

PUC DOCKET NO. 39592
SOAH DOCKET NO. 473-12-2788

APPLICATION OF SHARYLAND	§	PUBLIC UTILITY COMMISSION
UTILITIES, L.P. TO APPROVE RETAIL	§	
PLAN PURSUANT TO THE	§	OF TEXAS
COMMISSION'S ORDER IN DOCKET	§	
NO. 37990 AND FOR OTHER RELIEF	§	

ORDER

This Order addresses the application of Sharyland Utilities, L.P. (Sharyland) to approve Sharyland's plan to transition the Stanton, Colorado City, Brady, and Celeste divisions to retail competition pursuant to the Orders issued in Docket Nos. 37990¹ and 39070² (application). A Non-Unanimous Stipulation and Agreement (NUS) was executed that resolves all of the issues in this docket. No party opposes the NUS. Consistent with the NUS, Sharyland's application is approved.

The Commission adopts the following findings of fact and conclusions of law:

I. Findings of Fact

General and Procedural History

1. Sharyland is an investor-owned electric utility that operates transmission and distribution facilities in Texas.
2. On July 8, 2010, the Commission approved a transaction (Transaction) in Docket No. 37990 whereby control of Cap Rock Energy Corporation (Cap Rock), also an electric utility in Texas, was transferred to Sharyland.
3. Prior to the Transaction, Sharyland operated transmission and distribution facilities only within the Electric Reliability Council of Texas (ERCOT) power region.

¹ *Joint Report and Application of Sharyland Utilities, L.P., Sharyland Distribution & Transmission Services, L.L.C., Hunt Transmission Services, L.L.C., Cap Rock Energy Corporation, and NewCorp Resources Electric Cooperative, Inc. for Regulatory Approvals Pursuant to PURA §§ 14.101, 37.154, 39.262, and 39.915, Docket No. 37990, Order (Jul. 8, 2010).*

² *Application of Sharyland Utilities, L.P. to Approve Study and Plan Pursuant to the Commission's Order in Docket No. 37990 Concerning the Movement of Sharyland's Stanton and Colorado City Divisions from the Southwest Power Pool to ERCOT, Docket No. 39070 (Jul. 8, 2011).*

4. As a result of the Transaction, Sharyland operates additional transmission and distribution facilities within ERCOT and now operates transmission and distribution facilities in the Southwest Power Pool (SPP) power region.
5. The divisions of Sharyland that operate in ERCOT are the McAllen, Brady, and Celeste divisions. The divisions of Sharyland that operate in SPP are the Stanton and Colorado City divisions.
6. Pursuant to the Order in Docket No. 37990, Sharyland filed an application in Docket No. 39070 on January 13, 2011, to transfer Sharyland's Stanton and Colorado City divisions to ERCOT. On July 8, 2011, the Commission issued an Order in Docket No. 39070 approving Sharyland's application consistent with a Stipulation and Agreement of Settlement filed in that proceeding.
7. The Order in Docket No. 37990 also required Sharyland to submit, by July 13, 2011, a study and plan concerning whether to transition Sharyland's former Cap Rock divisions (the Stanton, Colorado City, Brady, and Celeste divisions) to retail competition (Retail Plan). The Order in Docket No. 39070 imposed additional requirements concerning Sharyland's Retail Plan.
8. Sharyland filed the application to approve Sharyland's Retail Plan on July 13, 2011, in this docket in accordance with the Orders in Docket Nos. 37990 and 39070, and a proposed form of notice for this proceeding. In support of the application, Sharyland also filed the Direct Testimony of Mark E. Caskey on July 13, 2011.
9. On July 14, 2011, the Commission Administrative Law Judge (Commission ALJ) issued Order No. 1, approving the form and manner of notice proposed by Sharyland and requesting Commission Staff's recommendation regarding the sufficiency of the application.
10. On July 29, 2011, the Commission ALJ issued Order No. 2, finding Sharyland's application sufficient and establishing deadlines for intervention and the submission of a proposed procedural schedule.
11. On August 29, 2011, Sharyland filed the proof of notice by mail and proof of publication, providing proof of notice by: (a) first-class mail, postage prepaid to (i) Sharyland's retail

customers in Sharyland's Brady, Celeste, Stanton, and Colorado City divisions (separate from a bill insert), (ii) all municipalities and county governments within Sharyland's Brady, Celeste, Stanton, and Colorado City service areas, (iii) all neighboring utilities and electric cooperatives providing the same utility service within five miles of Sharyland's Brady, Celeste, Stanton, and Colorado City service areas, (iv) all REPs currently certified and registered with the Commission as listed on the Commission's website at the time the application was filed, and (v) Commission Staff, the Office of Public Utility Counsel, and counsel for all parties to Docket Nos. 37990 and 39070; and (b) one-time publication in newspapers having general circulation in each county located within Sharyland's Brady, Celeste, Stanton, and Colorado City service areas.

