

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

### Subchapter Q. SYSTEM BENEFIT FUND.

#### §25.454. Rate Reduction Program.

- (a) **Purpose.** The purpose of this section is to define the low-income electric rate reduction program, establish the rate reduction calculation, and specify enrollment options and processes.
- (b) **Application.** This section applies to retail electric providers (REPs) that provide electric service in an area that has been opened to customer choice, or an area for which the commission has issued an order applying the system benefit fund or rate reduction. This section also applies to municipally owned electric utilities (MOUs) and electric cooperatives (Coops) on a date determined by the commission, but no sooner than six months preceding the date on which an MOU or a Coop implements customer choice in its certificated area unless otherwise governed by §25.457 of this title (relating to Implementation of the System Benefit Fee by Municipally Owned Utilities and Electric Cooperatives).
- (c) **Funding.** The rate reduction requirements set forth by this subchapter are subject to sufficient funding and authorization to expend funds. In the event that funding and authorization to expend funds are not sufficient to administer the rate reduction program or fund rate reductions for customers, the following shall apply:
- (1) The requirements of subsections (e), (f) and (g) of this section are suspended until sufficient funding and spending authority are available.
  - (2) The requirements of the following sections of this title, insofar as they relate to the rate reduction benefit, are suspended when sufficient funding and spending authority are not available:
    - (A) §25.451(j) of this title (relating to Administration of the System Benefit Fund);
    - (B) §25.457(i) - (j) of this title;
    - (C) §25.475(g)(4)(L) of this title (relating to General Retail Electric Provider Requirements and Information Disclosures to Residential and Small Commercial Customers); and
    - (D) §25.43(d)(3)(D), (q)(1)(A) - (B), (q)(2)(A), and (q)(3)(A) of this title (relating to Provider of Last Resort (POLR)).
  - (3) The requirements of §25.480(c) of this title (relating to Bill Payments and Adjustments), insofar as they relate to the rate reduction benefit, are suspended if an eligibility list is not available as provided in subsection (i) of this section.
- (d) **Definitions.** The following words and terms when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise.
- (1) **Discount factor** — The amount of discount an eligible low-income customer must be provided by any REP, or MOU or Coop, when applicable, in the customer's area, expressed as cents per kilowatt-hour (kWh).
  - (2) **Discount percentage** — The percentage of discount established by the commission and applied to the lower of the price to beat (PTB) or minimum provider of last resort (POLR) rate in a particular service territory.
  - (3) **Low-Income Discount Administrator (LIDA)** — A third-party vendor with whom the commission has a contract to administer the rate reduction program.
  - (4) **Rate reduction** — The total discount to be deducted from a customer's electric bill. This reduction is derived from the discount factor and total consumption in accordance with subsection (e)(3) of this section.
  - (5) **REP** — For the purposes of this section, a retail electric provider and an MOU or Coop that provides retail electric service in an area that has been opened to customer choice.

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- (6) **Minimum POLR rate** — For the purposes of this section, the minimum POLR rate shall be the POLR rate posted on the commission's website on the Electricity Facts Label for each service territory for 1,000 kWh of usage.
- (e) **Rate reduction program.** In each month for which funds are available for the low-income discount, all eligible low-income customers as defined in §25.5 of this title (relating to Definitions) are to receive a rate reduction, as determined by the commission pursuant to this section, on their electric bills from their REP.
- (1) Discount factors shall be determined in accordance with this paragraph, as the lower of the PTB or minimum POLR rate for each service territory multiplied by the approved discount percentage.
- (A) The commission shall periodically establish the discount percentage. The discount percentage may be set at a level no greater than 20%.
- (B) The commission staff shall calculate a discount factor for each service territory and post the discount factors on the commission website ([www.puc.state.tx.us](http://www.puc.state.tx.us)).
- (C) Each discount factor based on the minimum POLR rate shall be in effect from May through October or November through April, subject to revision pursuant to paragraph (2) of this subsection.
- (D) Each discount factor based on the PTB shall be recalculated when the PTB rate changes or the commission revises the discount percentage. The discount factor based on the PTB shall reflect any seasonal variation in the PTB.
- (2) The commission may revise the discount factors set pursuant to paragraph (1) of this subsection through a change to the discount percentage because of one of the following occurrences:
- (A) The commission staff determines that there are sufficient remaining appropriations for the fiscal year to support an increase in the discount percentage without exceeding available appropriations for the fiscal year. This determination may be triggered by the routine review by commission staff of disbursements and remaining appropriations, or by a fluctuation of five percent or more of the minimum POLR rate.
- (B) The commission staff determines that there are insufficient remaining appropriations for the fiscal year, and a decrease to the discount percentage is necessary to ensure that funds spent do not exceed appropriations for the fiscal year.
- (C) The commission determines that a change in the discount percentage is consistent with the objectives of this section and the public interest.
- (3) All REPs shall provide the rate reduction to eligible low-income customers.
- (A) The discount factors posted on the commission's website shall be used to calculate the rate reduction for each eligible low-income customer's bill. If the discount factor changes for any area, REPs shall implement the resulting change in the discount factor in their billings to customers within 30 calendar days of the date the commission posts the revised discount factor to its website, or on the effective date of the discount factor, whichever is later.
- (B) The rate reduction shall be calculated by multiplying the customer's total consumption (kWh) for the billing period by the discount factor (in cents/kWh) in effect during the billing cycle in which the bill is rendered. If an eligible customer is rebilled, the discount that was in effect during the affected billing cycle will be applied.
- (C) The customer's discount amount shall be clearly identified as a line item on the electric portion of the customer's bill, including the description "LITE-UP Discount." If a monthly bill is not issued as provided by §25.498 of this title (relating to Retail Electric Service Using a Customer Prepayment Device or

