

PROJECT NO. 55566

GENERATION INTERCONNECTION	§	PUBLIC UTILITY COMMISSION
ALLOWANCE	§	
	§	OF TEXAS

PROPOSAL FOR PUBLICATION OF AMENDMENTS TO 16 TAC §25.195

The Public Utility Commission of Texas (commission) proposes amendments to 16 Texas Administrative Code (TAC) §25.195, relating to Terms and Conditions for Transmission Service.

This proposed rule will implement Public Utility Regulatory Act (PURA) §35.004(d) as revised and (d-1) through (d-3) as enacted by House Bill 1500, Section 9 during the Texas 88th Regular Legislative Session. The amended rule will establish an allowance for interconnection costs incurred by a transmission service provider (TSP) to interconnect generation resources at transmission voltage to the transmission system within the ERCOT power region.

Growth Impact Statement

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

- (1) the proposed rule will not create a government program and will not eliminate a government program;
- (2) implementation of the proposed rule will not require the creation of new employee positions and will not require the elimination of existing employee positions;

- (3) implementation of the proposed rule will not require an increase and will not require a decrease in future legislative appropriations to the agency;
- (4) the proposed rule will not require an increase and will not require a decrease in fees paid to the agency;
- (5) the proposed rule will not create a new regulation;
- (6) the proposed rule will not expand, limit, or repeal an existing regulation;
- (7) the proposed rule will not change the number of individuals subject to the rule's applicability;
- and
- (8) the proposed rule 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 rule. 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 rule 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

Mariah Benson, Economist, Market Analysis has determined that for the first five-year period the proposed rule is in effect, there will be no fiscal implications for the state or for units of local government under Texas Government Code §2001.024(a)(4) as a result of enforcing or administering the sections.

Public Benefits

Ms. Benson has determined that for each year of the first five years the proposed section is in effect the public benefit anticipated as a result of enforcing the section will be incentivizing new generation to more economically site interconnections within the ERCOT region. There will be no probable economic cost to persons required to comply with the rule under Texas Government Code §2001.024(a)(5).

Local Employment Impact Statement

For each year of the first five years the proposed section is in effect, there should be no effect on a local economy; therefore, no local employment impact statement is required under Texas Government Code §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 subsection §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 December 21, 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 January 4, 2024. Reply comments must be filed by January 18, 2024. 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 rule. The commission will consider the costs and benefits in deciding whether to modify the proposed rules on adoption. All comments should refer to Project Number 55566.

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. Initial comments should be limited to ten pages, excluding the executive summary, and any attached redlines. Reply comments should be limited to five pages, excluding the executive summary and any attached redlines.

Statutory Authority

The amendment is proposed under Public Utility Regulatory Act (PURA) §14.001, which grants the commission the general power to regulate and supervise the business of each public utility within its jurisdiction and to do anything specifically designated or implied by this title that is necessary and convenient to the exercise of that power and jurisdiction; §14.002, which authorizes the commission to adopt and enforce rules reasonably required in the exercise of its powers and jurisdiction; and §35.004, which relates to the provision of wholesale transmission service and the establishment of a transmission-level generation interconnection allowance within the ERCOT region.

Cross Reference to Statute: Public Utility Regulatory Act §§14.001; 14.002; 35.004.

§25.195. Terms and Conditions for Transmission Service.

- (a) **Applicability.** This section applies to transmission service providers (TSPs) in the Electric Reliability Council of Texas (ERCOT) region providing transmission service to transmission service customers
- (b) **Definitions.** The following terms have the following meanings unless context indicates otherwise.
- (1) **Generation resource** -- a transmission service customer that sells generation at wholesale, is interconnected to a TSP's system at a voltage above 60 kilovolts (kV), and is required to execute a standard generation interconnection agreement (SGIA) under this section.
- (2) **Transmission system upgrade** -- any additional transmission facilities or modifications beyond what is required to interconnect a transmission service customer to the transmission system, and which provide benefits to other customers that are independent of the benefit provided by interconnecting the transmission service customer alone.
- (c) **Interconnection agreement.**~~Intereconnection agreement.~~ As a condition of ~~to~~ obtaining transmission service, a transmission service customer that owns electrical facilities in the ERCOT region ~~must~~~~shall~~ execute ~~an~~ interconnection ~~agreement~~~~agreements~~ with the ~~TSP~~~~transmission~~~~service~~~~providers~~~~(TSP)~~ to which it is physically ~~interconnected~~~~intereconnected~~. The commission-approved ~~standard~~~~generation~~

~~interconnection agreement (SGIA) must be used~~ for the interconnection of a new ~~generating facilities shall be used by power generation companies, exempt wholesale generators, and TSP~~transmission service customer. ~~A standard agreement~~The SGIA may be modified by mutual agreement of the parties to address specific facts presented by a particular interconnection request ~~as long as provided that~~ the modifications do not frustrate the goal of expeditious, nondiscriminatory interconnection and are not otherwise inconsistent with the principles underlying the commission-approved SGIA.