12. On September 8, 2011, the Commission set a deadline of November 7, 2011, for parties to request a hearing or file a joint proposed order, to allow the parties to attempt to settle the docket before the deadline for requesting a hearing.
13. On November 10, 2011, Sharyland filed an amendment to its Retail Plan and the direct testimony of Sharyland witness Mark E. Caskey.
14. On November 14, 2011, the Commission referred this matter to the State Office of Administrative Hearings (SOAH) for a hearing.
15. On December 5, 2011, a prehearing conference was held and the SOAH ALJ issued Order No. 2, establishing a procedural schedule and setting the date of May 15, 2012, for the hearing on the merits.
16. On December 9, 2011, the SOAH ALJ issued Order No. 4, approving Sharyland's proposed supplemental notice to the Cities of McAllen and Mission, Texas, in Sharyland's McAllen division. On December 20, 2012, Sharyland filed the proof of supplemental notice by mail, providing proof of notice by first class mail, postage prepaid, to the Cities of McAllen and Mission.
17. On January 4, 2012, the Commission issued the Preliminary Order identifying the issues that must be addressed in this docket.
18. On January 6, 2012, Sharyland filed the supplemental direct testimonies of Mark E. Caskey and Ralph G. Goodlet, Jr.

19. The following parties were granted intervention in this docket: City of Brady, Texas; GEUS; Lower Colorado River Authority (LCRA); Pioneer Natural Resources USA, Inc. (Pioneer); Reliant Energy Retail Services LLC; Southwestern Public Service Company; St. Lawrence Cotton Grower's Association; Texas Cotton Ginners' Association; Texas Energy Association for Marketers (TEAM); Texas Industrial Energy Consumers; and TXU Energy Retail Company LLC. LCRA subsequently withdrew its intervention.
20. On March 9, 2012, the SOAH ALJ issued Order No. 5, granting a joint motion for abatement filed by Sharyland, Public Utility Commission of Texas Staff, and all intervenors in this docket with the exception of Pioneer (collectively, the Stipulating Parties) in order to facilitate the settlement process.
21. On March 22, 2012, the Stipulating Parties filed the NUS along with a joint motion to approve a proposed procedural schedule for processing the NUS. On March 29, 2012, Pioneer filed a response in opposition to the joint motion.
22. On April 2, 2012, the SOAH ALJ issued Order No. 6, certifying the following issue to the Commission: Should the issue of whether Pioneer's Driver Unit should be reconfigured from secondary meters to one or more primary meters be addressed in this docket?
23. On May 1, 2012, the Commission issued the Order on Certified Issue stating that the SOAH ALJ may consider the reconfiguration of Pioneer's Driver Unit only in the context of whether the NUS should be rejected under the El Paso standard.³
24. On May 4, 2012, a second prehearing conference was held, and on May 7, 2012, the SOAH ALJ issued Order No. 7, establishing a revised procedural schedule and setting the date of August 2, 2012, for the hearing on the merits.
25. On May 14, 2012, Sharyland filed the direct testimonies of Mark E. Caskey and Ralph G. Goodlet, Jr. in support of the NUS and TEAM filed the direct testimony of Miles Higgins in support of the NUS.

³ *City of El Paso v. Pub. Util. Comm'n of Texas*, 883 S.W.2d 179, 183-84 (Tex. 1994).

