The Public Utility Commission of Texas (commission) adopts an amendment to §25.52 relating to Reliability and Continuity of Service and new §25.53 relating to Emergency Operations Plan with changes to the proposed text as published in the September 10, 1999 *Texas Register* (24 TexReg 7096). The commission adopts an amendment to §25.81 relating to Service Quality Reports with no changes to the proposed text as published in the September 10, 1999 *Texas Register* (24 TexReg 7096). The amendments and new rule are adopted under Project Number 21076. The amendments and new rule are necessary to be consistent with Senate Bill 7 (SB 7), Act of May 21, 1999, 76th Legislature, Regular Session, chapter 405, 1999 Texas Session Law Service 2543, 2557 (Vernon) (to be codified as amendments to the Public Utility Regulatory Act (PURA), Texas Utilities Code Annotated, §38.005). Copies of the rules may be obtained in the commission's Central Records and on the commission's web page at http://www.puc.state.tx.us/rules/rulemake/21076/21076.cfm.

The amendments to §25.52 revise the method of evaluating distribution feeder performance to be consistent with the recent legislation. Section 25.52 also requires electric utilities to maintain adequately trained and experienced personnel throughout its service area, and prohibits electric utilities from neglecting any local neighborhoods or geographic areas, with regard to system reliability.

In the rules as proposed, the commission deleted existing §25.52(f) and proposed subsection (f) as new §25.53 relating to Emergency Operations Plans. This change will facilitate the amendment of the new section in a subsequent rulemaking to reflect the relationships between the customer, the retail electric provider (REP), and the transmission and distribution utility (TDU). Finally, the amendments to §25.81 require electric utilities to file Service Quality Reports annually instead of semi-annually, and specify that these reports shall be filed on February 14 of each year.

The commission staff held a workshop on this rulemaking on August 10, 1999, and discussed the proposed amendments with interested parties. Comments from the workshop were considered and were reflected in the proposed rules that were published in the *Texas Register* on September 10, 1999.

The commission staff conducted a public hearing on this rulemaking under Government Code §2001.029 on Wednesday, October 27, 1999, at 9:30 a.m. At the public hearing, no substantive comments were offered.

The commission received written comments in Project Number 21076 on October 11, 1999. Comments were received from 12 interested parties, including seven electric utilities and State Representative Kevin Bailey. Joint comments were filed by Texas Legal Services Center, Texas Ratepayers' Organization to Save Energy, Public Citizen, and Consumers Union Southwest Regional Office (Texas Legal et. al.). Comments were filed by the Cities Steering Committee

(Cities) on behalf of certain Cities served by Entergy Gulf States, Inc. The Texas AFL-CIO filed a letter supporting the comments of the International Brotherhood of Electrical Workers (IBEW), which also filed an addendum to its comments on October 26, 1999. Comments were filed by Central and South West Corporation (CSW) on behalf of its Texas operating companies Central Power and Light Company, Southwestern Electric Power Company, and West Texas Utilities Company. Other utilities that filed comments were El Paso Electric Company (EPE), Entergy Gulf States, Inc. (EGSI), Reliant Energy, Inc. (Reliant), Southwestern Public Service Company (SPS), Texas-New Mexico Power Company (TNMP), and TXU Electric Company (TXU). Interested parties were encouraged to provide written comments on any relevant issues related to the amendments to these rules and to address two specific questions posed by the commission. These comments are discussed in detail below.

