

§25.174. Competitive Renewable Energy Zones.

- (a) **Designation of competitive renewable energy zones.** The designation of Competitive Renewable Energy Zones (CREZs) pursuant to Public Utility Regulatory Act (PURA) §39.904(g) shall be made through one or more contested-case proceedings initiated by commission staff, for which the commission shall establish a procedural schedule. The commission shall consider the need for proceedings to determine CREZs in 2007 and in subsequent years as deemed necessary by the commission.
- (1) Commission staff shall initiate a contested case proceeding upon receiving the information required by paragraph (2) of this subsection. Any interested entity that participates in the contested case may nominate a region for CREZ designation. An entity may submit any evidence it deems appropriate in support of its nomination, but it shall include information prescribed in paragraph (2)(A) - (C) of this subsection.
- (2) By December 1, 2006, the Electric Reliability Council of Texas (ERCOT) shall provide to the commission a study of the wind energy production potential statewide, and of the transmission constraints that are most likely to limit the deliverability of electricity from wind energy resources. ERCOT shall consult with other regional transmission organizations, independent organizations, independent system operators, or utilities in its analysis of regions of Texas outside the ERCOT power region. At a minimum, the study submitted by ERCOT shall include:

- (A) a map and geographic descriptions of regions that can reasonably accommodate at least 1,000 megawatts (MW) of new wind-powered generation resources;
 - (B) an estimate of the maximum generating capacity in MW that each zone can reasonably accommodate and an estimate of the zone's annual production potential;
 - (C) a description of the improvements necessary to provide transmission service to the region, a preliminary estimate of the cost, and identification of the transmission service provider (TSP) or TSPs whose existing transmission facilities would be directly affected;
 - (D) an analysis of any potential combinations of zones that, in ERCOT's estimation, would result in significantly greater efficiency if developed together; and
 - (E) the amount of generating capacity already in service in the zone, the amount not in service but for which interconnection agreements (IAs) have been executed, and the amount under study for.
- (3) The Texas Department of Parks and Wildlife may provide an analysis of wildlife habitat that may be affected by renewable energy development in any candidate zone, and may submit recommendations for mitigating harmful impacts on wildlife and habitat.
- (4) In determining whether to designate an area as a CREZ and the number of CREZs to designate, the commission shall consider:

- (A) whether renewable energy resources and suitable land areas are sufficient to develop generating capacity from renewable energy technologies;
 - (B) the level of financial commitment by generators; and
 - (C) any other factors considered appropriate by the commission as provided by PURA, including, but not limited to, the estimated cost of constructing transmission capacity necessary to deliver to electric customers the electric output from renewable energy resources in the candidate zone, and the estimated benefits of renewable energy produced in the candidate zone.
- (5) The commission shall issue a final order within six months of the initiation by commission staff of a CREZ proceeding, unless it finds good cause to extend the deadline. For each new CREZ it orders, the commission shall specify:
- (A) the geographic extent of the CREZ;
 - (B) major transmission improvements necessary to deliver to customers the energy generated by renewable resources in the CREZ, in a manner that is most beneficial and cost-effective to the customers, including new and upgraded lines identified by voltage level and a general description of where any new lines will interconnect to the existing grid;
 - (C) an estimate of the maximum generating capacity that the commission expects the transmission ordered for the CREZ to accommodate; and
 - (D) any other requirement considered appropriate by the commission as provided by PURA.

(6) The commission may direct a utility outside of ERCOT to file a plan for the development of a CREZ in or adjacent to its service area. The plan shall include the maximum generating capacity that each potential CREZ can reasonably accommodate; identify the transmission improvements needed to provide service to each CREZ; and include the cost of the improvements and a timetable for complying with all applicable federal transmission tariff requirements.

(b) **Level of financial commitment by generators.**

(1) A renewable energy developer's existing renewable energy resources, and pending or signed IAs for planned renewable energy resources, leasing agreements with landowners in a proposed CREZ, and letters of credit representing dollars per MW of proposed renewable generation resources, posted with ERCOT, that the developer intends to install and the area of interest are examples of financial commitment by developers to a CREZ. The commission may also consider projects for which a TSP, ERCOT, or another independent system operator is conducting an interconnection study; and any other factors for which parties have provided evidence as indications of financial commitment.