26. On June 25, 2012, Pioneer filed a notice that it would not file testimony in this docket and withdrew its request for a hearing.
27. On June 27, 2012, the Stipulating Parties filed a joint motion to abate the procedural schedule in this proceeding and set the date of July 12, 2012, for the filing of proposed order along with a motion to remand the proceeding to the Commission. No party opposed the joint motion.
28. On June 28, 2012, the SOAH ALJ issued Order No. 9, granting the joint motion for abatement of the procedural schedule and requiring the Stipulating Parties to file a proposed order and a motion to remand the docket to the Commission by July 12, 2012.
29. On July 11, 2012, the Stipulating Parties filed a proposed order and a joint motion to admit evidence and remand the proceeding to the Commission. No party opposed the joint motion.
30. On July 18, 2012, the SOAH ALJ issued Order No. 10, granting the joint motion to admit evidence, granting the motion to remand, returning the case to the Commission, and dismissing the case from the SOAH docket. Twelve (12) exhibits listed in Order No. 10 were admitted into the evidentiary record.

The Stipulation

31. The Stipulating Parties have agreed to the following:
 - a. **Customer Education and Outreach**
 - i. Within thirty (30) days of the Commission's final order approving Sharyland's retail competition plan, Sharyland will provide the following information on its website:
 - (1) a link to the final order approving the retail competition plan;
 - (2) identification of customer decisions and timelines related to the transition to retail competition;
 - (3) a link to www.powertochoose.org, and a description of its purpose so that customers can begin the process of learning about the competitive retail electricity market in Texas;

- (4) contact information for customer questions concerning the transition to retail competition;
 - (5) updates on the status of the transition to retail competition; and
 - (6) information on default retail electric providers (Default REPs) as such information becomes available.
- ii. Pursuant to P.U.C. SUBST. R. 25.472, no later than September 1, 2013, Sharyland will mail a notice to each of its customers providing information that (a) explains the transition to retail competition; (b) directs customers to www.powertochoose.org to research the competitive retail electricity market in Texas and begin the process of learning about the competitive retail electricity market in Texas; (c) explains the issuance of Sharyland's customer list to interested competitive REPs and provides a toll-free telephone number and an Internet website address to notify Sharyland of the customer's desire to be excluded from the list; and (d) informs the customer of the availability of the no-call lists pursuant to P.U.C. SUBST. R. 25.484 and 26.37 and provides the customer with information on how to request placement on the list. If Sharyland acquires new retail customers after the date on which it mails the notice described in this subparagraph, Sharyland will provide the same information described herein as part of its information packet provided to new customers under P.U.C. SUBST. R. 25.31. Direct mail notices to customers shall be provided in both English and Spanish, unless a customer has designated a specific language for notices in which case that customer's direct mail notices will be provided in the designated language.
- (1) Between November 1, 2013, and March 31, 2014, Sharyland will host at least one informational meeting in each of the four divisions that will be transitioned to retail competition (the Stanton, Colorado City, Brady, and Celeste divisions). Notice of the meetings will be provided to customers, municipally-owned utilities that provide service in areas dually-certificated to Sharyland, and to REPs who request such notice, by (a) direct mail notice; (b) newspaper publication; and (c) website posts. Representatives of such municipally-owned utilities and REPs may attend such meetings. Sharyland shall file a copy of all notices in the project that will be established in accordance with Paragraph 31.b.v. below. Direct mail notices of the meetings shall be provided in both English and Spanish.
 - (2) Advertisements or educational materials provided by Sharyland shall clearly state that the transition to competition is only available to customers who receive service from Sharyland.

Educational materials shall be made available in both English and Spanish.

- (3) No later than ninety (90) days prior to the Implementation Date (defined in Paragraph 31.b.i. below), Sharyland will notify each of its customers of the list of Default REPs that the customers will be randomly assigned to after implementation of retail competition if such customers do not affirmatively select their own competitive REP and other information explaining how the transition to competition will work. Notice will be provided by direct mail in both English and Spanish. Sharyland will file a copy of the proposed notice in the project to be established under Paragraph 31.b.v. no later than fifteen (15) days before the notice is mailed to Sharyland's customers.

