

PROJECT NO. 55153

REVIEW OF §22.52

**§ PUBLIC UTILITY COMMISSION
§
§ OF TEXAS**

**PROPOSAL FOR PUBLICATION OF AMENDMENTS TO §22.52
AS APPROVED AT THE JUNE 29, 2023 OPEN MEETING**

The Public Utility Commission of Texas (commission) proposes amendments to §22.52, relating to Notice in Licensing Proceedings. The proposed amendments will require the applicant in electric certificate of convenience and necessity proceedings except minor boundary changes to give notice that the deadline for intervention is 30 days after the date the formal application was filed with the commission. This modification will allow the commission to process certificate of convenience and necessity applications more expeditiously, as required by Senate Bill 1076, enacted by the 88th Texas Legislature (R.S.).

The proposed amendments also require an applicant for a certificate of convenience and necessity to provide notice of each substation that is proposed to be authorized by the certificate of convenience and necessity to property owners that live adjacent to the proposed substations. This modification will implement Senate Bill 365, enacted by the 88th Texas Legislature (R.S.).

Growth Impact Statement

The agency provides the following governmental growth impact statement for the proposed rules, as required by Texas Government Code §2001.0221. The agency has determined that for each year of the first five years that the proposed rules are in effect, the following statements will apply:

- (1) the proposed rules will not create a government program and will not eliminate a government program;
- (2) implementation of the proposed rules will not require the creation of new employee positions and will not require the elimination of existing employee positions;
- (3) implementation of the proposed rules will not require an increase and will not require a decrease in future legislative appropriations to the agency;
- (4) the proposed rules will not require an increase and will not require a decrease in fees paid to the agency;
- (5) the proposed rules will not create a new regulation, but will implement a new requirement enacted by Senate Bill 365;
- (6) the proposed rules will not repeal an existing regulation;
- (7) the same number of individuals will be subject to the proposed rules' applicability as were subject to the applicability of the rule it is being proposed to replace; and
- (8) the proposed rules will not affect this state's economy.

Fiscal Impact on Small and Micro-Businesses and Rural Communities

There is no adverse economic effect anticipated for small businesses, micro-businesses, or rural communities as a result of implementing the proposed rules. Accordingly, no economic impact statement or regulatory flexibility analysis is required under Texas Government Code §2006.002(c).

Takings Impact Analysis

The commission has determined that the proposed rules will not be a taking of private property as defined in chapter 2007 of the Texas Government Code.

Fiscal Impact on State and Local Government

John Poole, Engineering Specialist, Engineering Division, has determined that for each year of the first five-year period the proposed sections are in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the section.

Public Benefits

John Poole has also determined that for each year of the first five years the proposed sections are in effect the public benefit anticipated as a result of enforcing the section will allow the commission to more expeditiously process CCN applications as required by Senate Bill 1076, and to provide more transparency on the siting of substations, as required by Senate Bill 365. There is no significant anticipated economic cost to persons who are required to comply with these sections as proposed. Any economic costs would vary from person to person and are difficult to ascertain. However, it is believed that the benefits accruing from implementation of the proposed sections will outweigh these costs.

Local Employment Impact Statement

For each year of the first five years the proposed sections are in effect there should be no effect on a local economy, and therefore no local employment impact statement is required under Administrative Procedure Act §2001.022.

Costs to Regulated Persons

Texas Government Code §2001.0045(b) does not apply to this rulemaking because the commission is expressly excluded under §2001.0045(c)(7).

Public Hearing

The commission staff will conduct a public hearing on this rulemaking if requested in accordance with Texas Government Code §2001.029. The request for a public hearing must be received by August 7, 2023. If a request for public hearing is received, commission staff will file in this project a notice of hearing.

Public Comments

Interested persons may file comments electronically through the interchange on the commission's website. Comments must be filed by August 7, 2023. Comments should be organized in a manner consistent with the organization of the proposed rules. The commission invites specific comments regarding the costs associated with, and benefits that will be gained by, implementation of the proposed rules. All comments should refer to Project Number 55153.

Statutory Authority

These amendments are proposed under the Public Utility Regulatory Act §14.002 and §14.052, which provide the commission with the authority to make and enforce rules reasonably required in the exercise of its powers and jurisdiction, including rules of practice and procedure.

Cross Reference to Statutes: Public Utility Regulatory Act §14.002 and §14.052.

§22.52. Notice in Licensing Proceedings.