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System), the customer's receipt or confirmation of payment, or detailed information accessed by confirmation code, as described by §25.498 of this title, shall indicate that the discount was applied to the customer's charges with the words "LITE-UP" or "LITE-UP Discount."

- (D) REPs are entitled to reimbursement under §25.451(j) of this title for rate reductions they provide to eligible low-income customers.
- (f) **Customer enrollment.** Eligible customers may be enrolled in the rate reduction program through automatic enrollment or self-enrollment.
- (1) Automatic enrollment is an electronic process to identify customers eligible for the rate reduction by matching client data from the Texas Health and Human Services Commission (HHSC) with customer-specific data from REPs.
- (A) HHSC shall provide client information to LIDA in accordance with subsection (g)(1) of this section.
- (B) REPs shall provide customer information to LIDA in accordance with subsection (g)(3) of this section.
- (C) LIDA shall compare the customer information from HHSC and REPs, create files of matching customers, enroll these customers in the rate reduction program, and notify the REPs of their eligible customers.
- (2) Self-enrollment is an alternate enrollment process available to eligible electric customers who are not automatically enrolled and whose combined household income does not exceed 125% of federal poverty guidelines or who receive food stamps or medical assistance from HHSC. The self-enrollment process shall be administered by LIDA. LIDA's responsibilities shall include:
- (A) Distributing and processing self-enrollment applications, as developed by the commission, for the purposes of initial self-enrollment, and for re-enrollment of self-enrolled and automatically enrolled customers;
- (B) Maintaining customer records for all applicants;
- (C) Providing information to customers regarding the process of enrolling in the low-income discount program;
- (D) Determining customers' eligibility by reviewing information submitted through self-enrollment forms and determining whether the applicant meets the program qualifications; and
- (E) Matching customer information submitted through self-enrollment forms with customer data provided by REPs, creating files of matching customers, enrolling matching customers in the rate reduction programs, and notifying the REPs of their eligible customers.
- (3) In determining customers' eligibility in the self-enrollment process, LIDA shall require that customers submit with a self-enrollment form proof of income in the form of copies of tax returns, pay stubs, letters from employers, or other pertinent information and shall audit statistically valid samples for accuracy. If a person who self-enrolls claims to be eligible because of participation in a qualifying program, LIDA shall require the customer to submit a copy of proof of enrollment or eligibility letter that indicates enrollment of the applicant in the qualifying program.
- (4) The following procedures govern a customer's re-enrollment.
- (A) A self-enrolled customer may re-enroll by submitting a completed self-enrollment form.
- (B) A customer who was formerly, but is no longer, automatically enrolled may re-enroll through self-enrollment.
- (C) LIDA shall send a customer who is eligible to re-enroll a self-enrollment form which specifies a date for submitting the completed form that is not more than 30