b. **Implementation Issues**

- i. Implementation of retail competition for Sharyland's Stanton, Colorado City, Brady, and Celeste divisions will commence on May 1, 2014, or ninety (90) days after Sharyland files its tariffs to implement the final Commission order approving unbundled delivery rates for those divisions, whichever is later (Implementation Date).
- ii. Upon request, pursuant to P.U.C. SUBST. R. 25.472, Sharyland will provide a mass customer list to any interested REP no later than December 31, 2013.
- iii. Pursuant to the ERCOT Study Order in Docket No. 39070, Sharyland will transfer all loads and assets of Sharyland's Stanton and Colorado City divisions from SPP to ERCOT by December 31, 2013, except for those facilities identified in the ERCOT Study Order. It is expected this transfer will occur over the course of three weeks.
- iv. Sharyland will create all ESI IDs that will be transitioned to retail competition and work with Commission Staff, ERCOT and other stakeholders to implement a process that will accomplish the following goals to the extent practicable (Transition to Competition Process):
 - (1) All ESI IDs assigned to each customer will be identified by Sharyland.
 - (2) Sharyland will begin the transition to competition on the Implementation Date. Estimated meter reads shall not be used when transitioning customers to competition unless Sharyland, Commission Staff, ERCOT, and other stakeholders agree to a method of estimation as part of the Transition to Competition Process.

- (3) Customers will be able to select a REP (Selected REP) to provide them service when they are transitioned to competition. As part of the Transition to Competition Process, deadline(s) may be established for a customer to select a REP to avoid being assigned to a Default REP. Such deadlines shall impose the least restrictions practicable on the customer's opportunity to select a REP and shall be consistent with Commission rules and ERCOT protocols. Sharyland, Commission Staff, ERCOT, and other stakeholders may agree that a deadline for selection of a REP is not necessary if transactions can reasonably be processed in sufficient time to honor the customer's selection of a REP.
 - (4) Customers that do not select a REP will be assigned to a Default REP in accordance with Paragraph 31.c. below.
 - (5) A customer assigned to a Default REP will be provided a market-based, month-to-month product and will be able to select a REP and switch away from the Default REP without penalty in accordance with Paragraph 31.c. below and with ERCOT and Commission procedures and rules.
 - (6) Sharyland will use a unique identifying code in the ESI IDs assigned to customers in the Stanton, Colorado City, Brady, and Celeste divisions to differentiate those ESI IDs from the ESI IDs in the Sharyland McAllen division. Additionally, Sharyland will utilize a single unique DUNS number for the Stanton, Colorado City, Brady, and Celeste divisions inclusively to differentiate those divisions from the Sharyland McAllen division.
- v. Sharyland shall file informational reports with the Commission with respect to the status of Sharyland's plan for implementing retail competition in accordance with this Order and serve copies on all parties to this proceeding by no later than fifteen (15) days after the end of each quarter beginning with the first quarter in 2013. Sharyland's final informational report will be filed by the end of the quarter following the quarter in which retail competition is implemented. All such reports will be filed in a separate project to be established by the Commission that will be solely for the purpose of receiving such reports and other informational notices required by this Order and will not be a contested case.
- c. **Selection of Default REP(s)**
- i. Sharyland shall assign all customers who do not select a REP to a Default REP in accordance with Paragraph 31.b.iv. above and Paragraph 31.c.ii. below. The Default REP will provide service to such customers when those customers are transitioned to competition.

- ii. Sharyland shall work with Commission Staff, ERCOT, and other stakeholders to implement a process for selection of Default REPs that will accomplish the following goals to the extent practicable:
- (1) Customers that do not select a REP will be assigned to a Default REP.
 - (2) Each customer with multiple ESI IDs will be assigned to a single Default REP for all of the customer's ESI IDs.
 - (3) No later than September 1, 2013, Commission Staff will confidentially provide to Sharyland a list of no more than fifteen REPs by customer class qualified to serve as Large Service Providers (LSPs) in accordance with P.U.C. SUBST. R. 25.43 treating all Provider of Last Resort (POLR) areas in ERCOT as a single POLR area (Single POLR Area). If there are less than 15 REPs qualified to serve, then the list shall only include those REPs, otherwise the list shall include the 15 largest REPs qualified to serve. The eligible REPs included on this list shall be the REPs with the largest market share based upon retail sales in megawatt-hours, by customer class, in the Single POLR Area. Additionally, Commission Staff shall confidentially provide to Sharyland the market share percentages of the eligible REPs, by customer class, in the Single POLR Area. Commission Staff shall obtain approval from the eligible REP to release the market-share information to Sharyland. The data used for these determinations will be March 31, 2012 data provided by REPs to the Commission in Project No. 40158. Sharyland will treat this information confidentially.
 - (4) No later than October 1, 2013, Sharyland will determine which of the LSP POLR REPs identified by Commission Staff are flight-tested with Sharyland and will contact each such REP to determine whether the REP desires to opt-in as a Default REP.
 - (5) No later than October 15, 2013, any LSP POLR REP that has been contacted by Sharyland pursuant to Paragraph 31.c.ii(4) that desires to opt-in as a Default REP must notify Sharyland in writing of its intent to opt-in and its agreement to serve as POLR in the Sharyland divisions that will be transitioned to competition until the next POLR selection cycle for 2015-2016.
 - (6) No later than November 1, 2013, Sharyland will finalize for each customer class a list of Default REPs that includes up to the 15 largest qualifying LSP POLR REPs by market share in the Single POLR Area based on the criteria set forth in Paragraph 31.c.ii(3) through (5) herein.