The first question for which the commission sought specific comments was related to personnel. Under the authority granted the commission in the Public Utility Regulatory Act (PURA) §38.005(c), the commission shall require electric utilities to maintain adequately trained and experienced personnel to maintain reliability. The commission asked: *Can an electric utility satisfy the statutory requirements to "maintain adequately trained and experienced personnel throughout its service area" through the use of professional contractors or must all "personnel" be employees of the electric utility?*

All of the utilities contended that the commission should not restrict the use of professional contractors. TXU argued that "the purpose of the statutory provision regarding maintaining

adequately trained and experienced personnel is to ensure that reliability and service quality is maintained…*not* to establish prescriptive requirements regarding employment of certain personnel by electric utilities." Reliant stated that "it is standard industry practice in the electric industry to use professional contract personnel to augment and support the employees of a utility." Utilities indicated that the electric industry regularly experiences significant variations in labor requirements, and cited such examples as storm restoration and tree-trimming operations. Reliant argued that "maintaining staffing at levels necessary to meet peak activities would not be a prudent practice"; and EPE added that to do so "would increase the operating costs of the regulated utility, and those costs would ultimately have to be passed through to customers."

Texas Legal et. al. argued that a "utility should not be able to contract out its responsibilities for ensuring adequate quality of service and reliability." IBEW contended that to "fully comply with the statutory requirements, all personnel must be employees of the electric utility." IBEW added that the "words 'maintain' and 'personnel' convey the lawmakers' intention that the workers be employees and not independent contractors." Representative Bailey indicated that the "clear intent of our legislation was that regular, full-time staffing levels be adequate to fully, and adequately comply with appropriate service, quality and reliability standards."

The commission notes the language in SB7 requires utilities to "maintain adequately trained and experienced personnel throughout the utility's service area," and emphasizes that this is required "so that the utility is able to fully and adequately comply with the appropriate service quality and

reliability standards." The commission believes that this language is *not* intended to restrict the use of qualified contract personnel in areas of operation that experience significant fluctuations in personnel requirements such as storm restoration and tree-trimming operations. Though this section does not require a specific level of personnel, it does establish the commission's intent to evaluate the degree that compliance with the service quality and reliability standards is affected by staffing levels.

PURA §38.005(b) and §25.52(f)(2)(A) and (B) of the amendment indicate that the commission will evaluate the performance of distribution feeders "for any two consecutive reporting years." In the preamble to the proposed rule, the commission asked: *Which are the initial two consecutive reporting years that the commission should evaluate; 1998 and 1999, 1999 and 2000, 2000 and 2001, or other?*

The responses to this question were divided between the 1998-1999 period and the 2000-2001 period. IBEW and Texas Legal et. al. supported using the 1998-1999 period as the initial two consecutive reporting years that the commission should evaluate. All of the utilities indicated that the initial two consecutive reporting years should be 2000-2001. IBEW interpreted PURA §38.005(b) as requiring the commission to "begin taking appropriate enforcement action in 2000. Therefore the two years before 2000, i.e. 1998 and 1999, must be the initial reporting years." Texas Legal et. al. reasoned that since "utilities already have the SAIFI and SAIDI data for their systems for 1998 and 1999, enforcement should begin in 2000 with the initial reporting years being 1998 and 1999." Texas Legal et. al. added that since the commission "has discretion as to

what is appropriate enforcement action, it may be that the standards will not be strictly enforced until 2002."

The utilities all argued that to adopt reliability standards at the end of 1999 and to evaluate the utilities' performance of 1998 and 1999 would be retrospective rulemaking. TXU cited Texas Government Code §311.022 (West 1998) stating that "(a) statute is presumed to be prospective in its operation unless expressly made retrospective." CSW stated that it can find "no language in PURA §38.005 that would make this section retroactive to any time before January 1, 2000." Reliant concluded that "the Legislature certainly could not expect that the statute's new reliability standards would be imposed prior to the effective date of Senate Bill 7."

The commission agrees that it would not be reasonable to impose a reliability standard retroactively. A utility should not be evaluated on past performance without an opportunity to address the portions of its system that may not comply with the standards. However, the commission notes that PURA §38.005(b) provides for the evaluation of distribution feeder performance in the *second* year of a two-year period. In other words, after the first year of the two-year period, utilities will identify the 10% of the system's worst performing feeders, and the feeders that have index values that are more than 300% greater than the system average. It is in the *second* year of the two-year period that utilities must ensure that feeders do not repeat as poor performers.