(d)(b) **Transmission service provider responsibilities.** The TSP ~~will~~must plan, construct, operate, and maintain its transmission system in accordance with good utility practice ~~in order~~ to provide transmission service customers with transmission service over its transmission system in accordance with Division 1 of this subchapter (relating to Open-Access Comparable Transmission Service for Electric Utilities in the Electric Reliability Council of Texas). The TSP ~~shall~~must, consistent with good utility practice, endeavor to construct and place into service sufficient transmission capacity to ensure adequacy and reliability of the network to deliver power to transmission service customer loads. The TSP ~~will~~must plan, construct, operate, and maintain facilities that are needed to relieve transmission constraints, as recommended by ERCOT and approved by the commission, in accordance with Division 1 of this subchapter. The construction of facilities requiring commission issuance of a certificate of convenience and necessity is subject to such commission approval.

(e)(e) **Construction of new facilities.** If ~~new~~additional transmission facilities or interconnections between TSPs are needed to provide transmission service ~~pursuant in response to~~ a request for such service, the TSPs ~~where the constraint exists shall must~~ construct or acquire ~~the transmission~~ facilities necessary to ~~permit~~provide the transmission service ~~to be provided~~ in accordance with good utility practice, unless ERCOT identifies an alternative means of providing the transmission service that is less costly, is operationally sound, and ~~relieves the transmission constraint at least~~is as ~~effective~~effectively as ~~would additional~~the new transmission facilities would be at providing the requested transmission service.

~~(1) —When an eligible transmission service customer requests transmission service for a new generating source that is planned to be interconnected with a TSP's transmission network, the transmission service customer shall be responsible for the cost of installing step-up transformers to transform the output of the generator to a transmission voltage level and protective devices at the point of interconnection capable of electrically isolating the generating source owned by the transmission service customer. The TSP shall be responsible, pursuant to paragraph (2) of this subsection, for the cost of installing any other interconnection facilities that are designed to operate at a transmission voltage level and any other upgrades on its transmission system that may be necessary to accommodate the requested transmission service.~~

~~(1)(A)~~ An affected TSP may require the transmission service customer to pay a reasonable deposit or provide another means of security, to cover the costs of planning,

licensing, and constructing any new transmission facilities that will be required in order to provide the requested service.

(A)(B) If the new ~~generating source~~transmission service customer's interconnection is completed ~~and the transmission service customer begins to take the requested transmission service,~~ the TSP ~~shall~~must return the deposit or security to the transmission service customer.

(B) If the new ~~generating source~~transmission service customer's interconnection is not completed and the new transmission facilities are not required, the TSP may retain as much of the deposit or security as is required to cover the costs ~~the TSP~~it incurred in planning, licensing, and construction activities related to the planned new transmission facilities. Any repayment of a cash deposit ~~shall~~must include interest at a commercially reasonable rate based on that portion of the deposit being returned.

- (2) If the TSP's acquisition or construction of the new transmission facilities would impair the tax-exempt status of obligations issued by the TSP then the TSP may require a contribution in aid to construction from the transmission service customer to cover all or part of the cost of acquiring and constructing the new transmission facilities.~~A transmission service customer that is requesting transmission service, including transmission service at distribution voltage, may be required to make a contribution in aid of construction to cover all or part of the cost of acquiring or constructing additional facilities, if the acquisition of the additional facilities would impair the tax-exempt status of obligations issued by the provider of transmission services.~~

(3) For a transmission service customer that is not a generation resource, the TSP is responsible for the cost of installing any new transmission facilities, other than those described in paragraph (2) of this subsection.

(4) For a generation resource, the costs of installing new transmission facilities must be borne in accordance with subsection (f) of this section.

(f) Cost responsibilities to interconnect generation resources at transmission voltage.

(1) A new generation resource seeking interconnection to a TSP's transmission network is responsible for the cost of installing step-up transformers and protective devices at the point of interconnection capable of electrically isolating the generation resource.

(2) If the SGIA between the generation resource and the TSP is executed on or before December 31, 2025, then the TSP is responsible for the cost of installing any new transmission facilities.