- (7) On a schedule established as part of the Transition to Competition Process, Sharyland will assign all ESI IDs associated with customers that have not selected a REP to a Default REP. ESI IDs shall be grouped by customer. Customer ESI IDs will be assigned to each Default REP consistent with the following criteria: (a) Each customer with multiple ESI IDs will be assigned to a single Default REP for all of the customer's ESI IDs; (b) ESI IDs for a customer class shall be assigned to Default REPs in proportion to the market share, based on retail sales in megawatt-hours as determined in the March 31, 2012 data provided by REPs to the Commission in Project No. 40158, each Default REP serves for that customer class in the Single POLR Area; and (c) ESI IDs shall be assigned in a non-discriminatory manner. The schedule for assigning ESI IDs to Default REPs should allow customers to receive the notice described in Paragraph 31.c.ii(10) below prior to the transition to competition.
- (8) Subject to Paragraph 31.b.iv. above, customers that select a REP will begin taking service from the Selected REP when the customer is transitioned to competition and will not be served by a Default REP.
- (9) Each Default REP will offer a market-based, month-to-month product to all customers assigned to it with no penalty for switching to another REP.
- (10) A Default REP shall provide notice to customers assigned to it under Paragraph 31.c.ii(7) above no later than thirty (30) days after the Default REP has been notified of the ESI ID assignments by Sharyland. The notice shall include: (a) the date the Default REP began or will begin serving the customer; (b) a contact number for the Default REP; (c) a description of the Default REP's rate for service; (d) the deposit requirements of the Default REP; and (v) the applicable Terms of Service and Electricity Facts Label (EFL).
- (11) A Default REP may require a deposit from a customer that has been assigned to the Default REP to continue to serve the customer. Despite the lack of a deposit, the Default REP is obligated to serve the customer assigned to it, beginning on the service initiation date of the assignment and continuing until such time as any disconnection request by the Default REP is effectuated by Sharyland. The Default REP may make the request for deposit before it begins serving the customer, but the Default REP shall begin providing service to the customer even if the service initiation date is before it receives the deposit, if any deposit is required. A Default REP shall not issue an order to

disconnect the customer until the appropriate time period to submit the deposit has elapsed. For the large non-residential customer class, a Default REP may require a deposit to be provided in three (3) calendar days. For the residential customer class, the Default REP may require a deposit to be provided after fifteen (15) calendar days of service if the customer received ten (10) days' notice that a deposit was required. For all other customer classes, the Default REP may require a deposit to be provided in ten (10) calendar days. The Default REP may waive the deposit requirement at the customer's request if deposits are waived in a non-discriminatory fashion. If the Default REP obtains sufficient data from Sharyland, it shall determine whether a residential customer has satisfactory credit based on the criteria the Default REP routinely applies to its other residential customers. If the customer has satisfactory credit, the Default REP shall not request a deposit from the residential customer.

- iii. Sharyland will notify the Commission of the final lists of Default REPs identified in Paragraph 31.c.ii (6) by filing such lists in the project to be established by the Commission pursuant to Paragraph 31.b.v. of this Order no later than November 1, 2013. The Commission will publish the list of Default REPs on its website.

