

PROJECT NO. 39473

RULEMAKING PROCEEDING TO	§	PUBLIC UTILITY COMMISSION
AMEND PUC SUBST. R. 25.74,	§	
RELATING TO REPORT ON CHANGE	§	OF TEXAS
IN CONTROL, SALE OF PROPERTY,	§	
PURCHASE OF STOCK, OR LOAN	§	

**ORDER ADOPTING AMENDMENT TO §25.74
AS APPROVED AT THE SEPTEMBER 15, 2011 OPEN MEETING**

The Public Utility Commission of Texas (commission) adopts an amendment to §25.74, relating to Report on Change in Control, Sale of Property, Purchase of Stock, or Loan, with no changes to the proposed text as published in the July 22, 2011 *Texas Register* (36 TexReg 4622). Pursuant to House Bill 1753 of the 82nd Legislature, Regular Session in 2011 (HB 1753), the amendment increases from \$100,000 to \$10 million the total amount of consideration exchanged in a sale, acquisition, or lease of an operating unit or system above which a public utility is required to report the transaction to the commission. Project Number 39473 is assigned to this proceeding.

The commission received no comments on the proposed amendment.

This amendment is adopted under the Public Utility Regulatory Act, Texas Utilities Code Annotated §14.002 (Vernon 2007 and Supp. 2010) (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, HB 1753 §1, which amends PURA §14.101(a), effective September 1, 2011, to increase the threshold above which public utilities must report to the commission.

Cross Reference to Statutes: Public Utility Regulatory Act §14.001 and HB 1753 §1 (which amends PURA §14.101(a)).

§25.74. Report on Change in Control, Sale of Property, Purchase of Stock, or Loan.

- (a) Pursuant to Public Utility Regulatory Act (PURA) §39.262(l)-(m) and §39.915, an electric utility must report to and obtain approval of the commission before closing any transaction in which:
- (1) the electric utility will be merged or consolidated with another electric utility;
 - (2) at least 50% of the stock of the electric utility will be transferred or sold; or
 - (3) a controlling interest or operational control of the electric utility will be transferred.
- (b) Pursuant to PURA §14.101(a)(1), an electric utility shall not sell, acquire, or lease a plant as an operating unit or system in the State of Texas for a total consideration of more than \$10 million unless the electric utility reports such transaction to the commission at least one commission working day before the transaction closes. Pursuant to PURA §37.154, if the transaction involves the sale, assignment, or lease of a certificate of convenience and necessity (CCN) or a right obtained under a CCN, the electric utility must obtain commission approval of such CCN transfer.
- (c) An electric utility shall not purchase voting stock in another public utility doing business in the State of Texas unless the electric utility reports such purchase to the commission at least one commission working day before the transaction closes.
- (d) An electric utility shall not loan money, stocks, bonds, notes, or other evidence of indebtedness to any person who directly or indirectly owns or holds 5% or more of the stock of the electric utility unless the electric utility reports such transaction to the

commission at least one commission working day before the transaction closes. A properly filed tariff or energy efficiency plan with respect to energy conservation loans available to customers will be considered adequate reporting to the commission.

- (e) This section does not apply to activities addressed by PURA §14.101(d) and §39.452(e).
- (f) This section applies to any transaction addressed by this section that has not closed, except for a transaction addressed by PURA §39.262(n) or §39.915(c).

This agency hereby certifies that the amendment has 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 §25.74, relating to Report on Change in Control, Sale of Property, Purchase of Stock, or Loan, is hereby adopted with no changes to the text as proposed.

ISSUED IN AUSTIN, TEXAS ON THE 21st DAY OF SEPTEMBER 2011.

PUBLIC UTILITY COMMISSION OF TEXAS

DONNA L. NELSON, CHAIRMAN

KENNETH W. ANDERSON, JR., COMMISSIONER