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- days after the date the form is mailed. If the customer submits a completed form before the date specified on the form and LIDA determines that the customer is eligible for re-enrollment, the customer shall receive the rate reduction without interruption.
- (D) If a customer does not return a properly completed form before the time specified by LIDA, the customer's rate reduction may be interrupted until LIDA determines that the customer is eligible.
- (5) The eligibility period of each customer will be determined by the customer's method of enrollment.
- (A) The eligibility period for self-enrolled customers is seven months from the date of enrollment.
- (B) Automatically enrolled customers will continue to be eligible as long as the customers receive HHSC benefits. Once a customer no longer receives HHSC benefits, the customer will continue to receive the rate reduction benefit for a period of no more than 60 days, during which the customer may self-enroll.
- (6) A customer who believes that a self-enrollment application has been erroneously denied may request that LIDA review the application, and the customer may submit additional proof of eligibility.
- (A) A customer who is dissatisfied with LIDA's action following a request for review under this paragraph may request an informal hearing to determine eligibility by the commission staff.
- (B) A customer who is dissatisfied with the determination after an informal hearing under subparagraph (A) of this paragraph may file a formal complaint pursuant to §22.242(e) of this title (relating to Complaints).
- (g) **Responsibilities.** In addition to the requirements established in this section, program responsibilities for LIDA may be established in the commission's contract with LIDA; program responsibilities for tasks undertaken by HHSC may be established in the memorandum of understanding between the commission and HHSC.
- (1) **HHSC shall:**
- (A) assist in the implementation and maintenance of the automatic enrollment process by providing a database of customers receiving HHSC benefits as detailed in the memorandum of understanding between HHSC and the commission; and
- (B) assist in the distribution of promotional and informational material as detailed in the memorandum of understanding.
- (2) **LIDA shall:**
- (A) receive customer lists from REPs on a monthly basis through data transfer;
- (B) retrieve the database of clients from HHSC on a monthly basis;
- (C) conduct the self-enrollment, automatic enrollment, and re-enrollment processes;
- (D) establish a list of eligible customers, by comparing customer lists from the REPs with HHSC databases and identifying customer records that reasonably match;
- (E) make available to each REP, on a date prescribed by the commission on a monthly basis, a list of low-income customers eligible to receive the rate reduction;
- (F) notify customers that have applied for the rate reduction through the self-enrollment process of their eligibility determination and notify automatically enrolled and self-enrolled customers of their expiration of eligibility, and opportunities for re-enrollment in the rate reduction program;
- (G) answer customer inquiries regarding the rate reduction program, and provide information to customers regarding enrollment for the rate reduction program and eligibility requirements;

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- (H) resolve customer enrollment problems, including issues concerning customer eligibility, the failure to provide discounts to customers who believe they are eligible, and the provision of discounts to customers who do not meet eligibility criteria; and
  - (I) protect the confidentiality of the customer information provided by the REPs and the client information provided by HHSC.
- (3) **A REP shall:**
- (A) provide residential customer information to LIDA through data transfer on a date prescribed by the commission on a monthly basis. The customer information shall include, to the greatest extent possible, each full name of the primary and secondary customer on each account, billing and service addresses, primary and secondary social security numbers, primary and secondary telephone numbers, Electric Service Identifier (ESI ID), service provider account number, and premise code;
  - (B) retrieve from LIDA the list of customers who are eligible to receive the rate reduction;
  - (C) upon commission request, monitor high-usage customers to ensure that premises are in fact residential and maintain records of monitoring efforts for audit purposes. A customer with usage greater than 3000 kWh in a month shall be considered a high-usage customer;
  - (D) apply a rate reduction to the electric bills of the eligible customers identified by LIDA within the first billing cycle in which it is notified of a customer's eligibility, if notification is received no later than seven days before the end of the billing cycle, or, if not, apply the rate reduction within 30 calendar days after notification is received from LIDA;
  - (E) notify customers three times a year about the availability of the rate reduction program, and provide self-enrollment forms to customers upon request;
  - (F) assist LIDA in working to resolve issues concerning customer eligibility, including the failure to provide discounts to customers who believe they are eligible and the provision of discounts to customers who may not meet the eligibility criteria; this obligation requires the REP to employ best efforts to avoid and resolve issues, including training call center personnel on general LITE-UP processes and information, and assigning problem resolution staff to work with LIDA on problems for which LIDA does not have sufficient information to resolve; and
  - (G) provide to the commission copies of materials regarding the rate reduction program given to customers during the previous 12 months upon commission request.
- (h) **Confidentiality of information.**
- (1) The data acquired from HHSC pursuant to this section is subject to a HHSC confidentiality agreement.
  - (2) All data transfers from REPs to LIDA pursuant to this section shall be conducted under the terms and conditions of a standard confidentiality agreement to protect customer privacy and REP's competitively sensitive information.
  - (3) LIDA may use information obtained pursuant to this section only for purposes prescribed by commission rule, including use in determining eligibility for assistance under §25.455 of this title (relating to One-Time Bill Payment Assistance Program).
- (i) **Eligibility List for Continuation of Late Penalty Waiver Benefits.**
- (1) In the event that funding and authorization to expend funds are not sufficient to provide rate reductions for low-income customers that can be reimbursed from the system benefit fund, the commission may, in its discretion, require LIDA to maintain a list of low-income customers who would otherwise be eligible for automatic enrollment in the rate reduction