(2) A non-utility entity's commitment to build and own transmission facilities dedicated to delivering the output of renewable energy resources in a proposed CREZ to the transmission system of a TSP in Texas or a deposit or payment to secure or fund the construction of such transmission facilities by an electric utility or a transmission utility to deliver the output of a renewable generation project in Texas is an indication of the entity's financial commitment to a CREZ.

(c) **Plan to develop transmission capacity.**

- (1) After the issuance of a final order in accordance with subsection (a)(5) of this section, entities interested in constructing the transmission improvements shall submit expressions of interest to the commission. The commission shall select the entity or entities responsible for constructing the transmission improvements, establish a schedule by which the improvements shall be completed, and specify any additional reporting requirements or other measures deemed appropriate by the commission to ensure that entities complete the ordered improvements in a timely manner.
- (2) The commission shall develop a plan to construct transmission capacity necessary to deliver to electric customers, in a manner that is most beneficial and cost-effective to the customers, the electric output from renewable energy technologies in the CREZ.
- (3) In developing the transmission capacity plan, the commission may consider:
 - (A) the estimated cost of constructing transmission capacity necessary to deliver to electric customers the electric output from renewable energy resources in the candidate zone;
 - (B) the estimated cost of additional ancillary services; and
 - (C) any other factors considered appropriate by the commission as provided by PURA.
- (4) No later than one year after an order by the commission designating a CREZ, the TSP or TSPs selected to provide transmission service in or to a CREZ shall file applications for all required certificates of convenience and necessity (CCNs) for

transmission facilities identified by the commission in the CREZ order as most beneficial and cost-effective to the customers. The commission may allow additional time for a TSP to file an application upon a showing of good cause by the TSP. The commission may establish a filing schedule if a CREZ order requires numerous CCN applications.

- (5) A CCN application for a transmission project intended to serve a CREZ need not address the criteria in PURA §37.056(c)(1) and (2).
- (6) Within 45 days of an application for a CCN for transmission improvements filed pursuant to the order designating the zone a CREZ, each developer for that CREZ shall post a letter of credit or other collateral to an amount equal to 10% of the developer's pro rata share of the estimated capital cost of the transmission improvements covered by the CREZ order, including the TSP's cost of preparing its CCN application. If any developer fails to deposit the required funds, the commission may take appropriate action, including, but not limited to, the following: reconsideration of its CREZ designation; dismissal of the TSP's CCN application; seeking another developer to step into the shoes of a defaulting developer; ordering the return of all deposits to developers who made adequate deposits; ordering the application of the defaulting developer's deposits toward the costs incurred by TSPs pertaining to planning and CCN proceedings for the transmission facilities covered by the order designating the zone a CREZ; and ordering the return of any remaining balance to the defaulting developer.
- (7) In evaluating the CCN applications, the commission shall consider the level of financial commitment by generators. The TSP may propose modifications to the

transmission improvements described in the CREZ order if such improvements would reduce the cost of transmission or increase the amount of generating capacity that transmission improvements for the CREZ can accommodate. The commission may direct ERCOT to review modifications proposed by the TSP.

(d) **Obligation to take transmission service in a CREZ.**

(1) A developer that deposited funds in accordance with subsection (b)(1) or (c)(6) of this section shall take transmission service in the CREZ no later than one year after the TSP notifies it that the transmission system is capable of accommodating the developer's renewable energy facility, unless the commission approves an extension of time. If the developer does not take transmission service as required, the developer shall be considered to have forfeited, for the benefit of the TSP, all collateral, letters of credit or funds it has deposited.

(2) If the developer completes the generation facilities and begins delivering energy from the CREZ within one year of the completion of the transmission improvements, the TSP and ERCOT shall refund to the developer all collateral, letters of credit or funds it has deposited.

(e) **Disincentives for excess development in a CREZ.** If the aggregate level of renewable energy capacity for which transmission service is requested for a CREZ exceeds the maximum level of renewable capacity specified in the CREZ order, the commission may initiate a proceeding and limit interconnection to and/or establish dispatch priorities regarding the transmission system in the CREZ, and identify the developers whose projects may interconnect to the transmission system in the CREZ under special protection schemes. Priority in interconnecting to the transmission system may be based

on a number of factors, including financial commitments of the developers in accordance with subsections (b) and (c) of this section. In determining such priority, the commission may also consider the progress that a developer has made in obtaining the transmission studies required for a new generator interconnection as indications of financial commitment.