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Received - 2022-06-15 02:49:20 PM
Control Number - 53403
ItemNumber - 4

PROJECT NO. 53403

REVIEW OF CHAPTER 25.101 CERTIFICATION CRITERIA

§ PUBLIC UTILITY COMMISSION § OF TEXAS

The Staff of the Public Utility Commission of Texas (Commission Staff) requests comments on the attached discussion draft, which proposes to amend 16 TAC §25.101, relating to Certification Criteria. The primary purpose of the proposed amendments to §25.101 is to implement requirements of Senate Bill 1281 enacted by the 87th legislature. The proposed amendments would (i) require the use of a congestion cost savings consumer benefit test for evaluating economic transmission projects; (ii) require the commission to consider historical load, forecasted load growth, and additional load seeking interconnection when evaluating the need for additional Electric Reliability Council of Texas (ERCOT) reliability transmission projects; (iii) clarify which projects or activities do not require an electric utility to amend a transmission CCN; and (iv) and require ERCOT to conduct a biennial assessment of the ERCOT power grid's reliability in extreme weather scenarios to recommend transmission projects.

Commission Staff requests comments from market participants and other interested persons on the proposed amendments to §25.101 and additional policy issues. Commission Staff also requests comments on the following questions:

1. **Consumer Benefits Test:** PURA § 37.056(d) directs the commission to adopt criteria for evaluating proposed transmission projects that are not primarily driven by reliability considerations. These projects are classified as economic transmission projects. By statute – and as proposed in this discussion draft – the criteria adopted by the commission must include a consideration of the expected current and future congested cost savings for consumers of a proposed economic transmission project. This criterion is commonly referred to as a “consumer benefits test.” What additional details, if any, should the commission consider with respect to the statutorily-required congestion cost savings consumer benefits test proposed as 16 TAC §25.101(b)(3)(A)(i)(I) below? Why?
2. **Critical for Reliability Designations:** Under §25.101(b)(3)(D), “Applications for transmission lines which have been formally designated by [ERCOT] as critical to the reliability of the system shall be considered by the commission on an expedited basis.” Should the commission establish

either general or specific criteria for how ERCOT reviews and designates certain transmission projects as critical for reliability? If possible, please provide recommended language or specific suggestions on the criteria the commission should establish.

3. **Resiliency:** Transmission projects are currently categorized as either reliability projects, which are required to reliably serve load under NERC standards and the ERCOT Nodal Protocols, or economic projects, which are evaluated based on effectiveness and estimated cost. Should the commission establish a third category of transmission projects based on resiliency? Alternatively, should resiliency be considered when evaluating reliability projects?
 - a. What would resiliency criteria look like? What types of projects would be categorized as resiliency projects?
 - b. Should the commission adopt a definition of resiliency? If so, how should resiliency be defined?
 - c. What is the relationship between resiliency and reliability? What role does redundancy play in evaluating resiliency and reliability?

Interested persons may propose alternative language as a part of their filed comments. Interested persons may submit written comments on this discussion draft by **July 8, 2022** and reply comments by **July 22, 2022**. Comments should be organized in a manner consistent with the organization of the draft rule amendments. Comments may be filed through the interchange on the commission's website or by sending a copy to commission's Filing Clerk, Public Utility Commission of Texas, 1701 North Congress Avenue, P.O. Box 13326, Austin, Texas 78711-3326. **Each set of comments should include a standalone executive summary as the last page of the filing. This executive summary must be clearly labeled with the submitting entity's name and should include a bulleted list covering each substantive recommendation made in the comments.**

Questions concerning this notice should be referred to David Smeltzer, Division Director of Rules and Projects, (512) 936-7132. Deaf and hard of hearing individuals with text telephones (TTY) may contact the Commission through Relay Texas by dialing 7-1-1.

§25.101. Certification Criteria.

- (a) No change.
- (b) **Certificates of convenience and necessity for new service areas and facilities.** Except for certificates granted under subsection (e) of this section, the commission may grant an application and issue a certificate only if it finds that the certificate is necessary for the service, accommodation, convenience, or safety of the public, and complies with the statutory requirements in the Public Utility Regulatory Act (PURA) §37.056. The commission may issue a certificate as applied for, or refuse to issue it, or issue it for the construction of a portion of the contemplated system or facility or extension thereof, or for the partial exercise only of the right or privilege. The commission ~~will~~shall render a decision approving or denying an application for a certificate within one year of the date of filing of a complete application for such a certificate, unless good cause is shown for exceeding that period. A certificate, or certificate amendment, is required for the following:

(1)-(2) No change.

- (3) **Electric transmission line.** All new electric transmission lines ~~must~~shall be reported to the commission in accordance with §25.83 of this title (relating to Transmission Construction Reports). This reporting requirement is also applicable to new electric transmission lines to be constructed by an MPE seeking to directly or indirectly construct, install, or extend a transmission facility outside of its applicable boundaries. For an MOU, the applicable boundaries are the municipal boundaries of the municipality that owns the MOU. For an MPA, the applicable boundaries are the municipal boundaries of the public entities participating in the MPA.

