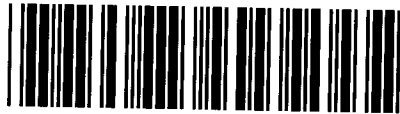


Control Number: 44650



Item Number: 12

Addendum StartPage: 0

RULEMAKING PROCEEDING TO
AMEND P.U.C. SUBST. R. 25.503
RELATING TO OVERSIGHT OF
WHOLESALE MARKET
PARTICIPANTS

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BEFORE THE
PUBLIC UTILITY COMMISSION
OF TEXAS

2015 JUL 26 PM 2:26
PUBLIC UTILITY COMMISSION
FILED
CLERK

**LOWER COLORADO RIVER AUTHORITY'S,
LCRA TRANSMISSION SERVICES CORPORATION'S, AND CPS ENERGY'S INITIAL
JOINT COMMENTS REGARDING PROPOSED AMENDMENTS TO § 25.503**

TO THE HONORABLE PUBLIC UTILITY COMMISSION OF TEXAS:

The Lower Colorado River Authority ("LCRA"), LCRA Transmission Services Corporation ("LCRA TSC"), and CPS Energy¹ submit the following comments in response to the amendments proposed by the Public Utility Commission of Texas ("Commission") to P.U.C. Substantive Rule 25.503, as published in the *Texas Register* on June 5, 2015.²

I. INTRODUCTION AND OVERVIEW

LCRA is a political subdivision of the State of Texas, created and functioning as a non-profit conservation and reclamation district under Article XVI, Section 59 of the Texas Constitution. LCRA has no taxing authority, receives no general funds in the legislative appropriation process, and relies on its own authority to generate revenues to provide its operating funds. LCRA is a significant participant in the Electric Reliability Council of Texas ("ERCOT") wholesale power market, owning and operating directly or indirectly more than 3,700 MW of diverse generation resources and procuring nearly 400 MW of wind-generated power. LCRA serves the power needs of 32 wholesale customers, making LCRA the primary wholesale power provider in central Texas.

LCRA TSC is a nonprofit corporation created by LCRA to facilitate structural unbundling in accordance with Senate Bill 7. It owns and operates substantial transmission, transformation and metering facilities, including over 5,100 miles of transmission lines, and serves transmission

¹ CPS EnergyTM is the trade name of City Public Service of San Antonio, acting by and through the City Public Service Board.

² Proposal for Publication of Amendment of §25.503 as Approved as the May 21, 2005 Open Meeting (May 29, 2015); see 40 TEX. REG. 3294 (June 5, 2015).

customers in the ERCOT system in accordance with Commission rules and ERCOT Protocols and Operating Guides.

CPS Energy is the nation's largest municipally owned energy utility providing both natural gas and electric service. CPS Energy serves more than 765,000 electric customers and 335,000 natural gas customers in and around San Antonio, the nation's seventh largest city. CPS Energy is an active participant in the ERCOT wholesale power market, providing power from a diverse mix of nuclear, coal-fired, natural-gas-fired, and renewable generation resources. In addition, CPS Energy is a transmission and distribution utility serving customers in its certificated service area.

LCRA, LCRA TSC, and CPS Energy appreciate the opportunity to provide comments on the Commission's proposed amendments to Substantive Rule 25.503. The rule fundamentally affects the day-to-day operation of the ERCOT wholesale power market, as well as the reliable functioning of the ERCOT electric transmission system, so contemplation of any changes to the rule is a matter of high importance to market participants, including LCRA, LCRA TSC, and CPS Energy. Because of that importance, LCRA, LCRA TSC, and CPS Energy commend the Commissioners and Commission Staff for the work they have already done to seek stakeholder input regarding potential amendments to this critical rule.

II. COMMENTS

LCRA, LCRA TSC, and CPS Energy support the process enhancements described in the Joint Comments of Luminant and Exelon. LCRA, LCRA TSC, and CPS Energy agree with the Joint Commenters that these modifications provide an effective framework for the Commission to investigate and pursue enforcement in cases that involve material instances of non-compliance, consistent with the standards and enforcement criteria set forth in existing subsection (d) of the rule, while granting the Commission the flexibility to engage with market participants to resolve minor issues of non-compliance that do not materially impact reliability or market efficiency.

Indeed, the proposed revisions are critical to ensuring that the standards and enforcement criteria in subsection (d) guide the Commission's investigation and enforcement activities, which will enhance administrative efficiency and promote a robust compliance culture among ERCOT market participants. Specifically, by expressly acknowledging a separate administrative track for processing minor compliance issues that do not pose a material threat to reliability, the Commission will be better equipped to devote resources to instances of non-compliance that

warrant formal enforcement. Moreover, this approach would increase the overall transparency of both market participants' compliance processes and the oversight and enforcement process.

