

CHAPTER 25. SUBSTANTIVE RULES APPLICABLE TO ELECTRIC SERVICE PROVIDERS.

Subchapter E. CERTIFICATION, LICENSING AND REGISTRATION.

§25.109. Registration by Power Generation Companies and Self-Generators.

- (a) **Applicability.** This section contains the registration and renewal of registration requirements for a power generation company (PGC) as defined by §25.5 of this title (relating to Definitions) and a self-generator.
- (1) A person that owns an electric generating facility, including a Qualifying Facility (QF) as defined by §25.5 of this title, must register under this section as a PGC before the first day it generates electricity.
 - (2) A person that owns an electric generating facility rated at one megawatt (MW) or more, but is not a PGC, must register as a self-generator before the first day it generates electricity. A QF that does not sell electricity or provides electricity only to the purchaser of the facility's thermal output must register as a self-generator.
 - (3) A person already certified as a PGC or self-generator as of the effective date of this section must come into compliance with the requirements of this section no later than June 1, 2023.
 - (A) A PGC or self-generator must complete and file a commission approved form that demonstrates the PGC or self-generator is in compliance with this section on or before June 1, 2023.
 - (B) A PGC or self-generator who does not demonstrate compliance with this section on or before June 1, 2023, may be subject to revocation of the PGC's or self-generator's commission registration under subsection (i) of this section.
- (b) **Definitions.** In this section, the following definitions apply unless the context indicates otherwise.
- (1) Generating facility -- all generating units located at, or providing power to, the electricity-consuming equipment at an entire facility or location.
 - (2) Principal -- includes:
 - (A) A sole proprietor of a sole proprietorship;
 - (B) A partner of a partnership;
 - (C) An executive of a company (e.g., a president, chief executive officer, chief operating officer, chief financial officer, general counsel, or equivalent position);
 - (D) A manager, managing member, or a member vested with the management authority of a limited liability company or limited liability partnership;
 - (E) A shareholder with more than 10% equity of the person, if a public company; or
 - (F) A person who exercises control and has apparent or actual authority to exercise such control over either the person or a principal that is otherwise described by this subsection. A fiduciary of a company, such as the board of directors, is a principal if it has apparent or actual authority to exercise control over the person or a principal of the person, and exercises such control.
- (c) **Initial registration information.** To register as a PGC or a self-generator a person must use the registration form prescribed by the commission. A person registering as a PGC or a self-generator must provide the following information.
- (1) Contact information of the registrant and the registrant's primary and secondary emergency contacts, which includes :
 - (A) a legal business name;
 - (B) a physical and business mailing address;
 - (C) a business telephone number; and
 - (D) a business e-mail address.
 - (2) The name of the current regulatory contact, the contact's e-mail address and telephone number, and if the regulatory contact is an internal staff member of the registrant.
 - (3) For each generating facility operated by the registrant:
 - (A) the name, address, county and power region of operation of each generating facility;

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- (B) whether the generating facility is an electric storage facility;
 - (C) the name of the transmission service providers interconnecting the generating facility; and
 - (D) the capacity rating for each generating unit following the rating method established in §25.91(f) of this title (relating to Generating Capacity Reports).
- (4) A description of the types of services provided by the registrant that relate to the generation of electricity.
- (5) An affidavit signed by a representative, official, officer, or other authorized person with binding authority over the registrant attesting that none of the registrant's principals:
- (A) were principals of a commission-regulated person whose license was revoked by commission order within the prior six months of when they were a principal;
 - (B) were principals of any person registered with the Electric Reliability Council of Texas (ERCOT) whose standard form market participant agreement was terminated by ERCOT for misconduct within the prior six months of when they were a principal; or
 - (C) are otherwise prohibited by commission order from acting as a principal of a commission-regulated entity.
- (d) **Additional information required for PGC registration.** In addition to the information required under subsection (c) of this section, a person registering as a PGC must also submit the following information to the commission.
- (1) An affidavit signed by a representative, official, officer, or other authorized person with binding authority over the registrant attesting that the registrant:
 - (A) generates electricity that is intended to be sold at wholesale;
 - (B) does not own a transmission or distribution facility in this state other than an essential interconnecting facility, a facility not dedicated to public use, or a facility otherwise excluded from the definition of "electric utility" under §25.5 of this title (related to Definitions); and
 - (C) does not have a certified service area.
 - (2) The name of the registrant's corporate parent.
 - (3) A list of affiliates of the registrant's and the registrant's corporate parent identified by name that buy and sell electricity at wholesale in Texas, sell electricity at retail in Texas, or is an electric cooperative or municipally owned utility in Texas.
 - (4) The applicable control number and item number that the registrant has filed its initial Emergency Operations Plan in as required under §25.53 of this title (relating to Electric Service Emergency Operations Plans).
 - (5) As applicable, copies of the registrant's Federal Energy Regulatory Commission registration as a QF or an EWG.
- (e) **Additional information required for self-generator registration.** In addition to the information required under subsection (c) of this section, a person registering as a self-generator must also submit an affidavit signed by a representative, official, officer, or other authorized person with binding authority over the registrant attesting:
- (1) that the registrant is not a power generation company and does not intend to generate electricity intended to be sold at wholesale; or
 - (2) if the registrant is a QF, the registrant either does not sell electricity or provides electricity only to the purchaser of the facility's thermal output.
- (f) **Update or relinquishment of registration.** A PGC or self-generator may update or relinquish its registration.

