

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

### Subchapter Q. SYSTEM BENEFIT FUND.

#### §25.455. One-Time Bill Payment Assistance Program.

- (a) **Purpose.** The purpose of this section is to define and implement a one-time bill payment assistance program for an eligible customer who has been threatened with disconnection for nonpayment of electric service and who is or has in his or her household one or more seriously ill or disabled low-income persons whose health or safety may be injured by the disconnection.
- (b) **Application.** This section applies to retail electric providers (REPs) that provide electric service in an area that has customer choice, or an area for which the commission has issued an order applying the system benefit fund or one-time bill payment assistance. 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 one-time bill payment assistance requirements set forth by this section are subject to sufficient funding and authorization to expend funds.
  - (1) Authorized program funds shall be allocated by the commission semi-annually, as follows:
    - (A) Forty percent of the program funds authorized for a state fiscal year shall be allocated to REPs not later than September, for use from September through February. Another 40% of the program funds authorized for a state fiscal year shall be allocated to REPs not later than March, for use from March through August. These allocations to REPs shall be based on the ratio of: the number of low-income customers served by the REP in the prior July or January to the total number of low-income customers served by all REPs in the prior July or January. The number of low-income customers served shall be based on actual rate reductions provided pursuant to §25.454 of this title (relating to the Rate Reduction Program). Funds shall not be allocated to a REP that would have an allocation of less than \$1,000 under the ratio prescribed in this subparagraph. Such funds shall instead be added to the amount available pursuant to subparagraph (B) of this paragraph.
    - (B) Ten percent of the program funds authorized for a state fiscal year shall be available during the period September through February. Another 10% of the program funds authorized for a state fiscal year shall be available during the period March through August. Such funds shall be available to eligible customers of REPs who have exhausted their pro rata share of the authorized program funds for that same six-month period, and to eligible customers of REPs who were not allocated a share of the authorized program funds for that same six-month period.
    - (C) A REP shall not retain access to funds allocated to it based on subparagraph (A) of this paragraph beyond the six-month period for which those funds were allocated. After each six-month period has ended, the commission may re-allocate any unused funds from subparagraphs (A) and (B) of this paragraph. The commission may do so based on the methodology described in subparagraphs (A) and (B) of this paragraph, so long as the unused funds remain authorized for this program.
    - (D) An allocation of funds under this paragraph is not a payment to a REP. Funds will be paid to a REP as a reimbursement of benefits provided to customers, based on a REP's report to the commission in accordance with §25.451(j) of this title (relating to Administration of the System Benefit Fund).

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- (E) Commission staff administering this program may make the allocations under this section without commission action, and may notify REPs of their fund allocation.
- (2) In the event that funding and authorization to expend funds are not sufficient to administer the program and fund assistance for customers, the following shall apply:
  - (A) The requirements of subsections (d) and (e), with the exception of subsection (d)(3), of this section are suspended until sufficient funding and spending authority are available.
  - (B) The requirements of the following provisions of this title, insofar as they relate to the one-time bill payment assistance program, are suspended until sufficient funding and spending authority are available:
    - (i) §25.451(j) of this title;
    - (ii) §25.457(j) of this title; and
    - (iii) §25.43(d)(3)(D) of this title (relating to Provider of Last Resort).
- (d) **One-time bill payment assistance program.** Bill payment assistance under this section is available to an eligible customer one time per state fiscal year. REPs shall make this bill payment assistance program available to eligible customers, and shall provide credits to customers, consistent with subsection (f)(2)(F) of this section, to the extent that program funds are available to that REP.
  - (1) A customer shall be eligible for assistance through the one-time bill payment assistance program if the customer meets all of the following criteria:
    - (A) The customer is a residential electric customer and has received a notice from the customer's REP that electric service will be disconnected for nonpayment;
    - (B) The customer is or has in the customer's household a seriously ill or disabled person whose health or safety may be injured by the disconnection of electric service. The customer shall prove satisfaction of this criterion pursuant to §25.483(g)(1) of this title (relating to Disconnection of Service), except that the physician's written statement shall be submitted on a form approved by the commission for the purpose of this program. A REP shall afford a customer the protection provided by §25.483(g) of this title when that customer has fulfilled the requirements of this subparagraph. If the seriously ill or disabled person is not the customer, the customer shall attest that the seriously ill or disabled person resides in the household;
    - (C) The seriously ill or disabled person in the household meets the low-income parameters in the definition of low-income customer in §25.5 of this title (relating to Definitions), as determined pursuant to subsection (e) of this section; and
    - (D) The customer has not already received assistance under this section during the current state fiscal year (September through August).
  - (2) The commission may adjust the limit on the amount of assistance a customer may receive under this section in a single instance of assistance. Initially, the maximum amount of assistance a customer may receive under this section in a single instance of assistance is set at the lesser of \$1,000 or the outstanding balance from the last three monthly bills for electric service.
  - (3) A customer may receive assistance under this section one time per state fiscal year, regardless of how many seriously ill or disabled low-income persons reside in the household. A REP shall inform a customer seeking assistance of this provision, shall maintain a record of its electric customers who have received assistance under this section in the current state fiscal year, and shall not approve assistance for electric customers to whom the REP has already provided assistance under this section in the current state fiscal year. For the