The current reliability rule §25.52 became effective December 6, 1998, and established a reliability standard for distribution feeders as of April 30, 1999. Barring the amendments considered in this project, the initial evaluation would have been for the 12-month period ending April 30, 2000. Presumably, utilities are currently addressing poor performing distribution feeders to comply with the existing rule. Considering that PURA §38.005(b) provides for evaluation of the *second* year of the two-year period, the commission finds it reasonable to use 1999 and 2000 as the initial two consecutive reporting years. This will result in the "benchmark" being established on the performance in 1999 and the initial evaluation for the performance in 2000, representing a prospective application of the new rule.

Additional comments concerning §25.52 were received from several parties. CSW argued that §25.52(f)(2)(A), as proposed, would ultimately be counterproductive to the universal goal of providing reliable electric service for all Texans at a reasonable cost. "As utilities gradually improve their reliability performance, the difference in the measured SAIFI or SAIDI of the 90th percentile feeder becomes less and less distinct from the system average." CSW expressed concern that even if utilities provide excellent service throughout its service area, there will always be a worst 10% list of distribution feeders. CSW recommended that the commission establish an "absolute value" below which any feeder, regardless of percentile ranking, would be considered to be performing acceptably. CSW recommended "200% times the system average" for each reliability index.

The commission agrees that there may be a point at which it is neither reasonable nor cost effective to improve distribution feeder performance. The commission believes that the adoption of an "absolute value" below which feeders would not be considered to be poor performing is a reasonable suggestion; however, the commission is unable at this time to determine the appropriate value. Since PURA §38.005(e) requires each electric utility to "supply data to assist the commission in developing the reliability standards," the commission directs utilities to recalculate reliability data for 1998 and 1999 calendar years. These data shall include system-wide index values by month and calendar year and index values for all distribution feeders for the calendar year. Electric utilities shall file these data in February 2000 in accordance with §25.81. This and subsequent filings will enable the commission to determine the appropriate level of system-wide and feeder-specific performance in future amendments to this section.

The commission received comments from two interested parties concerning the wording in PURA §38.005(b) refering to distribution feeders that have "a SAIDI or SAIFI average that is more than 300 percent greater than the system average of all feeders". The disagreement was whether this wording referred to feeders with index values more than four times the system average, or three times the system average. In its written comments, IBEW argued that 300% *greater than* should be interpreted as 300% *of* the utility's system average. Representative Bailey offered similar comments.

The commission must apply the plain meaning of the statutory language. The phrase "greater than" means "more than" or "in addition to". For example, if a utility's system-wide SAIDI is 15,

then 300% *of* 15 is 45, and 300% *greater than* 15 is 15 *plus* 45 or 60. Feeder performance above 60 would be non-compliant under this rule.

In its written comments, EPE suggested that the following sentence in §25.52(f)(1) be moved: "The standards shall be unique to each utility based on the utility's performance, and may be adjusted by the commission if appropriate for weather or improvement in data acquisition systems". According to EPE, this sentence should apply to both paragraphs §25.52(f)(1) *and* (2). EPE stated that the conditions referred to in the sentence could cause a particular feeder to repeat on the list of 10% worst feeders or be 300% greater than the system average in consecutive years. Further, EPE argued that a utility should be permitted to demonstrate that weather or improvement in data acquisition systems affected its ability to comply with the rule.

The commission agrees that weather or improvement in data acquisition systems may affect a utility's ability to comply with §25.52(f)(2) related to distribution feeder performance; however, the wording applies to adjustments of a standard. In order to establish a pre-competition benchmark, a system-wide standard is established in §25.52(f)(1). These standards are fixed at the average of the three-year period 1998, 1999, and 2000; and the system's performance is evaluated annually thereafter. The commission believes that it may be reasonable to adjust these standards due to unusual weather events or improvements in data acquisition systems. In §25.52(f)(2), the commission establishes a method of evaluating the performance of distribution feeders in any consecutive, two-year period. The commission agrees that weather and improvements in data acquisition systems may be considered when taking "appropriate

enforcement action" against a utility that does not comply with §25.52(f)(2), but believes that it is not necessary to revise the language of this section as suggested.

