAKING RELATED TO §  
IMPLEMENTATION OF SB 855, § PUBLIC UTILITY COMMISSION  
AMENDING PROC. R. 22.52, §  
RELATING TO NOTICE IN § OF TEXAS  
LICENSING PROCEEDINGS §**

**PROPOSAL FOR PUBLICATION OF AN AMENDMENT TO §22.52  
AS APPROVED AT THE JULY 8, 2011 OPEN MEETING**

The Public Utility Commission of Texas (commission) proposes amending §22.52, relating to notice in licensing proceedings. The amendment adds the requirement that notice for an application for a certificate of convenience and necessity (CCN) related to electric service be provided to the Office of Public Utility Counsel (OPUC), pursuant to Senate Bill 855 of the 82<sup>nd</sup> Legislature, Regular Session in 2011 (SB 855). Project Number 39518 is assigned to this proceeding.

Jason Haas, an attorney in the commission's Legal Division, has determined that for each year of the first five-year period the amendment is in effect, there will be no fiscal implications for state or local government as a result of enforcing or administering the amendment.

Mr. Haas has determined that for each year of the first five years the amendment is in effect, the public benefit anticipated as a result of enforcing the rule will be compliance with SB 855. There will be a small economic cost to persons who are required to comply with the amendment as proposed, and these costs are necessary to comply with SB 855. There will be no adverse economic effect on small businesses or micro-businesses as a result of enforcing the amendment. Therefore, no regulatory flexibility analysis is required.

Mr. Haas has also determined that for each year of the first five years the amendment 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 (APA), Texas Government Code §2001.022.

The commission staff will conduct a public hearing on this rulemaking, if requested pursuant to APA §2001.029, at the commission's offices located in the William B. Travis Building, 1701 North Congress Avenue, Austin, Texas 78701. The request for a public hearing must be received within 20 days after publication.

Comments on the rule may be submitted to the Filing Clerk, Public Utility Commission of Texas, 1701 North Congress Avenue, P.O. Box 13326, Austin, Texas 78711-3326. Sixteen copies of comments on the rule are required to be filed pursuant to §22.71(c) of this title. Initial comments on the rule are due 20 days after publication and reply comments are due 27 days after publication. Comments should be organized in a manner consistent with the organization of the amended rule. All comments should refer to Project Number 39518.

The amendment is proposed under the Public Utility Regulatory Act, Texas Utilities Code Annotated §14.002 (Vernon 2007 and Supp. 2010) (PURA), which requires the commission to adopt and enforce rules reasonably required in the exercise of its power and jurisdiction; PURA §14.052 and Administrative Procedure Act (APA), Texas Government Code §2001.004 (Vernon 2008 & Supp. 2010), which require the commission to adopt procedural rules; and specifically,

SB 855 §2 (to be codified as PURA §37.054), which requires that notice of a CCN application related to electric service be provided to OPUC.

Cross Reference to Statutes: PURA §§14.002 and 14.052, APA §2001.004, and SB 855 §2 (to be codified as PURA §37.054).

**§22.52. Notice in Licensing Proceedings.**

(a) Notice in electric licensing proceedings. In all electric licensing proceedings except minor boundary changes, the applicant shall give notice in the following ways:

(1) (No change.)

(2) Applicant shall, upon filing an application, also mail notice of its application to municipalities within five miles of the requested territory or facility, neighboring utilities providing the same utility service within five miles of the requested territory or facility, and the county government(s) of all counties in which any portion of the proposed facility or requested territory is located. In addition, the applicant shall, upon filing the application, serve the notice on the Office of Public Utility Counsel using a method specified in §22.74(b) of this title (relating to Service of Pleadings and Documents). The notice shall contain the information as set out in paragraph (1) of this subsection and a map as described in paragraph (1)(C) of this subsection. An affidavit attesting to the provision of notice to municipalities, utilities, ~~and~~ counties, and the Office of Public Utility Counsel shall specify the dates of the provision of notice and the identity of the individual municipalities, utilities, and counties to which such notice was provided. Before final approval of any modification in the applicant's proposed route(s), applicant shall provide notice as required under this paragraph to municipalities, utilities, and counties affected by the modification which have not previously received notice. The notice of modification shall state such entities will have 20 days to intervene.

(3) – (7) (No change.)

(b) (No change.)

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

**ISSUED IN AUSTIN, TEXAS ON THE 8<sup>th</sup> DAY OF JULY 2011 BY THE  
PUBLIC UTILITY COMMISSION OF TEXAS  
ADRIANA A. GONZALES**

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