



Control Number: 41747



Item Number: 2

Addendum StartPage: 0

2013 SEP -5 PM 2:20

## OPEN MEETING COVER SHEET

**MEETING DATE:** September 12, 2013

**DATE DELIVERED:** September 5, 2013

**AGENDA ITEM NO.:** 14

**CAPTION:** *Project No. 41747, Rulemaking to Implement HB 994, Relating to Extending Eligibility Dates for Nuclear Decommissioning Trusts Qualifying under PURA 39.206*

**ACTION REQUESTED:** Discussion and possible action with respect to proposal for publication.

**Distribution List:**

Commissioners' Office (8)  
Lloyd, Brian  
Albright, Jim  
Central Records  
Rogas, Keith (2)  
Urban, John Paul  
Younger, Joseph (4)  
Journeay, Stephen  
Renfro, Mike  
Tietjen, Darryl (2)  
Long, Mick (2)  
Whittington, Pam (3)  
Hunter, Tom  
Gonzales, Adriana (if rulemaking)

***Public Utility Commission of Texas***

**Memorandum**

2013 SEP -5 PM 2:20

PUBLIC UTILITY FILING CLERK

To: Chairman Donna L. Nelson  
Commissioner Kenneth W. Anderson, Jr.  
Commissioner Brandy D. Marty

From: Slade Cutter, Rate Regulation Division  
Jason Haas, Legal Division

Re: Open Meeting, September 12, 2013—Agenda Item #14  
*Project No. 41747, Rulemaking to Implement HB 994, Relating to Extending Eligibility Dates for Nuclear Decommissioning Trusts Qualifying under PURA 39.206 (Proposal for Publication)*

Date: August 29, 2012

Attached to this memo please find the Staff recommendation for publication of amended Substantive Rule §25.304, Relating to Nuclear Decommissioning Funding and Requirements for Power Generation Companies.

The rule as amended will implement HB 994 by extending from January 15, 2015 to January 1, 2033, the date by which construction of a qualifying nuclear generating unit shall start in order for the terms that are established in §25.304 to apply to its decommissioning trust.

We are available to answer any questions you may have about the proposed rule.

**PROJECT NO. 41747**

<b>RULEMAKING TO IMPLEMENT</b>	<b>§</b>	<b>PUBLIC UTILITY COMMISSION</b>
<b>HB 994, RELATING TO EXTENDING</b>	<b>§</b>	
<b>ELIGIBILITY DATES FOR NUCLEAR</b>	<b>§</b>	<b>OF</b>
<b>DECOMMISSIONING TRUSTS</b>	<b>§</b>	
<b>QUALIFYING UNDER PURA 39.206</b>	<b>§</b>	<b>TEXAS</b>

**(STAFF DRAFT RECOMMENDATION)**  
**PROPOSAL FOR PUBLICATION OF AMENDMENT TO §25.304**  
**FOR CONSIDERATION AT THE SEPTEMBER 12, 2013 OPEN MEETING**

1 The Public Utility Commission of Texas (commission) proposes an amendment to §25.304,  
2 relating to Nuclear Decommissioning Funding and Requirements for Power Generation  
3 Companies, to implement House Bill 994 of the 83<sup>rd</sup> Legislature, Regular Session in 2013 (HB  
4 994). The proposed amendment would extend from January 15, 2015 to January 1, 2033 the date  
5 by which construction of a qualifying nuclear generating unit shall start in order for the terms  
6 that are established in the rule to apply to its decommissioning trust. Project Number 41747 is  
7 assigned to this proceeding.

8 Slade Cutter, Senior Financial Analyst, Rate Regulation Division, has determined that for each  
9 year of the first five-year period the section is in effect there will be no fiscal implications for  
10 state or local government as a result of enforcing or administering the section.

11 Mr. Cutter has determined that for each year of the first five years the proposed section is in  
12 effect the public benefit anticipated as a result of enforcing the section will be compliance with  
13 HB 994 and PURA §39.206. There will be no adverse economic effect on small businesses or  
14 micro-businesses as a result of enforcing the section. Therefore, no regulatory flexibility  
15 analysis is required. There is no anticipated economic cost to persons who are required to  
16 comply with the section as proposed.

1 Mr. Cutter has also determined that for each year of the first five years the proposed section is in  
2 effect there should be no effect on a local economy, and therefore no local employment impact  
3 statement is required under Administrative Procedure Act (APA), Texas Government Code  
4 §2001.022.

5 The commission staff will conduct a public hearing on this rulemaking, if requested pursuant to  
6 the Administrative Procedure Act, Texas Government Code §2001.029, at the commission's  
7 offices located in the William B. Travis Building, 1701 North Congress Avenue, Austin, Texas  
8 78711. The request for a public hearing must be received within 20 days after publication.

9 Initial comments on the amendment may be submitted to the Filing Clerk, Public Utility  
10 Commission of Texas, 1701 North Congress Avenue, P.O. Box 13326, Austin, Texas 78711-  
11 3326, within 20 days after publication. Reply comments may be submitted within 27 days after  
12 publication. Sixteen copies of comments and replies on the amendment are required to be filed  
13 pursuant to §22.71(c) of this title. Comments should be organized in a manner consistent with  
14 the organization of the amended rule. All comments should refer to Project Number 41747.

15 This amendment is proposed under the Public Utility Regulatory Act, Texas Utilities Code  
16 Annotated §14.002 (PURA), which provides the Public Utility Commission with the authority to  
17 make and enforce rules reasonably required in the exercise of its powers and jurisdiction; and  
18 specifically, HB 994, which amends PURA §39.206(a)(3) and (b), effective May 18, 2013, by  
19 extending the time period during which construction of a nuclear generating unit shall be started  
20 in order for the terms that are established in §25.304 to apply to its decommissioning trust.

- 1 Cross Reference to Statutes: Public Utility Regulatory Act §39.206 and HB 994 (which amends
- 2 PURA §39.206(a)(3) and (b)).

1 **§25.304. Nuclear Decommissioning Funding and Requirements for Power Generation**  
2 **Companies.**

3 (a) (No change.)

4 (b) **Applicability.** A PGC owning all or a portion of a qualifying nuclear generating unit  
5 may use a PGC decommissioning trust as an external sinking fund in compliance with  
6 this section, provided that the use of the methods of financial assurance set out in this  
7 section shall be available only to the first six nuclear generating units the construction  
8 of which~~under construction~~ begins on or after January 1, 2013, and before January 1,  
9 2033~~after January 1, 2007 and before January 15, 2015,~~ that elect to use a PGC  
10 decommissioning trust.

11 (c)-(o) (No change.)

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

3           **ISSUED IN AUSTIN, TEXAS ON THE \_\_\_\_\_ DAY OF \_\_\_\_\_ 2013 BY THE**  
4                           **PUBLIC UTILITY COMMISSION OF TEXAS**  
5                           **ADRIANA A. GONZALES**