(3) If the SGIA between a generation resource and TSP is executed after December 31, 2025, then the interconnecting generation resource is responsible for all costs of installing interconnection facilities that are incurred by the TSP that exceed the allowance established in accordance with this paragraph. The TSP is responsible for the costs of installing any transmission system upgrades deemed necessary by the TSP and ERCOT that are made concurrently with the installation of the interconnection facilities.

(A) The allowance will be calculated by the commission as follows:

- (i) For a generation resource interconnecting at a transmission voltage of 138 kV or less, the allowance beginning on January 1, 2026, is based on the 2023 amount of \$12,000,000 adjusted for subsequent years consistent with clause (ii) of this subparagraph. For a generation resource interconnecting at a transmission voltage higher than 138kV, the allowance beginning on January 1, 2026, is based on the 2023 amount of \$22,500,000 adjusted for subsequent years consistent with clause (ii) of this subparagraph.
- (ii) Beginning on January 1, 2025, the commission will increase or decrease the allowance prescribed by clause (i) of this subparagraph annually on or before January 1 of each calendar year. Annually, no later than September 1, 2024, the commission will publish the new values of the allowance to be used in the subsequent calendar year.
- (I) The annual adjustment will be proportional to the change from the corresponding 2023 value reflected in the National Income and Product Accounts (NIPA) Seasonally Adjusted Price Index for Private Fixed Investment-Nonresidential Structures for Power and Communication published by the United States Department of Commerce, Bureau of Economic Analysis.
- (II) The executive director may designate a substitute index to be used as a reference for adjustments under this clause if the

index referenced by subclause (I) of this clause becomes unavailable.

(B) A generation resource that seeks to interconnect an energy storage resource is only eligible to receive the allowance described under this subsection and not additional allowances provided to interconnect load, such as may be provided under a tariff.

(C) The amount of the allowance that a generation resource is provided to complete the interconnection is the amount that was in effect on the date the notice to proceed was issued by the generation resource to the TSP in accordance with the executed SGIA. A TSP's costs to construct, design, and upgrade interconnection facilities that exceed the allowance must be directly billed to and collected from the generation resource that caused the costs to be incurred by the TSP. The TSP may collect such costs as a contribution in aid to construction prior to procuring, designing, and constructing the interconnection facilities.

(D) Notwithstanding any payments made by a generation resource under this section, an interconnecting TSP retains ownership and control of its transmission facilities.

(E) The responsibility of costs incurred by a TSP for new or upgraded interconnection facilities due to modifications made by a generation resource will be borne in accordance with this subparagraph.

(i) For the ten calendar years following the date of energization for the initial interconnection of the generation resource:

(I) To the extent that the costs of the interconnection facilities exceed the remainder of the allowance calculated under paragraph (f)(3) of this section, the current owner of the interconnected generation resource is responsible for the interconnection costs incurred by the TSP, where:

(-a-) the allowance is the amount that was in effect on the date the notice to proceed with the initial interconnection was issued in accordance with the executed SGIA; and

(-b-) the remainder is the difference between the allowance described under subclause (I) of this clause and the actual costs that a TSP incurred to construct, design, and upgrade interconnection facilities to initially interconnect the generation resource.

(II) The current owner of an interconnected generation resource is determined in accordance with the most recently executed SGIA for that generation resource.

(ii) After ten calendar years from the date of energization for the initial interconnection of the generation resource, the TSP is responsible for the costs of new or upgraded interconnection facilities.

(g)(d) **Curtailment of service.** In an emergency situation, as determined by ERCOT and at its direction, a TSPs may interrupt transmission service on a non-discriminatory basis, if necessary, to preserve the stability of the transmission network and service to customers. Such curtailments ~~shall~~must be carried out in accordance with §25.200 of this title (relating to Load Shedding, Curtailments, and Redispatch) and in accordance with ERCOT protocols.

(h)(e) **Filing of contracts.** ~~Electric utilities shall~~A TSP must file with the commission ~~all each~~ new, and all amendments to, interconnection agreements within 30 days of ~~their~~ execution, including a cover letter explaining any deviations from the commission-approved SGIA. ~~These interconnection agreements shall be filed for the commission's information. agreements are~~ An interconnection agreement is subject to commission review and approval upon request by any party to the agreement. ~~Upon showing a good cause, appropriate~~Appropriate portions of the filings ~~required under this subsection~~ may be filed confidentially and be subject to provisions of confidentiality to protect competitively sensitive commercial or financial information.

(i) ERCOT must, in consultation with commission staff, develop protocols to regularly publish a report that includes the generation interconnection costs for each generation resource interconnection.

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 30TH DAY OF NOVEMBER 2023 BY THE
PUBLIC UTILITY COMMISSION OF TEXAS
ADRIANA GONZALES**