

# Updated PUCT Market Participant Registration and Reporting Requirements

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**PRACTICES** Energy, Power and Natural Resources, Traditional Power

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On April 6, 2023, the Public Utility Commission of Texas (Commission) issued an order in Project No. 52796, *Review of Market Participant Qualifications and Reporting Requirements*, approving significant changes to the Commission's rules related to the registration and reporting requirements for certain entities.

Specifically, the Commission repealed and replaced 16 Texas Administrative Code (TAC) §§ 25.105, 25.107 and 25.109 to enact new registration, certification, and reporting requirements for Power Marketers, Retail Electric Providers (REPs) and Power Generation Companies (PGCs), respectively.

The Commission also adopted amendments to 16 TAC §§ 25.30, 25.485 and 25.495 to change the time period for electric utilities, REPs, and aggregators to respond to customer complaints submitted to the Commission.

The key changes to the Commission's rules are summarized below.

## **Customer Complaint Response Time**

Beginning September 1, 2023, electric utilities, REPs, and aggregators must now respond to customer complaints submitted to the Commission within 15 days, instead of 21 days, as previously allowed. The Commission declined to adopt language allowing extensions to the 15-day deadline, and also rejected stakeholder proposals to establish a separate process and timeline for "complex complaints" submitted to the Commission because it "unnecessarily introduces delay into the [Commission's] complaint process."

The Commission retained the existing 21-day response deadline for customer complaints submitted directly to electric utilities, REPs, and aggregators.

## **Power Marketer Registration and Reporting**

Under the new 16 TAC § 25.105, a Power Marketer must first register with the Commission before it can participate in the Texas wholesale market. This registration requirement differs from the previous version of the rule, which gave Power Marketers up to 30 days to register with the Commission following the date the Power Marketer first bought or sold electric energy at wholesale in Texas.

Power Marketers currently registered with the Commission are required to renew their registrations by January 1, 2024 with annual renewals by November 1st of each calendar year. The registrations of Power Marketers that fail to update information with the Commission as required by the new rule will be "listed as expired" on the Commission's list of Power Marketers.

## **Retail Electric Provider Certification**

The new 16 TAC § 25.107 makes key changes to the REP certification and application process by requiring REPs to 1) meet additional technical and managerial requirements; 2) provide additional information on persons, principals, and companies controlling the REP; and 3) provide letters of credit in amounts that correspond to the number of electronic service identifiers (ESI IDs) served by the REP.

The new rule also enables the Commission, through Commission Staff or the Commission's Executive Director, to suspend a REP's ability to add new customers for significant violations of the Commission's rule.

Option 1 REPs—REPs whose retail service offerings are defined by a geographic service area—that have already been certificated by the Commission will be required to meet the requirements of the new rule by March 5, 2024.

Option 2 and Option 3 REPs—REPs whose retail service offerings are limited to certain specific customers—are not required to comply with the new technical, managerial, and financial requirements.

## **Power Generation Company and Self-Generator Reporting**

PGCs and Self-Generators will be required to provide additional information regarding their principals (e.g., executives, shareholders with more than 10% equity of the applicant, or persons who exercise control and have apparent or actual authority to exercise such control), make additional attestations regarding operations, and confirm compliance with the rule's requirements to obtain or renew registration. For instance, a Self-Generator will now be required to attest that it is not a PGC and does not "intend to generate electricity intended to be sold at wholesale."

PGCs and Self-Generators currently registered with the Commission will be required to file new registrations by June 1, 2023, and renewal annually by February 28th every other calendar year.

The Commission declined to adopt a proposed definition of "Self-Generator", which would have allowed a person to serve a co-located, behind-the-meter load if the load was owned in part by the generator. However, under the requirements of the Public Utility Regulatory Act (PURA) and Commission rules and precedent, a person cannot lawfully provide energy behind-the-meter to load other than that person's load. In its order, the Commission stated that the definition of "Self-Generator" and related registration issues would be considered in a separate Commission rulemaking.

The Commission's order and new rules can be accessed [here](#).

If you have any questions, please contact one of the lawyers listed below.