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purpose

of

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determining whether a customer has already received assistance in the current state fiscal year, the stated date of disconnection in the disconnection notice used by the customer to apply for assistance shall be considered to be the date of assistance. A seriously ill or disabled low-income person may be the subject of only one application for this one-time bill payment assistance program in any one state fiscal year. The commission may audit applications for this program, and limit or prohibit further assistance under this section to any person found to have violated this section or to have provided a false statement to obtain assistance under this section.

- (4) If the seriously ill or disabled person has been deemed disabled for the purpose of Supplemental Security Income (SSI), and has obtained a physician's statement on the commission-approved form to satisfy the requirements of subsection (d)(1)(B) of this section, that person may re-submit a copy of that same physician's statement to satisfy the requirements of subsection (d)(1)(B) of this section for up to three years from the time the statement is signed by the physician. The seriously ill or disabled person must be considered to be disabled for the purpose of SSI at the time the statement is signed by the physician, and at the time that same physician's statement is used again for the purpose of this one-time bill payment assistance program. The seriously ill or disabled person must provide current proof of SSI disability when re-submitting a copy of a previous physician's statement for the purpose of this program. A seriously ill or disabled person may only re-submit a copy of a previous physician's statement for the purpose of this program, and may not satisfy the requirements of §25.483(g) of this title in this manner.
- (5) A REP is entitled to reimbursement under §25.451(j) of this title for one-time bill payment assistance provided to an eligible customer in accordance with this section.

(e) **Establishment of low-income status.**

- (1) If the seriously ill or disabled person is the customer, the low-income requirement of subsection (d)(1)(C) of this section shall be satisfied in either of the following ways:
  - (A) The customer is enrolled in the rate reduction program described in §25.454 of this title; or
  - (B) If the customer is not enrolled in the rate reduction program, the customer may complete the appropriate commission-approved form, attesting to and providing proof of level of household income or of enrollment in an applicable Texas Health and Human Services Commission (HHSC) program, and the Low-Income Discount Administrator (LIDA) determines that the customer qualifies as a low-income customer under §25.454 of this title.
- (2) If the seriously ill or disabled person is a household member other than the customer, the low-income requirement of subsection (d)(1)(C) of this section shall be satisfied if the customer or the seriously ill or disabled person completes the appropriate commission-approved form, attesting to and providing proof of level of household income or of the seriously ill or disabled person's enrollment in an applicable HHSC program, and LIDA determines that the seriously ill or disabled person qualifies as a low-income person.
- (3) LIDA shall determine whether the seriously ill or disabled person is low-income by reviewing the completed commission-approved form. A seriously ill or disabled person who is not enrolled in the rate reduction program shall submit with the appropriate commission-approved form proof of enrollment in an applicable HHSC program, or proof of income in

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the form of copies of tax returns, pay stubs, letters from employers, or other pertinent information, consistent with §25.454 of this title. LIDA shall audit statistically valid samples of such enrollments for accuracy.

- (f) **Responsibilities.** In addition to the requirements established 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 the memorandum of understanding between the commission and HHSC.
- (1) LIDA shall administer the process of self-enrollment for the purpose of determining income eligibility for the one-time bill payment assistance program. LIDA's responsibilities include:
- (A) Distributing and processing low-income self-enrollment applications, as developed by the commission, for the purpose of applying for one-time bill payment assistance;
  - (B) Maintaining records for all applicants;
  - (C) Determining in a timely manner whether the customer is eligible for assistance in accordance with subsections (d)(1)(C) and (e) of this section. If, in the course of determining eligibility for one-time bill payment assistance, LIDA determines the customer is eligible for the rate reduction program under §25.454 of this title, LIDA shall also treat the application for one-time bill payment assistance as a self-enrollment application for the rate reduction program; and
  - (D) Notifying the REP and customer whether the customer has met the low-income requirements of this section. If the customer is notified that he or she has not met the low-income requirements of this section, LIDA shall inform the customer of the appeals process available under subsection (g) of this section.
- (2) The REP's responsibilities shall include:
- (A) Directing the customer how to establish, pursuant to subsection (d)(1)(B) of this section, that the customer is or has in the customer's household a seriously ill or disabled person whose health or safety may be injured by the disconnection of electric service, and determining whether the customer has met the requirements of subsection (d)(1)(B) of this section;
  - (B) Postponing disconnection activity in accordance with subsection (d)(1)(B) of this section;
  - (C) Directing the customer to contact LIDA directly, when necessary to establish low-income status of the seriously ill or disabled household member;
  - (D) Communicating with LIDA to ascertain the eligibility status of each customer for whom LIDA must determine income eligibility;
  - (E) Assisting LIDA in working to resolve issues concerning eligibility. This obligation requires the REP to employ best efforts to avoid and resolve issues, including training call center personnel on general assistance processes and information, and assigning problem resolution staff to work with LIDA on problems that LIDA does not have sufficient information to resolve. This obligation also requires the REP to provide available customer information to LIDA upon request. Customer information includes, for each applicant for assistance, 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