d. **Rate Issues**

- i. Sharyland will file its application to establish retail delivery rates no later than May 31, 2013 (May 2013 application).
- ii. Sharyland will utilize the 12 months ending December 31, 2012, as its test year in its May 2013 application.
- iii. Sharyland will collect load research data for the purpose of preparing its cost-of-service study in its May 2013 application for the period beginning in the month of February 2012 and ending with the December 2012 billing cycle.
- iv. Sharyland's May 2013 application will propose rates for the Stanton, Colorado City, Brady, and Celeste divisions on a combined basis, but will not include the McAllen division.
- v. Sharyland will develop the load, cost data, and system load growth data and all other data it is required to develop pursuant to the Commission's regulations and the Commission's Rate Filing Package, except for the requirement that the utility provide three years of functionalized historical data as required by Schedules D-2.2, D-3.2, D-3.3, D-3.4, and D-3.9 of the Rate Filing Package. Sharyland will provide functionalized data for the test year as required by the Rate Filing Package. Sharyland will not be

precluded from requesting a waiver of any other requirement in its Rate Filing Package if necessary, but all Stipulating Parties will be free to oppose such request.

- vi. Sharyland will not file an application to automatically adjust its rates under a Distribution Cost Recovery Factor (DCRF) pursuant to P.U.C. SUBST. R. 25.243 prior to the issuance of a final order approving retail delivery rates for the Stanton, Colorado City, Brady, and Celeste divisions.
 - vii. No interim rate reduction or interim rate increase will be implemented prior to the date that Sharyland's unbundled retail delivery rates become effective.
- e. **Issues Related to Service in Areas Dually-Certificated with Municipally-Owned Utilities**
- i. Sharyland and the municipally-owned utilities that are signatories to the NUS will comply with all requirements relating to switchovers by electric consumers in dually-certificated areas as set forth in P.U.C. SUBST. R. 25.27 and in their respective tariffs.
 - ii. In the event that Sharyland is contacted by a customer with respect to a possible switchover from a municipally-owned utility prior to the implementation of customer choice, Sharyland will advise the customer that the municipally-owned utility might impose a switchover fee and that the customer, or the customer's designee, would need to contact the municipally-owned utility if the customer or its designee would like information regarding such a fee. Nothing in this provision prevents Sharyland from responding to questions from customers of municipally-owned utilities in dually-certificated areas about Sharyland's rates, service, switchover procedures, or retail competition. Nothing in this provision in any way limits or modifies Sharyland's obligation to timely serve customers of municipally-owned utilities in dually-certificated areas who desire to switch service to Sharyland.
 - iii. Sharyland's retail competition customer education program described in Paragraph 31.a. will be targeted at customers of Sharyland and will not specifically target customers of municipally-owned utilities in dually-certificated areas.
- f. **Oil and Gas Load Issues**
- i. Sharyland will include sufficient cost and load data in its May 2013 application that will allow the parties and the Commission to consider whether to establish an oil and gas rate class at the conclusion of the proceeding and will file a pro forma oil and gas tariff as part of its

May 2013 application. All parties, including Sharyland, reserve their positions with respect to the propriety of such a class.

- ii. Sharyland will file a study of the “flat profile concept” as it relates to oil and gas loads no later than November 30, 2012, based on available load research information, and will update the study in its May 2013 application.

g. **Behind the Meter Lines**

- i. Through December 31, 2019, Sharyland will continue to own, operate, and maintain those limited distribution lines that are: (a) on the customer’s side of an existing meter at its existing location as of the date of the NUS; and (b) owned by Sharyland as of the date of the NUS (Behind the Meter Lines). Any party, including Sharyland, may petition the Commission to require Sharyland to continue to own, operate, and maintain Behind the Meter Lines after December 31, 2019, on the grounds that such services are not widely available in the area in which the Behind the Meter Lines are located or for other good cause shown.
- ii. Sharyland will maintain records for the period ending December 31, 2012, showing: (a) all visits by Sharyland personnel to provide maintenance service on Behind the Meter Lines; and (b) the costs associated with such maintenance service. A summary of such information will be filed with Sharyland’s May 2013 application.
- iii. Allocation of Sharyland costs associated with operation and maintenance of Behind the Meter Lines will be addressed in the May 2013 base-rate proceeding.

h. **Other Issues**

- i. Sharyland should not be required to file an advanced metering system (AMS) deployment plan at this time. Sharyland will continue to monitor developments with respect to AMS and will address the issue of whether it should be required to deploy an AMS system in its May 2013 application; provided that if the Commission decides to require Sharyland to deploy an AMS system in its final order in the May 2013 base-rate proceeding, Sharyland will file an application in a separate proceeding.
- ii. Until December 31, 2019, Sharyland personnel will meet with the members of the St. Lawrence Cotton Growers Association and the Texas Cotton Ginners Association at least once a year to discuss their concerns with electric service. Sharyland will also, upon request, hold a special meeting with any party to this proceeding prior to May 1, 2014, to answer questions about retail competition.