Several utilities filed comments concerning §25.53 related to Emergency Operations Plan. CSW identified several inconsistencies in the proposed rule as it would be applied to wires companies after 2002. Specifically, CSW identified the requirement for a critical load registry, power plant weatherization plans, and alternative fuel supplies. CSW and other utilities suggested deleting §25.53(c)(7) referring to Year-2000 reports that were filed in June 1999. Additionally, CSW suggested deleting the definitions for 'Year 2000 compliant' and 'Year 2000 ready' in §25.52(c)(7) and (8).

The commission agrees that it will not be necessary to include either definitions for Year 2000 or a requirement for Year-2000 reports once these rules are adopted in December 1999. Accordingly, §25.52(c)(7) and (8) and §25.53(c)(7) are deleted. The commission also agrees that there are portions of this section that may no longer apply to transmission and distribution companies after January 1, 2002; however, such revisions are premature. The commission reiterates the reason this section is deleted from §25.52 and a new §25.53 is created is to facilitate the amendment of the new section in a subsequent rulemaking to consider the relationships between the customer, the REP, and the TDU. In addition, the commission has added a requirement to §25.53(a) that requires each electric utility to file an affidavit indicating that all relevant operating personnel within the utility are familiar with the contents of the plan,

and are committed to following the plan and its provisions in the event of a system or local emergency.

The new section and amendments are adopted under the Public Utility Regulatory Act, Texas Utilities Code Annotated §14.002 (Vernon 1998) (PURA), which provide the Public Utility Commission with the authority to make and enforce rules reasonably required in the exercise of its powers and jurisdiction, and specifically PURA §38.005 (as added by Senate Bill 7) which requires the commission to implement service quality and reliability standards relating to the delivery of electricity to retail customers.

Cross Reference to Statutes: Public Utility Regulatory Act <*><*>14.002, 14.003, 14.151, 14.153, 31.001, 32.001, 37.151, 38.001, 38.002, 38.005, 38.021, 38.022, 38.071, and <*>39.101.

§25.52. Reliability and Continuity of Service.

(a) **Application.** This section applies to all electric utilities as defined by the Public Utility Regulatory Act (PURA) §31.002(6) and all transmission and distribution utilities as defined by PURA §31.002(19). The term "utility" as used in this section shall mean an electric utility and a transmission and distribution utility.

(b) **General.**

(1) Every utility shall make all reasonable efforts to prevent interruptions of service. When interruptions occur, the utility shall reestablish service within the shortest possible time.

(2) Each utility shall make reasonable provisions to manage emergencies resulting from failure of service, and each utility shall issue instructions to its employees covering procedures to be followed in the event of emergency in order to prevent or mitigate interruption or impairment of service.

(3) In the event of national emergency or local disaster resulting in disruption of normal service, the utility may, in the public interest, interrupt service to other customers to provide necessary service to civil defense or other emergency service entities on a temporary basis until normal service to these agencies can be restored.

(4) Each utility shall maintain adequately trained and experienced personnel throughout its service area so that the utility is able to fully and adequately comply with the service quality and reliability standards.

(5) With regard to system reliability, no utility shall neglect any local neighborhood or geographic area, including rural areas, communities of less than 1,000 persons, and low-income areas.

(c) **Definitions.** The following words and terms, when used in this section, shall have the following meanings unless the context clearly indicates otherwise.

(1) **Critical loads** — Loads for which electric service is considered crucial for the protection or maintenance of public safety; including but not limited to hospitals, police stations, fire stations, critical water and wastewater facilities, and customers with special in-house life-sustaining equipment.

(2) **Interruption classifications:**

(A) **Forced** — Interruptions, exclusive of major events, that result from conditions directly associated with a component requiring that it be taken out of service immediately, either automatically or manually, or an interruption caused by improper operation of equipment or human error.

