

PROJECT NO. 41905

**RULEMAKING PROCEEDING TO § PUBLIC UTILITY COMMISSION
AMEND PUC SUBST. R. 25.236 §
RELATING TO RECOVERY OF FUEL § OF TEXAS
COSTS §**

**PROPOSAL FOR PUBLICATION OF AMENDMENT TO §25.236
AS APPROVED AT THE DECEMBER 19, 2013 OPEN MEETING**

The Public Utility Commission of Texas (commission) proposes an amendment to §25.236, relating to Recovery of Fuel Costs. The proposed amendment adds environmental consumables required to reduce emissions of pollutants and whose use is directly proportional to the fuel consumed to generate electricity, and that are properly recorded in the Federal Energy Regulatory Commission Uniform System of Account, 502, Steam Expenses, as eligible fuel expenses. The amendment also adds costs properly recorded in the Federal Energy Regulatory Commission Uniform System of Account, 509, Allowances, as eligible fuel expenses, and further requires that these costs be offset by any gains properly recorded in the Federal Energy Regulatory Commission Uniform System of Account, 411.8, Gains from Disposition of Allowances. The proposed amendment also deletes the provision that requires that a fuel reconciliation be requested in a general rate proceeding. In addition, the proposed amendment deletes obsolete language from the section. Project Number 41905 is assigned to this proceeding.

Ms. Therese Harris, Senior Utility Analyst, 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 implications for state or local government as a result of enforcing or administering the amendment.

Ms. Harris has also 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 derive from achieving a more suitable cost recovery mechanism for environmental consumables and allowance expenses, which along with the other eligible fuel expenses, vary proportionally with the amount of electricity generated. In addition, the public will benefit from reducing the complexity of the general rate case process; and promoting better management of the fuel reconciliation workload.

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 the electric utilities that are required to comply with the amendment as proposed.

Ms. Harris 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 Tuesday, February 25, 2014. The request for a public hearing must be received by Monday, February 3, 2014.

Comments on the proposed amendments may be submitted to the Filing Clerk, Public Utility Commission of Texas, 1701 North Congress Avenue, P.O. Box 13326, Austin, Texas 78711-3326, by Monday, February 3, 2014. Sixteen copies of comments on the proposed amendment are required to be filed pursuant to §22.71(c) of this title. Reply comments may be submitted by Monday, February 17, 2014. Comments should be organized in a manner consistent with the organization of the proposed amendment. 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 amendment. All comments should refer to Project Number 41905.

The amendment is proposed under the Public Utility Regulatory Act, Texas Utilities Code Annotated §14.002 (West 2007 and Supp. 2012) (PURA), 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, PURA §36.203(e) which provides for the reconciliation of a utility's fuel costs on a timely basis.

Cross Reference to Statutes: Public Utility Regulatory Act §14.002 and §36.203(e).

§25.236. Recovery of Fuel Costs.

- (a) **Eligible fuel expenses.** Eligible fuel expenses include expenses properly recorded in the Federal Energy Regulatory Commission Uniform System of Accounts, numbers 501, 502, 503, 509, 518, 536, 547, and 555, ~~and 565~~, as modified in this subsection, as of April 1, 2013~~1997~~, and the items specified in paragraph (8)~~(7)~~ of this subsection. Any later amendments to the System of Accounts are not incorporated into this subsection. Subject to the commission finding special circumstances under paragraph (7)~~(6)~~ of this subsection, eligible fuel expenses are limited to:

(1)-(2) (No change.)

(3) For Account 502, the only eligible fuel expenses are environmental consumables that are: properly recorded in the Account as chemicals; required to comply with applicable state or federal emission reduction statutes, orders, and regulations; and whose use is directly proportional to the fuel consumed to generate electricity.

(4) For Account 509, the only eligible fuel expenses are allowances expensed concurrent with the monthly emissions of sulfur dioxide and nitrogen oxides.

(5)~~(3)~~ For Accounts 518 and 536, the only eligible fuel expenses are the expenses properly recorded in the Account excluding brokerage fees. For Account 503, the only eligible fuel expenses are the expenses properly recorded in the Account, excluding brokerage fees, return, non-fuel operation and maintenance expenses, depreciation costs and taxes.

(6)~~(4)~~ For Account 555, the electric utility may not recover demand or capacity costs.