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program under subsection (f)(1) of this section if funds were available. The procedures set forth in subsection (f)(1) of this section will be used to the extent practicable. In addition to the requirements in this section, program responsibilities for LIDA may be established in the commission's contract with LIDA; and program responsibilities for tasks undertaken by HHSC may be established in a memorandum of understanding between the commission and HHSC. To assist the commission in implementing this provision, REPs shall upon request:

- (A) provide residential customer information to LIDA through data transfer on a date prescribed by the commission on a monthly basis. The customer information shall include, to the greatest extent possible, each full name of the primary and secondary customer on each account, billing and service addresses, primary and secondary social security numbers, primary and secondary telephone numbers, ESI ID, service provider account number, and premise code;
  - (B) retrieve from LIDA the list of customers who would be eligible for automatic enrollment in the rate reduction program if funds were available;
  - (C) monitor high-usage customers to ensure that premises are in fact residential and maintain records of monitoring efforts for audit purposes. A customer with usage greater than 3,000 kWh in a month shall be considered a high-usage customer;
  - (D) assist LIDA in working to resolve issues concerning customer eligibility; this obligation requires the REP to employ best efforts to avoid and resolve issues, including training call center personnel on general processes and information, and assigning problem resolution staff to work with LIDA on problems for which LIDA does not have sufficient information to resolve; and
  - (E) provide other information and assistance, upon request of the commission, to assist in implementation of this section.
- (2) If funding is available to include self-enrollees in the list of eligible customers, the commission may, in its discretion, require LIDA to include self-enrollees in the list of eligible customers consistent with subsection (f)(2) of this section or set forth processes for determining eligibility in a procedural guide. The processes, to the extent feasible, will be consistent with subsections (f) and (g) of this section.
- (3) If pursuant to subsection (i) of this section, the commission, through the LIDA or other means, provides the REPs with a list of eligible customers §25.480(c) of this title, which requires that a customer receiving a low-income discount pursuant to the Public Utility Regulatory Act §39.903(h) may not be assessed a late penalty, shall be continued based on the customer's eligibility for the discount, rather than the customer's receipt of the discount.

**(j) Deposit Installment Benefits.**

- (1) If LIDA is maintaining a list of eligible customers as described in subsection (f) or subsection (i) of this section, then a customer or applicant who qualifies for the rate reduction program is eligible to pay deposits over \$50 in two installments, pursuant to §25.478(e)(3) of this title (relating to Credit Requirements and Deposits).
- (A) A REP who requires a customer or applicant to provide sufficient information to the REP to demonstrate that the customer or applicant qualifies for the rate reduction program may request the following information:
    - (i) a letter from the customer's or applicant's current or prior REP stating that the applicant is on the list of customers who would be eligible for the rate reduction if funds were available;
    - (ii) a bill from the current or prior REP that demonstrates that the customer or applicant is enrolled in the rate reduction program; or
    - (iii) other documentation that the REP determines to be appropriate and requests on a non-discriminatory basis.

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- (B) Upon the request of a customer, a REP shall provide a letter stating that the customer is on the list of customers who would be eligible for the rate reduction if funds were available. This letter may be combined with a letter issued to a customer regarding bill payment history.
  - (2) If LIDA is not maintaining a list of eligible customers as described in subsection (f) or subsection (i) of this section, a REP shall extend the option to pay deposits over \$50 in two installments to any residential customers or applicants who qualify for the rate reduction program. The REP may, on a non-discriminatory basis, require the customer or applicant to provide documentation of eligibility that the REP determines to be appropriate. The REP shall provide notice of this option in any written notice requesting a deposit from a customer. This paragraph supersedes the provisions of §25.478(c)(3) and (d)(3) of this title that require payment of the entire amount of a deposit within ten days.
- (k) **Voluntary Programs.** Nothing in this section is intended to impair a REP's ability to voluntarily provide a low-income discount or other benefits to low-income customers.
- (1) The list of low-income customers who would be eligible for the rate reduction if funds were available, or other non-discriminatory criteria, may be utilized by a REP as evidence of a customer's eligibility for the REP's voluntary low-income program, if offered.
  - (2) In the event a REP chooses to voluntarily offer a discount or other benefits to low-income customers, the REP shall treat any information obtained regarding the customer's financial status or enrollment in a government program as confidential information and shall not disclose the information to any other party or use the information for any purpose other than enrollment in a voluntary low-income program.
- (l) **Effective date.** The effective date of this section is December 1, 2010.