Market participants will be further incented to invest resources in robust internal controls and openly engage Commission Staff in resolving potential issues before they develop into significant reliability or market efficiency concerns. And by injecting the standards and enforcement criteria into the sections of the rule that prescribe the procedures for reviewing and evaluating market participants' behavior, those procedures are more likely to be consistently and predictably applied in line with the objectives of the Public Utility Regulatory Act ("PURA").³

Consistent with these objectives and the goals identified in the Proposal for Publication, LCRA, LCRA TSC, and CPS Energy also recommend specific clarifying revisions to enhance the oversight and enforcement process, as discussed further below.

A. Subsection (c) – Definition of "Reliability Monitor"

The proposed definition of Reliability Monitor identifies it as the entity responsible for monitoring compliance "with all state reliability-related laws, rules, and ERCOT procedures including protocols, processes and any other operating standards applicable to the ERCOT region." The Commission should modify this definition, as shown below, to recognize that compliance is mandatory only with respect to those ERCOT procedures that are binding on market participants, as opposed to standards that are merely advisory or are promulgated in a non-binding ERCOT document:

- (c)(6) Reliability Monitor—A person or entity selected by the commission to monitor compliance with all state reliability-related laws, rules, and binding ERCOT procedures including protocols, processes and any other mandatory operating standards applicable to the ERCOT region.

B. Subsection (l) – Selection of the Reliability Monitor

As explained in Commission Staff's May 14, 2015 memo to the Commissioners in this project, the Texas Reliability Entity, Inc. ("Texas RE") and ERCOT currently perform the oversight functions required by Substantive Rule 25.503. And of course Commission Staff also performs additional market oversight and enforcement functions. Thus, today, oversight is

³ Public Utility Regulatory Act, TEX. UTIL. CODE ANN. §§ 11.001 – 66.017 (West 2007 & Supp. 2013).

conducted in compliance with the general objectives of the rule, under a statutory and contractual arrangement mutually agreed to among the Commission, ERCOT, and the Texas RE.

Commission Staff's memo cites the historical elimination of two divisions—the “ERCOT Compliance Office” and the Texas Regional Entity—as the impetus for the proposed revisions to Substantive Rule 25.503, including the creation of a “Reliability Monitor” selected by the Commission to oversee compliance with all reliability-related laws, rules, and procedures. To the extent the rule needs to be updated to more accurately reflect the entities that perform oversight functions today and their respective roles and responsibilities, LCRA, LCRA TSC, and CPS Energy support this proposed revision. At the same time, LCRA, LCRA TSC, and CPS Energy urge the Commission to adopt rigorous standards for the approval of a Reliability Monitor with the requisite knowledge, systems, and experience to efficiently and effectively fulfill the responsibilities outlined in proposed subsection (k) of Substantive Rule 25.503.

As proposed, new subsection (l) states that the Commission “will give great weight” to specific enumerated criteria, including the entity’s experience performing compliance monitoring of reliability-related laws, familiarity with the ERCOT region, and cost-effectiveness. These important criteria should not merely be suggested considerations to be weighed, but rather mandatory requirements for selecting the Reliability Monitor.

First and foremost, the selected entity must demonstrate that it has the necessary technical qualifications and infrastructure to perform the responsibilities of Reliability Monitor. This includes having a Reliability Monitor that is independent, objective, and fair, and that is able to promote a culture of reliability and effectively engage with market participants. It must also be familiar not only with the ERCOT region generally, but have specific knowledge and understanding regarding ERCOT market operations, the types and configuration of facilities in ERCOT, and the ERCOT stakeholder committees and processes.

Consistent with this approach, LCRA, LCRA TSC, and CPS Energy propose the following changes:

- (l) **Selection of the Reliability Monitor.** In selecting the reliability monitor, the commission must consider whether the Reliability Monitor satisfies ~~will give great weight to~~ the following criteria:
 - (1) Independent, objective, and without Avoidance of possible conflicts of interest;

- (2) Experience performing compliance monitoring of reliability-related laws;
- (3) Familiarity with the ERCOT Region and demonstrated understanding in reliability-related ERCOT Protocols, procedures, and other operating standards;
- (4) Demonstrated ability to manage confidential information appropriately; and
- (5) Cost effectiveness.

III. CONCLUSION

LCRA, LCRA TSC, and CPS Energy appreciate the Commission's consideration of these comments and request that the Commission adopt the recommendations described herein.

Respectfully submitted,

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