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numbers, Electric Service Identifier (ESI ID), service provider account number, and premise code;

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- (F) Applying the appropriate credit for assistance to an eligible customer's account, to the extent that program funds are available to that REP;
  - (G) Maintaining all records demonstrating compliance with subsections (d)(1)(A) through (d)(1)(C) of this section;
  - (H) Providing to the commission copies of materials regarding assistance provided to customers as necessary for commission monitoring and auditing purposes; and
  - (I) Fulfilling reporting requirements as required by §25.451 of this title.
- (3) The commission's responsibilities shall include:
- (A) Calculating the allocations prescribed by subsection (c)(1) of this section, and informing each REP of the REP's allocated amount.
  - (B) Monitoring the use of that portion of program funds determined pursuant to subsection (c)(1)(B) of this section. In the event that portion of program funds has been drawn down to a point at which REPs may not be fully reimbursed in the upcoming month for assistance provided to eligible customers, providing notice to REPs that they should discontinue the program unless they still have funds remaining available pursuant to subsection (c)(1)(A) of this section.
  - (C) Facilitating the reimbursement of REPs for credits provided to eligible customers through this one-time bill payment assistance program, as required by §25.451(j) of this title.
- (g) **Appeals process.** A REP shall not authorize disconnection of a customer who meets the requirements of subsection (d)(1)(B) of this section before the protection afforded by that subsection has expired. A customer who believes the REP has erroneously determined that the household member does not qualify as seriously ill or disabled for the purpose of this program may submit a complaint to the REP or to the commission, pursuant to §25.485 of this title (relating to Customer Access and Complaint Handling). The REP shall not disconnect the customer during the REP's review or supervisory review. The REP shall inform the customer of the customer's right to submit an informal complaint to the commission, pursuant to §25.485(e)(1)(A) of this title. In instances in which the REP receives from LIDA notice that the seriously ill or disabled person in the household does not qualify as a low-income person, the REP shall not submit authorization for disconnection of the customer until the eighth day after learning of the customer's ineligibility, in order to afford the customer time to receive notice of ineligibility and to appeal that determination if the customer so desires. In such circumstances, if the customer believes LIDA has erroneously determined that the seriously ill or disabled person does not qualify as a low-income person, the customer may appeal that eligibility determination as follows:
- (1) The customer may request that LIDA review its determination, and the customer shall have seven days from the day of his or her request to LIDA to submit additional proof of eligibility. If, prior to the REP's submission of authorization for disconnection, the customer requests a review from LIDA and the REP receives notification from the customer of the request, the REP may not authorize disconnection of the customer until after the completion of LIDA's review of the application. LIDA shall conduct any such review within the two commission working days after the receipt of additional proof of eligibility from the customer, and shall inform the REP and the customer of its determination at that time. If upon review, LIDA affirms that the seriously ill or disabled person does not qualify as a low-income person, the REP may authorize disconnection of the customer after proper notice and not before the first day after the disconnection date in the notice. The REP may issue this notice any time after the REP receives notification of LIDA's determination upon review, and shall adhere to the requirements of §25.483(k) and (l) of this title.

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- (2) If the customer is not satisfied with LIDA's determination upon review, the customer may request in writing an informal review by commission staff to determine the income status of the seriously ill or disabled household member.
  - (3) A customer who is dissatisfied with the commission staff's determination pursuant to paragraph (2) of this subsection may file a formal complaint pursuant to §22.242(e) of this title (relating to Complaints).
  - (4) A customer who appeals more than one rejected application for assistance in a given state fiscal year shall not have the protections from disconnection provided by this subsection available to him or her, and the REP shall not be required to issue a new disconnection notice pursuant to paragraph (1) of this subsection, for any appeal other than the first appeal of the state fiscal year. For the purpose of determining whether a customer has already appealed a decision in a state fiscal year, the stated date of disconnection in the disconnection notice used by the customer to apply for assistance shall be considered to be the date of appeal, even if the actual appeal was submitted in a subsequent state fiscal year. Any reconnection costs associated with such additional appeals shall be borne by the customer.
- (h) **Confidentiality of information.**
- (1) Any data acquired from HHSC pursuant to this section is subject to a HHSC confidentiality agreement.
  - (2) All data transfers pursuant to this section from REPs to LIDA 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.