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

(1) Applicant must publish notice once of the applicant's intent to secure a certificate of convenience and necessity in a newspaper having general circulation in the county or counties where a certificate of convenience and necessity is being requested, no later than the week after the application is filed with the commission. This notice must identify the commission's docket number and the style assigned to the case by Central Records. In electric transmission line cases, the applicant must obtain the docket number and style no earlier than 25 days prior to making the application by filing a preliminary pleading requesting a docket assignment. The notice must identify in general terms the type of facility if applicable, and the estimated expense associated with the project. The notice must describe all routes without designating a preferred route or otherwise suggesting that a particular route is more or less likely to be selected than one of the other routes.

(A) The notice must include all the information required by the standard format established by the commission for published notice in electric licensing proceedings. The notice must state the date established for the deadline for intervention in the proceeding (date ~~3045~~ days after the date the formal application was filed with the commission; ~~or date 30 days after the date the formal application was filed with the commission for an application for certificate of convenience and necessity filed under PURA §39.203(e)~~) and

that a letter requesting intervention should be received by the commission by that date.

(B) - (E) (No change.)

(2) (No change.)

(3) Applicant must, on the date it files an application, mail notice of its application to the owners of land, as stated on the current county tax roll(s), who would be directly affected by the requested certificate. For purposes of this paragraph, land is directly affected if an easement or other property interest would be obtained over all or any portion of it, or if it contains a habitable structure that would be within 300 feet of the centerline of a transmission project of 230kV or less, or within 500 feet of the centerline of a transmission project greater than 230kV. Land is also directly affected by the requested certificate if it is adjacent to a property on which a substation proposed to be authorized by the certificate of convenience and necessity is located or is directly across a highway, road, or street that is adjacent to a property on which such a substation is located.

(A) (No change.)

(B) The notice delivered to an owner of land adjacent to a property on which a proposed substation is located or directly across a highway, road, or street that is adjacent to a property on which such a substation is located must notify the owner of each proposed substation.

(C)~~(B)~~ The notice must include a map as described in paragraph (1)(C) of this subsection.

~~(D)~~(E) Before final approval of any modification in the applicant's proposed route(s), applicant must provide notice as required under subparagraphs (A) ~~through and~~ (C)(B) of this paragraph to all directly affected landowners who have not already received such notice.

(E)~~(D)~~ Proof of notice may be established by an affidavit affirming that the applicant sent notice by first-class mail to each of the persons listed as an owner of directly affected land on the current county tax roll(s). The proof of notice must include a list of all landowners to whom notice was sent and a statement of whether any formal contact related to the proceeding between the utility and the landowner other than the notice has occurred. This proof of notice must be filed with the commission no later than 20 days after the filing of the application.

~~(FE)~~ Upon the filing of proof of notice as described in subparagraph (E)~~(D)~~ of this paragraph, the lack of actual notice to any individual landowner will not in and of itself support a finding that the requirements of this paragraph have not been satisfied. If, however, the utility finds that an owner of directly affected land has not received notice, it must immediately advise the commission by written pleading and must provide notice to such landowner(s) by priority mail, with delivery confirmation, in the same form described in subparagraphs (A) ~~through and~~ (C)(B) of this paragraph, except that the notice must state that the person has fifteen days from the date of delivery to intervene. The utility must immediately file a supplemental affidavit of notice with the commission.

(4) The utility must hold at least one public meeting prior to the filing of its licensing application if 25 or more persons would be entitled to receive direct mail notice of the application. Direct mail notice of the public meeting must be sent by first-class mail to each of the persons listed on the current county tax rolls as an owner of land within 300 feet of the centerline of a transmission project of 230kV or less, an owner of land~~er~~ within 500 feet of the centerline of a transmission project greater than 230kV, an owner of land directly adjacent to a property on which a substation proposed to be authorized by the certificate of convenience and necessity is located, or an owner of land across a highway, road, or street that is adjacent to such a substation. The utility must also provide written notice to the Department of Defense Siting Clearinghouse of the public meeting. In the notice for the public meeting, at the public meeting, and in other communications with a potentially affected person, the utility must not describe routes as preferred routes or otherwise suggest that a particular route is more or less likely to be selected than one of the other routes. In the event that no public meeting is held, the utility must provide written notice to the Department of Defense Siting Clearinghouse of the planned filing of an application prior to completion of the routing study.

(5) - (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 authority to adopt.

**ISSUED IN AUSTIN, TEXAS ON THE 29th DAY OF JUNE 2023 BY THE
PUBLIC UTILITY COMMISSION OF TEXAS
ADRIANA A. GONZALES**