(B) **Scheduled** — Interruptions, exclusive of major events, that result when a component is deliberately taken out of service at a selected time for purposes of construction, preventative maintenance, or repair. If it is

possible to defer an interruption, the interruption is considered a scheduled interruption.

(C) **Outside causes** — Interruptions, exclusive of major events, that are caused by influences arising outside of the distribution system, such as generation, transmission, or substation outages.

(D) **Major events** — Interruptions that result from a catastrophic event that exceeds the design limits of the electric power system, such as an earthquake or an extreme storm. These events shall include situations where there is a loss of power to 10% or more of the customers in a region over a 24-hour period and with all customers not restored within 24 hours.

(3) **Interruption, momentary** — Single operation of an interrupting device which results in a voltage zero and the immediate restoration of voltage.

(4) **Interruption, sustained** — All interruptions not classified as momentary.

(5) **Interruption, significant** — An interruption of any classification lasting one hour or more and affecting the entire system, a major division of the system, a community, a critical load, or service to interruptible customers; and a scheduled interruption lasting more than four hours that affects customers that are not notified in advance. A significant interruption includes a loss of service to 20% or more of the system's customers, or 20,000 customers for utilities serving more than 200,000 customers. A significant interruption also includes interruptions adversely affecting a community such as interruptions of governmental agencies, military bases, universities and schools, major retail centers, and major employers.

(6) **Reliability indices**:

(A) **System Average Interruption Frequency Index (SAIFI)** — The average number of times that a customer's service is interrupted. SAIFI is calculated by summing the number of customers interrupted for each event and dividing by the total number of customers on the system being indexed. A lower SAIFI value represents a higher level of service reliability.

(B) **System Average Interruption Duration Index (SAIDI)** — The average amount of time a customer's service is interrupted during the reporting period. SAIDI is calculated by summing the restoration time for each interruption event times the number of customers interrupted for each event, and dividing by the total number of customers. SAIDI is expressed in minutes or hours. A lower SAIDI value represents a higher level of service reliability.

(d) **Record of interruption.** Each utility shall keep complete records of sustained interruptions of all classifications. Where possible, each utility shall keep a complete record of all momentary interruptions. These records shall show the type of interruption, the cause for the interruption, the date and time of the interruption, the duration of the interruption, the number of customers interrupted, the substation identifier, and the transmission line or distribution feeder identifier. In cases of emergency interruptions,

the remedy and steps taken to prevent recurrence shall also be recorded. Each utility shall retain records of interruptions for five years.

(e) **Notice of significant interruptions.**

(1) **Initial notice.** A utility shall notify the commission, in a method prescribed by the commission, as soon as reasonably possible after it has determined that a significant interruption has occurred. The initial notice shall include the general location of the significant interruption, the approximate number of customers affected, the cause if known, the time of the event, and the estimated time of full restoration. The initial notice shall also include the name and telephone number of the utility contact person, and shall indicate whether local authorities and media are aware of the event. If the duration of the significant interruption is greater than 24 hours, the utility shall update this information daily and file a summary report.

(2) **Summary report.** Within five working days after the end of a significant interruption lasting more than 24 hours, the utility shall submit a summary report to the commission. The summary report shall include the date and time of the significant interruption; the date and time of full restoration; the cause of the interruption, the location, substation and feeder identifiers of all affected facilities; the total number of customers affected; the dates, times, and numbers of customers affected by partial or step restoration; and the total number of

customer-minutes of the significant interruption (sum of the interruption durations times the number of customers affected).

(f) **System reliability.** Reliability standards shall apply to each utility, and shall be limited to the Texas jurisdiction. A "reporting year" is the 12-month period beginning January 1 and ending December 31 of each year.

(1) **System-wide standards.** The standards shall be unique to each utility based on the utility's performance, and may be adjusted by the commission if appropriate for weather or improvements in data acquisition systems. Interim standards shall be established for the 24-month period ending December 31, 1999. The interim standards shall be the system-wide average of the 1998 and the 1999 reporting years for each reliability index. The interim standards will be adjusted based on performance during the 36-month period ending December 31, 2000. The resulting standards will be the average of the three reporting years 1998, 1999, and 2000.

