

PROJECT NO. 31417

**RULEMAKING RELATING TO THE § PUBLIC UTILITY COMMISSION
DISCOUNT FOR LOW-INCOME §
ELECTRIC CUSTOMERS § OF TEXAS**

**PROPOSAL FOR PUBLICATION OF AMENDMENTS TO §§25.454, 25.475, AND 25.478
AS APPROVED AT THE DECEMBER 15, 2005, OPEN MEETING**

The Public Utility Commission of Texas (commission) proposes amendments to §25.454, relating to Rate Reduction Program, §25.475, relating to Information Disclosures to Residential and Small Commercial Customers, and §25.478, relating to Credit Requirements and Deposits. The proposed amendments to §25.454 comport with the provisions of the Public Utility Regulatory Act (PURA) relating to discounts for low-income customers, as revised in the 79th Legislative Session; specify what happens to the rules surrounding the electric rate reduction program for low-income customers when funding and authorization to expend funds are not sufficient for a discount to be provided and an eligibility list to be administered; specify what happens when the discount cannot be provided, but an eligibility list is available to Retail Electric Providers (REPs) for the continuation of the late-fee waiver benefit; set forth provisions for voluntary programs to be administered by REPs; and amend outdated references. The proposed amendments to §25.475 and §25.478 provide that all residential customers, rather than just low-income customers, shall have the right to pay any deposits greater than \$50 in two installments, and shall be notified of that option. This rule is a competition rule subject to judicial review as specified in PURA, Texas Utilities Code §39.001(e). Project Number 31417 is assigned to this proceeding.

Lauren Damen, Senior Retail Market Analyst, Electric Industry Oversight Division, has determined that for each year of the first five-year period the proposed sections are in effect there

will be no fiscal implications for state or local government as a result of enforcing or administering the section.

Ms. Damen has determined that for each year of the first five years the proposed sections are in effect, the public benefit anticipated as a result of the sections will encompass the ability of a residential customer to pay a deposit over \$50 in two installments; low-income rules that clearly reflect the amended statute; and a mechanism for REPs to continue to provide low-income customers the benefit of a late-fee waiver during times in which the electric rate reduction program is not offered, but an eligibility list is available. There will be economic costs to small businesses, microbusinesses and persons who are required to comply with the proposed sections. These costs are the result of providing a deposit installment option for all customers. These costs are likely to vary from business to business, and are difficult to ascertain. However, Ms. Damen has determined that the benefits that will accrue from implementation of the proposed sections will outweigh these costs.

Ms. Damen has also determined that for each year of the first five years the proposed sections are in effect there should be no effect on local economies, and therefore no local employment impact statement is required under Administrative Procedure Act (APA), Texas Government Code §2001.022.

The commission staff will conduct a public hearing on this rulemaking, if requested pursuant to the Administrative Procedure Act, Texas Government Code §2001.029, at the commission's offices located in the William B. Travis Building, 1701 North Congress Avenue, Austin, Texas

78701 on Tuesday, January 31, 2006, at 9:30 a.m. The request for a public hearing must be received within 21 days after publication of the proposed amendments.

Comments on the proposed amendments may be submitted to the Filing Clerk, Public Utility Commission of Texas, 1701 North Congress Avenue, P.O. Box 13326, Austin, Texas 78711-3326, within 21 days after publication. Sixteen copies of comments to the proposed amendments are required to be filed pursuant to §22.71(c). Reply comments may be submitted within 31 days. Comments should be organized in a manner consistent with the organization of the proposed amendments. The commission invites specific comments regarding the costs associated with, and benefits that will be gained by, implementation of the proposed amendments. The commission will consider the costs and benefits in deciding whether to adopt the proposed amendments. All comments should refer to Project Number 31417.

These amendments are proposed under the Public Utility Regulatory Act, Texas Utilities Code Annotated (Vernon 1998, Supplement 2005): (1) §14.002 which provides the commission with the authority to make and enforce rules reasonably required in the exercise of its powers and jurisdiction; (2) §39.101(e) provides that the commission has the authority to adopt rules necessary or appropriate rules for minimum service standards, relating to customer deposits; and (3) §39.903 grants the commission the authority to adopt rules regarding programs to assist low-income electric customers on the introduction of customer choice.