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- (1) A PGC must complete the commission form to amend its registration within 30 days of a change to any information reported in response to subsections (c)(2)-(4) and (d)(2) of this section.
 - (2) A self-generator must complete the commission form to amend its registration within in 30 days of a change to any of the information reported in response to subsection (c)(2)-(4) of this section.
 - (3) A PGC and self-generator must update, in a manner established by the commission, its contact information listed in subsection (c)(1) of this section within 30 days of a change.
- (g) **Review of registration of PGC or self-generator.** Commission staff will review the submitted or updated registration form for sufficiency and submit a written recommendation to the presiding officer within 30 days from the date the registration was filed.
- (1) If commission staff recommends the registration form be found insufficient, commission staff will file a statement indicating the deficiencies as part of its recommendation. If the presiding officer finds the registration form to be insufficient, the presiding officer will notify the registrant in writing of the finding and the specific deficiencies. The registrant will have 20 days from the issuance of the notice to cure the deficiencies. Commission staff will have 15 days to review the supplemental information submitted by the registrant and file a statement indicating whether any deficiencies remain. If the presiding officer determines that the deficiencies have not been cured within 20 days of the issuance of the notice, the presiding officer will reject the registration request without prejudice and notify the registrant of the rejection.
 - (2) Upon finding the registration sufficient, the presiding officer will approve the registration and issue a registration number to the PGC or self-generator.
- (h) **Renewal of registration.** A PGC or self-generator must renew its registration on or before February 28 of every other calendar year by submitting the information required by subsection (c) and, as applicable, (d) and (e) of this section by submitting a statement that the PGC or self-generator's registration information on file with the commission is current and correct.
- (1) A PGC or self-generator whose commission registration number is an even number must submit its registration renewal on all even number years.
 - (2) A PGC or self-generator whose commission registration number is an odd number must submit its registration renewal on all odd number years.
- (i) **Revocation of registration and administrative penalty.** Registration of a PGC under this section is subject to revocation for a significant violation of statute or commission rules. The commission may impose an administrative penalty on a person for a violation of PURA, commission rules, or rules adopted by an independent organization, including:
- (1) failure to comply with the reliability standards and operational criteria duly established by the independent organization certified under PURA §39.151 for the ERCOT power region;
 - (2) failure to observe any scheduling, operating, planning, reliability, or settlement policy, rule, guideline, or procedure established by ERCOT;
 - (3) providing false or misleading information to the commission, commission staff, or ERCOT;
 - (4) engaging in fraudulent, unfair, misleading, deceptive or anti-competitive practices;
 - (5) a pattern of failure to meet the requirements of statute, this section, or other commission rules, regulations or orders;
 - (6) suspension or revocation of a registration, certification, or license by any state or federal authority;
 - (7) failure to operate within the applicable legal parameters established by PURA §39.351, or other applicable provisions of PURA, commission rules, or ERCOT Protocols; and
 - (8) failure to timely respond to commission or commission staff inquiries or customer complaints.