

## CHAPTER 25. SUBSTANTIVE RULES RELATING TO ELECTRIC SERVICE PROVIDERS.

### Subchapter G. SUBMETERING.

#### §25.141. Central System or Non-submetered Master Metered Utilities.

- (a) **Purpose.** This section implements Texas Utilities Code §184.052.
- (b) **Definitions.** The following words and terms, when used in this section, shall have the following meanings, unless the context clearly indicates otherwise.
- (1) **Apartment house** -- One or more buildings containing two or more dwelling units rented primarily for nontransient use with rent paid at intervals of one week or longer.
  - (2) **Apartment house owner** -- The legal titleholder of an apartment house or an individual, firm, or corporation purporting to be the landlord of tenants in the apartment house.
  - (3) **Central system utilities** -- Electricity consumed by a central air conditioning system, central heating system, central hot water system, or central chilled water system in an apartment house. The term does not include utilities directly consumed by a dwelling unit.
  - (4) **Customer** -- The individual, firm, or corporation in whose name a master meter is connected by a utility or that is served by a retail electric provider.
  - (5) **Dwelling unit** -- One or more rooms that are suitable for occupancy as a residence and that contain kitchen and bathroom facilities.
  - (6) **Nonsubmetered master metered utility service** -- Electric utility service that is master metered for an apartment house but is not submetered.
  - (7) **Utility** -- A public, private, or member-owned utility furnishing electricity service to an apartment house served by a master meter.
- (c) **Records and reports.**
- (1) The apartment house owner shall maintain and make available for inspection by the tenant during normal business hours:
    - (A) the billing from the utility to the apartment house owner for the current month and the 12 preceding months; and
    - (B) the calculation of the average cost per kilowatt-hour for the current month and the 12 preceding months which was used in assessing tenant utility billings. The average cost per kilowatt-hour shall be equal to the charges for the electric service plus applicable tax, less any penalties charged by the utility or retail electric provider to the apartment house owner for disconnect, and reconnect, late payment or other similar service charges, divided by the total number of billing units.
  - (2) All records shall be made available to the commission upon request.
  - (3) Records shall be made available at the resident manager's office during reasonable business hours or, if there is no resident manager, at the dwelling unit of the tenant at the convenience of both the apartment house owner and the tenant.
- (d) **Calculation of costs.** Central system utilities costs shall be calculated based on metered kilowatt-hour of the central system during the same billing period as that of the utility. The metered kilowatt-hour of the central system shall be multiplied by the average cost per billing calculated according to all applicable industry standards. The cost of nonsubmetered master metered utilities shall be the total charges for electric service to the apartment house less any penalties charged by the utility or the retail electric provider to the apartment house owner for disconnect, reconnect, late payment or other similar service charges.
- (e) **Billing.** All rental agreements between the apartment house owner and the tenants shall provide a clear written description of the method of the allocation of central system utilities or non-submetered master metered utilities for the apartment house. The method of allocation may be changed only after 90 days notice of the change to the tenants. The rental agreement for each apartment unit shall contain a statement of the average monthly bill for the previous calendar year for that apartment unit.

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If there is no rental agreement, apartment house owners shall provide the method of allocation in a separate written document.

- (1) **Rendering and form of bill.**
  - (A) Bills shall be rendered for the same billing period as that of the utility or retail electric provider, generally monthly, unless service is rendered for less than that period.
  - (B) The allocation of central system utilities costs or nonsubmetered master metered utilities costs to tenants shall be based on one or a combination of the following methods.
    - (i) the total square footage living area of the dwelling unit as a percentage of the total square footage living area of all dwelling units of the apartment house and all heated and/or air-conditioned common areas. This percentage shall be stated in the rental agreement for each dwelling unit; and
    - (ii) the individually metered or submetered utility usage of the dwelling unit as a percentage of the sum of the individually metered or submetered usage of all dwelling units.
  - (C) Methods to allocate central system utility costs or nonsubmetered master metered utilities to tenants, other than the method outlined in this section, must be approved by the commission.
  - (D) Billings to the tenant shall not be included as part of the rental payment or as part of billings for any other service to the tenant. A separate billing must be issued or, if issued on a multi-item bill, utility billing information must be separate and distinct from any other charges on the bill. The bill may not include a deposit, late penalty, reconnect charge, or any other charges unless otherwise provided for by this chapter. A one-time penalty not to exceed 5.0% may be made on delinquent accounts. If such penalty is applied, the bill shall indicate the amount due if paid by the due date and the amount due if the late penalty is incurred. No late penalty may be applied unless agreed to by the tenant in a written lease which states the exact dollar or percentage amount of such late penalty.
  - (E) An apartment house owner may not impose additional charges on a tenant in excess of the actual charges imposed on the apartment house owner for utility consumption by the apartment house.
- (2) **Due date.** The due date of the bill shall not be less than seven days after issuance. A bill for service is delinquent if not received by the party indicated on the bill by the due date. The postmark date, if any, on the envelope of the bill or on the bill itself shall constitute proof of the date of issuance. An issuance date on the bill shall constitute proof of the date of issuance if there is no postmark on the envelope or bill. If the due date falls on a holiday or weekend, the due date for payment purposes shall be the next workday after the due date.
- (3) **Overbilling and underbilling.** If billings are found to be in error, the apartment house owner shall calculate a billing adjustment. If the tenant is due a refund, an adjustment shall be made for the entire period of the overcharges. If the tenant was undercharged, the apartment house owner may backbill the tenant for the amount which was underbilled. The backbilling is not to exceed six months unless the apartment house owner can produce records to identify and justify the additional amount of backbilling. If the underbilling is \$25 or more, the apartment house owner shall offer to such tenant a deferred payment plan option, for the same length of time as that of the underbilling. Furthermore, adjustments for usage by a previous tenant may not be backbilled to the current tenant.
- (4) **Discontinuance of electric service.** Disconnection of a dwelling unit by the apartment house owner is governed by Texas Property Code §92.008(b). Disconnection of electric service by a retail electric provider is governed by §25.483(k) of this title (relating to

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Disconnection of Service). Disconnection of service by an electric utility that is not a transmission and distributed utility is governed by §25.29(j) of this title (relating to Disconnection of Service).

- (5) **Disputed bills and complaints.** In the event of a dispute between the tenant and the apartment house owner regarding any bill, the apartment house owner shall immediately make such investigation as shall be required by the particular case, and report the results thereof to the tenant. The investigation and report shall be completed within 30 days from the date the tenant notified the apartment house owner of the dispute. If the tenant is dissatisfied with the results of the investigation, the apartment house owner shall inform the tenant of the Public Utility Commission of Texas complaint process, giving the tenant the address and telephone number of the commission's Office of Customer Protection.