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PROJECT NO. ~~37897~~

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PUBLIC UTILITY COMMISSION
FILING CLERK

PUC PROCEEDING RELATING TO § **PUBLIC UTILITY COMMISSION**
RESOURCE AND RESERVE §
ADEQUACY AND SHORTAGE § **OF TEXAS**
PRICING §

**PROPOSAL FOR PUBLICATION OF NEW §25.508
AS APPROVED AT THE APRIL 12, 2012 OPEN MEETING**

The Public Utility Commission of Texas (commission) proposes new §25.508, relating to the High System-Wide Offer Cap in the Electric Reliability Council of Texas Power Region. The proposed new §25.508, notwithstanding §25.505, would increasing the high system-wide offer cap to \$4,500 beginning August 1, 2012 through May 31, 2013. The new section is a competition rule subject to judicial review as specified in Public Utility Regulatory Act (PURA) §39.001(e).

Although Texas currently has an adequate and reliable supply of electricity available to meet its projected demands, the Commission seeks to ensure that all possible generating units are available and ready to serve the Electric Reliability Council of Texas (ERCOT) market during the upcoming summer months. For the specified time period, the proposed new section increases the high system-wide offer cap applicable to resources in the ERCOT market to ensure that the price signals in the ERCOT market are adequate to maintain continuous electric supply for this summer. In *P.U.C. Rulemaking to Amend P.U.C. SUBST. R. 25.505, Relating to Resource Adequacy in the Electric Reliability Council of Texas (ERCOT) Power Region*, Project Number 40268, the commission is proposing changes to the ERCOT offer caps for time periods after May 31, 2013.

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Shawnee Claiborn-Pinto, Director of the Wholesale Markets Section, Competitive Markets Division, has determined that for the time period the new section is operative (August 1, 2012 through May 31, 2013) and thereafter, there will be no fiscal implications for state or local government as a result of enforcing or administering the new section.

Ms. Claiborn-Pinto has determined that for the time period that the new section is operative, the public benefit expected as a result of the new section is greater assurance of resource adequacy in the ERCOT wholesale electricity market. In an energy-only market, like ERCOT, the economic incentive to bring capacity to the market comes from scarcity-induced price signals rather than direct payments that are charged to all load-serving entities (LSEs), as is done in some other regions. The new section will ensure that stronger scarcity-induced prices are sent to the ERCOT market to further encourage generation resources to be on-line and help ensure that there is adequate generation in the ERCOT market. In addition, stronger scarcity-induced price signals will provide a greater incentive for loads to voluntarily reduce their demand during times of scarcity. Ms. Claiborn-Pinto has also determined that after May 31, 2013, there are no direct public benefits expected as a result of the new section. However, in conjunction with Project Number 40268, the commission's action through the new section to raise the high system-wide offer cap to \$4,500 beginning August 1, 2012 through May 31, 2013 is expected to encourage the development of generation resources longer term.

Ms. Claiborn-Pinto has determined that for the time period that the new section is operative, there are no probable economic costs to persons required to comply with the new section, except that ERCOT may incur small costs to administer the scarcity pricing mechanism. After May 31,

2013, there are no probable economic costs to persons required to comply with the section. Ms. Claiborn-Pinto has also determined that the new section will not have an adverse economic effect on small businesses or micro-businesses as a result of enforcing the section.

Ms. Claiborn-Pinto has also determined that for the time period that the new section is operative and thereafter, there will be no effect on a local economy, and therefore no local employment impact statement is required under Texas Government Code §2001.022.

The commission staff will conduct a public hearing on this rulemaking, if requested pursuant to the Administrative Procedure Act, Texas Government Code §2001.029, beginning at 9:30 a.m. on Tuesday, May 29, 2012, 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 by May 21, 2012.

Comments on the proposed section may be submitted to the Filing Clerk, Public Utility Commission of Texas, 1701 North Congress Avenue, P.O. Box 13326, Austin, Texas 78711-3326, no later than Tuesday, May 29, 2012. Sixteen copies of comments on the proposed section are required to be filed pursuant to §22.71(c) of this title. All comments should refer to Project Number 37897.

The commission also requests comments on the following question:

The direct effect of the new section will be to allow resources to offer services in the ERCOT ancillary service auctions at higher prices. In turn, this direct effect is expected to increase

revenues to resources, which will be paid for by LSEs, including retail electric providers.

Will the new section implicate the provisions of §25.475 that allow retail electric providers to change rates in fixed-rate products for retail customers due to “changes resulting from federal, state or local laws that impose new or modified fees or costs on a REP that are beyond the REP’s control?”

The new section is proposed under the Public Utility Regulatory Act, Texas Utilities Code Annotated §14.002 (West 2007 and Supp. 2011) (PURA), which provides the commission with the authority to make and enforce rules reasonably required in the exercise of its powers and jurisdiction, and specifically; §35.004, which requires that the commission ensure that ancillary services necessary to facilitate the transmission of electric energy are available at reasonable prices with terms and conditions that are not unreasonably preferential, prejudicial, discriminatory, predatory, or anticompetitive; PURA §39.001, which establishes the Legislative policy to protect the public interest during the transition to and in the establishment of a fully competitive electric power industry; §39.101, which establishes that customers are entitled to safe, reliable, and reasonably priced electricity, and gives the commission the authority to adopt and enforce rules to carry out these provisions; and §39.151, which grants the commission oversight and review authority over independent organizations such as ERCOT.

Cross Reference to Statutes: PURA §§14.002, 35.004, 39.101, 39.151, and 39.151.

§25.508. High System-Wide Offer Cap in the Electric Reliability Council of Texas Power Region.

Notwithstanding §25.505 of this title (relating to Resource Adequacy in the Electric Reliability Council of Texas Region), the high system-wide offer cap shall be \$4,500 per megawatt-hour and \$4,500 per megawatt per hour beginning on August 1, 2012 and ending on the effective date of any amendment to the high system-wide offer cap in §25.505 of this title that is effective after the date of this section.

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 16th DAY OF APRIL 2012 BY THE
PUBLIC UTILITY COMMISSION OF TEXAS
ADRIANA A. GONZALES**