Cross Reference to Statutes: PURA §§14.002, 39.101, and 39.903.

§25.454. Rate Reduction Program.

(a) – (b) (No change.)

(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 are suspended until sufficient funding and spending authority are available:
 - (A) §25.451(j) of this title (relating to Administration of the System Benefit Fund);
 - (B) §25.457(h)-(i) of this title (relating to Implementation of the System Benefit Fee by Municipally Owned Utilities and Electric Cooperatives);
 - (C) §25.475(g)(4)(L) of this title (relating to 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).
- (3) The requirements of §25.480(c)(1) of this title (relating to Bill Payments and Adjustments) are suspended until an eligibility list is 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) – (3) (No change.)
- (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.
- (e) **Rate reduction program.** 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) The commission shall periodically establish a discount percentage. The discount percentage may be set at a level no greater than 20%.
- (2) – (3) (No change.)
- (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) – (D) (No change.)
- (3) – (4) (No change.)
- (5) The eligibility period of each customer will be determined by the customer's method of enrollment.
- (A) (No change.)
 - (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) (No change.)

(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) (No change.)

(2) **LIDA shall:**

- (A) (No change.)
- (B) retrieve the database of clients from HHSC on a monthly basis;
- (C) (No change.)
- (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) – (G) (No change.)
- (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) (No change.)
- (h) **Confidentiality of information.** All data transfers shall be conducted under the terms and conditions of confidentiality agreements to protect customer privacy and competitively sensitive information.
 - (1) The data acquired from HHSC is subject to a HHSC confidentiality agreement and shall only be used for the purposes of enrolling customers in the rate reduction program, providing rate reductions to customers, resolving problems, and other purposes directly related to the program.
 - (2) – (3) (No change.)
- (i) **Eligibility List for Continuation of Late Fee Waiver Benefits.**
 - (1) In the event that funding and authorization to expend funds are not sufficient to provide actual rate reductions for customers, 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 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;

- (E) twice a year, notify customers about late penalty waivers and provide to the commission copies of materials regarding late penalty waivers given to customers during the previous 12 months upon commission request; and
 - (F) provide other information and assistance, upon request of the commission, to assist in implementation of this section.
- (2) Should additional funding become available to include self-enrollees in the list of eligible customers, the commission may, in its discretion, 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) The list of low-income customers who would be eligible for the rate reduction if funds were available, may also be utilized by any REP for the purpose of providing a voluntary rate reduction program.
- (4) 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:
- (A) §25.480(c)(1) of this title shall apply.
 - (B) §25.480(c)(1) 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) **Voluntary Programs.** The suspensions outlined in subsection (c) of this section do not impair a REP's ability to voluntarily provide a low-income discount or other benefits to low-

income customers. 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.

§25.475. Information Disclosures to Residential and Small Commercial Customers.

(a) – (c) (No change.)

(d) Terms of service document.

(1) – (4) (No change.)

(5) The following information shall be conspicuously contained in the terms of service document:

(A) – (D) (No change.)

(E) If the REP requires deposits from its customers:

(i) – (iv) (No change.)

(v) the right of a residential customer to pay a required deposit that exceeds \$50 in two equal installments pursuant to §25.478(e)(3) of this title; and

(vi) (No change.)

(F) – (M) (No change.)

(e) – (h) (No change.)

§25.478. Credit Requirements and Deposits.

(a) – (d) (No change.)

(e) Amount of deposit.

(1) – (2) (No change.)

(3) All residential customers or applicants shall be eligible to pay any deposit that exceeds \$50 in two equal installments. Notice of this option shall be provided to the customer or applicant upon the request by the REP for a deposit. The first installment shall be due no sooner than ten days, and the second installment no sooner than 40 days, after the issuance of written notification to the applicant of the deposit requirement.

(f) – (m) (No change.)

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

**ISSUED IN AUSTIN, TEXAS ON THE 15th DAY OF DECEMBER 2005 BY THE
PUBLIC UTILITY COMMISSION OF TEXAS
ADRIANA A. GONZALES**