(A) **SAIFI.** Each utility shall maintain and operate its electric distribution system so that the SAIFI value for the 2000 reporting year does not exceed the interim system-wide SAIFI standard by more than 10%. For the 2001 reporting year and thereafter, the SAIFI value shall not exceed the system-wide SAIFI standard by more than 5.0%.

(B) **SAIDI.** Each utility shall maintain and operate its electric distribution system so that the SAIDI value for the 2000 reporting year does not exceed

the interim system-wide SAIDI standard by more than 10%. For the 2001 reporting year and thereafter, the SAIDI value shall not exceed the system-wide SAIDI standard by more than 5.0%.

(2) **Distribution feeder performance.** The commission will evaluate the performance of distribution feeders with ten or more customers beginning with the performance in the 2000-reporting year.

(A) Each utility shall maintain and operate its distribution system so that no distribution feeder with more than ten customers sustains a SAIDI or SAIFI value for a reporting year that is among the highest (worst) 10% of that utility's feeders for any two consecutive reporting years.

(B) Each utility shall maintain and operate its distribution system so that no distribution feeder with more than ten customers sustains a SAIDI or SAIFI value for a reporting year that is more than 300% greater than the system average of all feeders during any two consecutive reporting years.

§25.53. Emergency Operations Plan.

(a) **Filing requirements.** By December 31, 2000, each utility shall file with the commission a general description of its emergency operations plan. The filing shall include an affidavit from the utility's senior operations officer indicating that all relevant operating personnel within the utility are familiar with the contents of the plan, and are committed

to following the plan and its provisions in the event of a system or local emergency. Each utility shall update its plan by filing a revised description that clearly indicates any changes in the plan at least 30 days before such changes take effect.

(b) **Copy available for inspection.** A general description of the plan shall also be made available at the utility's main office for inspection by the public. A complete copy of the plan shall be made available at the utility's main office for inspection by the commission or its staff upon request.

(c) **Information to be included in the plan.** Each utility's emergency plan must include, but need not be limited to, the following:

(1) A registry of critical loads directly served by the utility. This registry shall be updated as necessary but not less often than annually. The description filed with the commission shall include the location of the registry, how the utility ensures that it is maintaining an accurate registry, how the utility will provide assistance to critical load customers in the event of an unplanned outage, how the utility intends to communicate with the critical load customers, and how the utility is training its staff with respect to serving critical customers and loads.

(2) A communications plan that describes the procedures for contacting the media, customers and critical loads directly served by the utility as soon as reasonably possible either before or at the onset of an electrical emergency. The communications plan should also address how the utility's telephone system and

complaint-handling procedures will be augmented during an emergency. Utilities should make every reasonable effort to solicit help from cogenerators and independent power producers during times of generation shortages to prevent interruptions in service;

(3) Curtailment priorities and procedures for shedding load and rotating black-outs;

(4) Priorities for restoration of service;

(5) A summary of power plant weatherization plans and procedures; and

(6) A summary of the utility's alternative fuel and storage capacity.

§25.81. Service Quality Reports.

Service quality reports shall be submitted annually no later than February 14 of each year on a form prescribed by the commission.

This agency hereby certifies that the rules, as adopted, have been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority. It is therefore ordered by the Public Utility Commission of Texas that rule §25.52 relating to Reliability and Continuity of Service and §25.53 relating to Emergency Operations Plan are hereby adopted with changes to the text as proposed; and §25.81 relating to Service Quality Reports is hereby adopted with no changes to the text as proposed.

ISSUED IN AUSTIN, TEXAS ON THE 6th DAY OF DECEMBER 1999.

PUBLIC UTILITY COMMISSION OF TEXAS

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Chairman Pat Wood, III

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Commissioner Judy Walsh

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Commissioner Brett A. Perlman