

PROJECT NO. 41904

**RULEMAKING PROCEEDING TO § PUBLIC UTILITY COMMISSION
AMEND SUBSTANTIVE RULE § OF TEXAS
25.101, RELATING TO §
CERTIFICATION CRITERIA §**

**PROPOSAL FOR PUBLICATION OF AMENDMENT TO § 25.101
AS APPROVED AT THE DECEMBER 19, 2013 OPEN MEETING**

The Public Utility Commission of Texas (commission) proposes an amendment to §25.101, relating to Certification Criteria. The proposed amendment clarifies the definition of a generating unit. Currently, the certification criteria do not apply to any generating unit that is less than ten megawatts that is built for experimental purposes only and not for purposes of commercial operation. Deleting the reference to commercial operation in §25.101(a)(2) will clarify that an electric utility need not apply for a certificate of convenience and necessity even if the experimental unit has some effect on commerce. Project Number 41904 is assigned to this proceeding.

Kevin Mathis, Engineering Specialist, Infrastructure and Reliability Division has determined that for each year of the first five-year period the proposed amendment is in effect, there will be no fiscal implication for state or local government as a result of enforcing or administering the amendment.

Mr. Mathis has determined that for each year of the first five years the proposed amendment is in effect, the public benefit anticipated as a result of enforcing the amendment will be clarification of §25.101(a)(2). There will be no adverse economic effect on small businesses or micro-

businesses as a result of enforcing the amendment. Therefore, no regulatory flexibility analysis is required. There is no anticipated economic cost to persons who are required to comply with the amendment as proposed.

Mr. Mathis has also determined that for each year of the first five years the proposed amendment is in effect there should be no effect on a local economy, and therefore no local employment impact statement is required under Administrative Procedure Act (APA), 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, at the commission's offices located in the William B. Travis Building, 1701 North Congress Avenue, Austin, Texas 78701 on Monday, February 24, 2014, at 10:00 a.m. The request for a public hearing must be received by February 10, 2014.

Initial comments on the proposed amendment may be submitted by February 10, 2014 and reply comments may be submitted by February 24, 2014. Comments should be submitted to the Filing Clerk, Public Utility Commission of Texas, 1701 North Congress Avenue, P.O. Box 13326, Austin, Texas 78711-3326. Sixteen copies of comments on the proposed amendment are required to be filed pursuant to §22.71(c) of this title. Comments should be organized in a manner consistent with the organization of the proposed amendment section. The commission invites specific comments regarding the costs associated with, and benefits that will be gained by,

implementation of the proposed amendment. The commission will consider the costs and benefits in deciding whether to adopt the proposed amendment. All comments should refer to Project Number 41904.

The amendment is proposed under the Public Utility Regulatory Act, Texas Utilities Code Annotated §14.002 (West 2007, Supp. 2013), which provides the Public Utility Commission with the authority to make and enforce rules reasonably required in the exercise of its powers and jurisdiction, and, specifically, §37.051, which specifies the requirement to obtain a CCN and §37.053, which prescribes the requirement for a certificate of convenience and necessity from the commission.

Cross Reference to Statutes: Public Utility Regulatory Act §§ 14.002, 37.051, and 37.053.

§25.101. Certification Criteria

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

(1) (No Change)

(2) **Generating unit** -- Any electric generating facility. This section does not apply to any generating unit that is less than ten megawatts and is built for experimental purposes only, ~~and not for purposes of commercial operation.~~

(3) - (4) (No change.)

(b)-(h) (No change.)

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 19th DAY OF DECEMBER 2013
BY THE PUBLIC UTILITY COMMISSION OF TEXAS
ADRIANA A. GONZALES**

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