(A) **Determination of need:**

- (i) ~~Except as stated below, the following must be met for a transmission line in the ERCOT power region.~~ The applicant must present an economic cost-benefit study ~~that includes~~ In addition to the following requirements, other direct and indirect costs and benefits to the transmission system attributable to the project may be included in the cost-benefit study. The commission ~~will~~shall give great weight to such a study if it is conducted by the ERCOT independent system operator. The study must include:
- (I) an analysis of whether the estimated annual congestion cost savings for consumers, considering both current and future expected congestion levels, are equal to or greater than the first-year annual revenue requirement of the proposed project of which the transmission line is a part, and
- (II) an analysis of whether~~that shows that~~ the levelized ERCOT- wide annual production cost savings attributable to the proposed project are equal to or greater than the first-year annual revenue requirement of the proposed project of which the transmission line is a part.

(ii) Except as stated below, a transmission line in the ERCOT region must demonstrate savings under (i)(I) or (i)(II) of this subparagraph.

(iii) The requirements of (i) and (ii) do~~This requirement also does not~~ apply to an application for a transmission line that is necessary to meet state or federal reliability standards, including: a transmission line needed to interconnect a transmission service customer or end-use customer; or needed due to the requirements of any federal, state, county, or municipal government body or agency for purposes including, but not limited to, highway transportation, airport construction, public safety, or air or water quality.

(iv) For a transmission line not addressed by clause (i) and (ii) of this subparagraph, the commission will~~shall~~ consider, among other factors, the needs of the interconnected transmission systems to support a reliable and adequate network and to facilitate robust wholesale competition. When evaluating reliability for a proposed project in the ERCOT region, the commission will consider the historical load, forecasted load growth, and additional load currently seeking interconnection. The commission will~~shall~~ give great weight to:

(I) the recommendation of an organization that meets the requirement of PURA §39.151; and/or

(II) written documentation that the transmission line is needed to interconnect a transmission service customer or ~~an end-use~~ a retail customer.

(B) **Routing:** An application for a new transmission line must~~shall~~ address the criteria in PURA §37.056(c) and considering those criteria, engineering constraints, and costs, the line must~~shall~~ be routed to the extent reasonable to moderate the impact on the affected community and landowners unless grid reliability and security dictate otherwise. The following factors must~~shall~~ be considered in the selection of the utility's alternative routes unless a route is agreed to by the utility, the landowners whose property is crossed by the proposed line, and owners of land that contains a habitable structure within 300 feet of the centerline of a transmission project of 230 kV or less, or within 500 feet of the centerline of a transmission project greater than 230 kV, and otherwise conforms to the criteria in PURA §37.056(c):

(i) whether the routes parallel or utilize existing compatible rights-of-way for electric facilities, including the use of vacant positions on existing multiple-circuit transmission lines;

(ii) whether the routes parallel or utilize other existing compatible rights-of-way, including roads, highways, railroads, or telephone

utility rights-of-way;

(iii) whether the routes parallel property lines or other natural or cultural features; and

(iv) whether the routes conform with the policy of prudent avoidance.

(C) **Uncontested transmission lines:** An application for a certificate for a transmission line ~~will~~shall be approved administratively within 80 days from the date of filing a complete application if:

(i) no motion to intervene has been filed or the application is uncontested; and

(ii) commission staff has determined that the application is complete and meets all applicable statutory criteria and filing requirements, including, but not limited to, the provision of proper notice of the application.

(D) **Projects deemed critical to reliability.** Applications for transmission lines which have been formally designated by a PURA §39.151 organization as critical to the reliability of the system ~~will~~shall be considered by the commission on an expedited basis. The commission ~~will~~shall render a decision approving or denying an application for a certificate under this subparagraph within 180 days of the date of filing a complete application for such a certificate unless good cause is shown for extending that period.

(E) **Grid reliability assessment.** The independent organization certified under PURA §39.151 for the ERCOT region must conduct a biennial assessment of the ERCOT power grid's reliability in the extreme weather scenarios. Each assessment must:

(i) consider the impact of different levels of thermal and renewable generation availability; and

(ii) recommend transmission projects that may increase the grid's reliability in extreme weather scenarios.

(4) No change.

(c) **Projects or activities not requiring a certificate.** A certificate, or certificate amendment, is not required for the following:

(1) ~~A contiguous~~ **An extension of these facilities** ~~as~~ described in PURA §37.052 ~~(a) and (b);~~

(2)-(4) No change.

(5) Routine activities associated with transmission facilities that are conducted by transmission service providers. Nothing contained in the following subparagraphs should be construed as a limitation of the commission's authority as set forth in PURA. Any activity described in the following subparagraphs ~~must~~shall be reported to the commission in accordance with §25.83 of this title. The commission may require additional facts or call a public hearing thereon to determine whether a certificate of convenience and necessity is required. Routine activities are defined as follows:

(A) The modification, construction, or extension of ~~an existing~~ a transmission

line solely to provide service to that connects the transmission service provider's existing transmission facilities to a substation or metering point provided that:

(i) an extension to a substation or metering point the transmission line modification, construction, or extension does not exceed:

(I) one three miles if the line connects to a load-serving substation or metering point; or

(II) two miles if the line connects to a generation substation or metering point; and

(ii) all rights-of-way necessary for the modification, construction, or extension have been purchased, and

(iii) all landowners whose property is crossed directly affected by the transmission line, as defined in §22.52(a)(3) of this title, have given prior written consent for the modification, construction, or extension. If the transmission line modification, construction, or extension is under one mile to provide service to a substation or metering point, written consent is only required by landowners whose property is crossed by the transmission line.

(B)-(F) No change.

(6)-(7) No change.

(d)-(g) No change.