~~(5) For Account 565, an electric utility may not recover transmission expenses paid to affiliated companies for the purpose of equalizing or balancing the financial responsibility of differing levels of investment and operating costs associated with transmission assets. A non-ERCOT electric utility may not recover expenses for wheeling transactions. An ERCOT electric utility may recover only the expenses properly recorded in Account 565 for ISO fees related to planned and unplanned transmission service and for payments to parties related to unplanned transmission service, such as losses and re-dispatch fees.~~

~~(7)~~(6) Upon demonstration that such treatment is justified by special circumstances, an electric utility may recover as eligible fuel expenses fuel or fuel related expenses otherwise excluded in paragraphs (1) - ~~(6)~~(5) of this subsection. In determining whether special circumstances exist, the commission shall consider, in addition to other factors developed in the record of the reconciliation proceeding, whether the fuel expense or transaction giving rise to the ineligible fuel expense resulted in, or is reasonably expected to result in, increased reliability of supply or lower fuel expenses than would otherwise be the case, and that such benefits received or expected to be received by ratepayers exceed the costs that ratepayers otherwise would have paid or otherwise would reasonably expect to pay.

~~(8)~~(7) Eligible fuel expenses shall not be offset by revenues by affiliated companies for the purpose of equalizing or balancing the financial responsibility of differing levels of investment and operation costs associated with transmission assets. In addition to the expenses designated in paragraphs (1) - ~~(7)~~(6) of this subsection,

unless otherwise specified by the commission, eligible fuel expenses shall be offset by:

(A) revenues from steam sales included in Accounts 504 and 456 to the extent expenses incurred to produce that steam are included in Account 503; ~~and~~

~~(B) revenues from wheeling transactions except for non-ERCOT electric utilities;~~

~~(B)(C)~~ revenues from off-system sales in their entirety, except as permitted in paragraph ~~(9)(8)~~ of this subsection; ~~and~~;

~~(C) revenues from disposition of allowances properly recorded in Account 411.8.~~

~~(D) For electric utilities in ERCOT, revenues from third parties for unplanned transmission service, such as ISO fees, losses, and re-dispatch fees.~~

~~(9)(8)~~ **Shared margins from off-system sales.** An electric utility may retain 10% of the margins from an off-system energy sales transaction if the following criteria are met:

(A) the electric utility participates in a transmission region governed by an independent system operator or a functionally equivalent independent organization;

(B) a generally-applicable tariff for firm and non-firm transmission service is offered in the transmission region in which the electric utility operates; and

(C) the transaction is not found to be to the detriment of its retail customers.

(b) **Reconciliation of fuel expenses.** Electric utilities shall file petitions for reconciliation on a periodic basis so that any petition for reconciliation shall contain a maximum of three years and a minimum of one year of reconcilable data and will be filed no later than six months after the end of the period to be reconciled. ~~However, notwithstanding the previous sentence, a reconciliation shall be requested in any general rate proceeding under the PURA, Chapter 36, Subchapters C and E and may be performed in any general rate proceeding under the PURA, Chapter 36, Subchapter D. Upon motion and showing of good cause, a fuel reconciliation proceeding may be severed from or consolidated with other proceedings.~~

(c)-(f) (No change.)

~~(g) **Final fuel reconciliation.** Notwithstanding the provisions of subsections (b) and (f) of this section, each electric utility's affiliated power generation company, except El Paso Electric Company's, shall file after January 1, 2002, a final fuel reconciliation according to the schedule in paragraphs (1) — (9) of this subsection. For the final fuel reconciliation, the presiding officer shall set a procedural schedule that will enable the commission to issue a final order in the proceeding within six months of the filing date, except for Reliant Energy, Central Power and Light and TXU Electric proceedings, which will be completed in eight months.~~

~~(1) — West Texas Utilities — June 1, 2002;~~

~~(2) — Reliant Energy — July 1, 2002;~~

- ~~(3) Southwestern Public Service August 1, 2002;~~
- ~~(4) TXU Electric October 1, 2002;~~
- ~~(5) Central Power & Light December 1, 2002;~~
- ~~(6) Lower Colorado River Authority February 1, 2003;~~
- ~~(7) Entergy Gulf States, Inc. March 1, 2003;~~
- ~~(8) Texas New Mexico Power Company April 1, 2003; and~~
- ~~(9) Southwestern Electric Power Company May 1, 2003.~~

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**