Findings in Accordance with Preliminary Order

32. The Commission's Preliminary Order in this docket identified the issues to be considered in determining whether Sharyland's Retail Plan should be approved. The following answers to the issues identified in the Preliminary Order support a finding that the Retail Plan as modified by the NUS should be approved.
- a. **Preliminary Order Issue No. 1:** The application, as modified by the NUS, complies with the Commission's Orders in Docket Nos. 37990 and 39070.
 - b. **Preliminary Order Issue No. 2:** The transition of Sharyland's retail customers in the four former Cap Rock divisions to retail competition in accordance with the Retail Plan as modified by the NUS would benefit those customers by providing competitive power costs. Therefore, Sharyland's customers should be transitioned to retail competition in accordance with the Retail Plan as modified by the NUS.
 - c. **Preliminary Order Issue No. 3:** Sharyland's proposed Retail Plan should be modified in accordance with the NUS in order to assure an efficient transition to retail competition for the former Cap Rock divisions. No other additions or adjustments to the Retail Plan are necessary.
 - d. **Preliminary Order Issue No. 4:** The date proposed in Sharyland's Retail Plan to initiate retail competition (January 1, 2014) should be modified to May 1, 2014, in accordance with the NUS. This four-month extension of the date will allow Sharyland, REPs, and Sharyland's retail customers additional time to prepare for competition and to complete Sharyland's 2013 base-rate proceeding to approve unbundled delivery tariffs.
 - e. **Preliminary Order Issue No. 4.A:** The date of May 1, 2014, for initiation of retail competition allows adequate time to ensure that all necessary systems to implement retail competition are in place, tested, and operational.
 - f. **Preliminary Order Issue No. 4.B:** The date of May 1, 2014, for initiation of retail competition should be made contingent on Sharyland's retail delivery tariffs being effective in order to allow sufficient time for REPs to create and offer products and services after they know what Sharyland's transmission and distribution charges will be.
 - g. **Preliminary Order Issue No. 4.C:** The provision in the NUS that states that the date for implementation of retail competition in the four former Cap Rock divisions will be May 1, 2014, or 90 days after the issuance of a final order in Sharyland's unbundled retail delivery tariffs rate proceeding, whichever is later, allows REPs adequate time to be prepared to offer retail services.

- h. **Preliminary Order Issue No. 5:** The provisions set forth in the NUS concerning customer education and outreach activities in advance of retail competition will help ensure a successful transition to retail competition and are in the public interest.
- i. **Preliminary Order Issue No. 6:** Customer education and outreach activities should be modified as set forth in the NUS in order to avoid targeting customers of municipally-owned utilities in areas that are dually certificated to Sharyland and the municipally-owned utilities.
- j. **Preliminary Order Issue No. 7:** The Retail Plan as modified by the NUS should ensure that an adequate number of REPs will compete to provide retail service in the four former Cap Rock divisions.
- k. **Preliminary Order Issue No. 8:** Sharyland should be required to file a base-rate application for the four former Cap Rock divisions on a combined basis but should not be required to propose system-wide rates for all of Sharyland's service areas or to address both options in its May 2013 application.
- l. **Preliminary Order Issue No. 9:** Sharyland should be required to file its base-rate case no later than May 31, 2013.
- m. **Preliminary Order Issue No. 10:** Sharyland should file all of the data set forth in the Commission's Rate Filing Package for Investor-Owned Transmission and Distribution Utilities in its May 2013 application, except for the requirement that the utility provide three years of historical functionalized data as required by Schedules D-2.2, D-3.2, D-3.3, D-3.3, D-3.4, and D-3.9.
- n. **Preliminary Order Issue No. 11:** Sharyland should not be allowed to automatically adjust its rates under a DCRF pursuant to PURA § 36.210 and P.U.C. SUBST. R. 25.243 prior to issuance of a final order approving retail delivery rates for the former Cap Rock divisions in the 2013 base-rate proceeding.
- o. **Preliminary Order Issue No. 12:** Sharyland should not be required to file an application for interim rates to be in effect in the former Cap Rock divisions until the rates approved in the 2013 base-rate case go into effect upon the initiation of retail competition.
- p. **Preliminary Order Issue No. 13:** Sharyland will include sufficient cost and load data in its May 2013 application to allow the Commission to establish an oil and gas rate class at the conclusion of the proceeding if the Commission desires. Sharyland will also file a pro forma oil and gas tariff as part of its application. In addition, Sharyland will file its "flat profile concept" study required by the Order in Docket No. 37990 with respect to oil and gas load no later than November 30, 2012, and will update the study when it files its May 2013 application.

- q. **Preliminary Order Issue No. 14:** Sharyland should be required to own and maintain lines that are on the customer's side of the meter that have been historically owned and maintained by Cap Rock through December 31, 2019, in accordance with the requirements set forth in the NUS.
- r. **Preliminary Order Issue No. 15:** Sharyland should not be required to file an AMS deployment plan at this time or as part of its 2013 base-rate case. Sharyland should file a recommendation as to whether it should be required to deploy AMS in its May 2013 application. If the Commission decides to require Sharyland to deploy AMS in the 2013 base-rate case, Sharyland should be required to file an application in a separate proceeding subsequent to the base-rate proceeding.
- s. **Preliminary Order Issue No. 16:** Default REP designation should be performed in accordance with the procedures set forth in the NUS.
- t. **Preliminary Order Issue No. 17:** The criteria that will be used to evaluate and select default REP(s) should be the criteria prescribed in the NUS.
- u. **Preliminary Order Issue No. 18:** The Retail Plan as modified by the NUS appropriately addresses the responsibilities of the default REP(s).

II. Conclusions of Law

1. Sharyland is a regulated electric utility as defined in the Public Utility Regulatory Act, TEX. UTIL. CODE ANN. §§ 11.001-66.016 (Vernon 2007 & Supp. 2011) (PURA) § 31.002.
2. The Commission has jurisdiction and authority over this proceeding pursuant to PURA §§ 14.001, 39.102(d), and 39.102(e).
3. Sharyland provided proper and adequate notice of the application consistent with P.U.C. PROC. R. 22.55.
4. The NUS resolves all issues pending in this docket.
5. The application may be approved without a hearing pursuant to § 2001.056 of the Administrative Procedure Act, TEX. GOV'T CODE ANN. 2001.001-.902 (Vernon 2011).
6. The application, including the Retail Plan as modified by the NUS, meets the requirements set forth in the Orders in Docket No. 37990 and 39070 concerning the transition of the former Cap Rock divisions to retail competition.

7. The Retail Plan as modified by the NUS is consistent with the public interest within the meaning of PURA §§ 14.001, 14.101, 39.102(c), and 39.102(d) and otherwise satisfies the applicable requirements of those sections.
8. The terms of the NUS, taken as a whole, are a fair, just, and reasonable resolution of all issues addressed, are consistent with the relevant provisions of PURA.
9. Sharyland should not be required to file an application for interim rates that would be in effect until the rates under the base rate case to be filed on or before May 31, 2013, go into effect.
10. The requirements for informal disposition pursuant to P.U.C. PROC. R. 22.35 have been met in this proceeding.

III. Ordering Paragraphs

In accordance with these findings of fact and conclusions of law, the Commission issues the following order:

1. Sharyland's application, the NUS, and the Retail Plan as modified by the NUS are approved.
2. Sharyland shall file an application to establish retail delivery rates no later than May 31, 2013. That application will propose rates for the Stanton, Colorado City, Brady, and Celeste divisions on a combined basis but will not include the McAllen division. The application will utilize the twelve (12) months ending December 31, 2012, as the test year.
3. Entry of this Order does not indicate the Commission's endorsement or approval of any principle or methodology that may underlie the NUS. Entry of this Order should not be regarded as binding holding or precedent as to the appropriateness of any principle or methodology underlying the NUS except for the purpose of enforcing the NUS or this Order in any future proceeding.
4. All other motions, requests for entry of specific findings of fact and conclusions of law, and any other request for general or specific relief, if not expressly granted herein, are denied.

SIGNED AT AUSTIN, TEXAS the _____ day of August 2012.

PUBLIC UTILITY COMMISSION OF TEXAS

DONNA L. NELSON, CHAIRMAN

KENNETH W. ANDERSON, JR., COMMISSIONER

ROLANDO PABLOS, COMMISSIONER